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PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Courts
Department of Agriculture
Department of Banking
Department of Conservation and Natural
Resources
Department of Education
Department of Environmental Protection
Department of General Services
Department of Labor and Industry
Department of Revenue
Department of Transportation
Game Commission
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Infrastructure Investment
Authority
Pennsylvania Municipal Retirement Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Public School Employees' Retirement Board

Detailed list of contents appears inside.

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

No. 294, May 1999

PENNSYLVANIA



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Contents

THE COURTS

APPELLATE PROCEDURE

Proposed amendments to Pa.R.A.P. 511, 903, 1113, 1512, 2133, 2136 and 2185; recommendation 33... 2441

CRIMINAL PROCEDURE RULES

Procedures in cases in which summary offense is joined with misdemeanor or felony charges 2444

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment 2452
Notice of suspension 2453

EXECUTIVE AGENCIES

DEPARTMENT OF AGRICULTURE

Rules and Regulations

Price look-up systems and universal product codes . 2460

DEPARTMENT OF BANKING

Notices

Actions on applications 2501

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Proposed exchange of land between DCNR, Bureau of Forestry and Walter L. Dunkle 2502

DEPARTMENT OF EDUCATION

Notices

Application of Philadelphia College of Textiles and Science for approval of its request to change status from a college to a university 2536

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices 2502
Availability of guidance 2535
Clean Water State Revolving Fund; Federal FY 1998 and 1999 project priority list 2544

DEPARTMENT OF GENERAL SERVICES

Notices

Contract awards 2260
State contracts information 2550

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Current Prevailing Wage Act debarments 2542

DEPARTMENT OF REVENUE

Notices

Pennsylvania Instant Million Instant Lottery Game 2536

DEPARTMENT OF TRANSPORTATION

Rules and Regulations

Vehicle equipment and inspection; postponement of effective date for recent amendments 2460

Notices

Retention of engineering firms 2538
Training certification on municipal police officers ... 2540

GAME COMMISSION

Rules and Regulations

Hunting and trapping; hunting and furtaker licenses 2458
Seasons and bag limits 2454

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Actions taken by the Commission 2542
Notice of filing of final rulemakings 2543

INSURANCE DEPARTMENT

Notices

Alleged violation of insurance laws:
Michael J. Crimboli 2543
Craig Edward Schmoll 2543
Review procedure hearings; cancellation or refusal of insurance 2544

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Notices

Clean Water State Revolving Fund; Federal FY 1998 and 1999 project priority list 2544

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Notices

Hearings scheduled 2548

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Statements of Policy

Customer assistance program 2495

Notices

GTE North Incorporated and AX Telecommunications, Inc.—telecommunications 2548
Pennsylvania-American Water Company—water service (3 documents) 2548
Superior Water Company, Inc.—water service 2549

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for proposals 2549

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Notices

Hearings scheduled 2549

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1999.

1 Pa. Code (General Provisions)

Proposed Rulemaking

101	980
201	980
301	980
303	980
305	980
307	980
309	980
311	980
313	980
315	980

4 Pa. Code (Administration)

Adopted Rules

7	806
---	-----

Proposed Rulemaking

120b	1719
120c	1721
120d	1717

Statements of Policy

9	207, 457, 574, 1230, 2034, 2302
---	---------------------------------

7 Pa. Code (Agriculture)

Proposed Rulemaking

130c	1496
130d	1496

12 Pa. Code (Community and Economic Development)

Proposed Statements of Policy

31	1725
----	------

22 Pa. Code (Education)

Adopted Rules

3	399
4	399
5	399
6	399

25 Pa. Code (Environmental Protection)

Adopted Rules

109	2231
121	1879
129	1879, 1889
260	2367
260a	2367
261	2367
261a	2367
262	2367
262a	2367
263	2367
263a	2367
264	2367
264a	2367
265	2367
265a	2367
266	2367
266a	2367
266b	2367
267	2367
268a	2367
269	2367

269a	2367
270	2367
270a	2367

Proposed Rulemaking

72	979
86	548
91	2145
92	455
93	455
95	455
97	2145
101	2145
121	1214, 1299
123	1214, 1319
129	1299
139	1299
145	1319
261	1975
266	1975
287	1975
298	1975
901	647
1021	1074, 1214, 1612

28 Pa. Code (Health and Safety)

Proposed Rulemaking

18	820
911	332
912	332
1001	903
1003	903
1005	903
1007	903
1009	903
1011	903
1013	903
1015	903

31 Pa. Code (Insurance)

Adopted Rules

89	172
----	-----

Proposed Rulemaking

62	655
89	650

37 Pa. Code (Law)

Proposed Rulemaking

93	1513
95	1504

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

5	2294
15	2295
31	1392
36	1393, 1610
41	2296

Proposed Rulemaking

11	1613
21	2299
23	2300

25 1613
 27 1088
 31 1897
 33 1895
 35 565
 37 1897
 39 662
 40 1615
 41 2145
 42 1896
 47 1897

Statements of Policy

39 1617

51 Pa. Code (Public Officers)

Proposed Rulemaking

31 548
 33 548
 35 548
 37 548
 39 548
 41 548
 43 548
 45 548

52 Pa. Code (Public Utilities)

Proposed Rulemaking

57 2025
 59 1515
 Unclassified 1895

Statements of Policy

69 2034, 2147, 2495

Proposed Statements of Policy

41 1617
 69 1617

55 Pa. Code (Public Welfare)

Adopted Rules

165 271
 168 271
 183 271
 3040 271

58 Pa. Code (Recreation)

Adopted Rules

53 1068
 61 819
 63 2298
 65 1069
 75 819
 93 1068
 109 1068
 111 1070
 133 1071
 139 2454
 141 2458
 143 2458
 145 1071
 147 1071, 1072

Proposed Rulemaking

51 1224
 61 1085
 63 205, 822, 823, 1397
 65 823, 1224
 75 1087, 1515
 111 1224
 139 1225, 1397

141 1398
 143 1398

61 Pa. Code (Revenue)

Statements of Policy

94 2037
 125 2037

64 Pa. Code (Securities)

Adopted Rules

202 (with correction) 202, 547
 206 (with correction) 202, 547
 302 (with correction) 202, 547
 606 (with correction) 202, 547
 609 (with correction) 202, 547
 610 (with correction) 202, 547

67 Pa. Code (Transportation)

Adopted Rules

175 2460

Proposed Rulemaking

173 1612
 175 1612

70 Pa. Code (Weights, Measures and Standard)

1 2460
 2 2460
 3 2460
 4 2460
 5 2460
 6 2460
 7 2460
 8 2460
 9 2460
 10 2460
 21 2460
 35 2460

Statement of Policy

39 2460

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules

50 1709

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

71 2143
 82 809
 91 2021
 215 977

207 Pa. Code (Judicial Conduct)

Adopted Rules

5 1487
 21 645

210 Pa. Code (Appellate Procedure)

Adopted Rules

21 544
 35 544
 39 1487
 67 1360

Proposed Rulemaking

3 1709
 5 2441
 9 2441
 15 2441
 21 2441

225 Pa. Code (Rules of Evidence)

Adopted Rules
 Unclassified 1712

Proposed Rulemaking
 Article I..... 2262
 Article IV 2263
 Article VI 2262, 2264
 Article VIII..... 2265

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 100 2266
 200 449, 2266
 1000 2266
 1300 2266
 1500 2274
 1600 2274
 1650 2274
 1700 2274
 1910 (with correction) 16, 645
 2000 2274
 2020 2274
 2120 2274
 2200 2274
 2220 2274
 2250 2274
 2300 2274
 2320 2274
 2350 2274
 2970 1715
 2980 2274
 3000 2281
 4000 1715, 2281
 Part II 327, 329, 1494

Proposed Rulemaking
 200 15, 168, 169
 400 169
 1910 1487
 Part II 1709

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1100 2289

Proposed Rulemaking

1 1360
 2 1360
 3 1360
 4 1360
 5 1360
 6 1360
 7 1360
 8 1360
 9 1360
 10 1360
 11 1360
 20 1360
 30 1360
 50 1360, 1385
 100 1360, 2444
 200 1360, 2444
 300 1360, 2444
 1100 1360, 2444
 1400 1360
 1500 1360
 1600 1360
 1700 1360
 2000 1360
 4000 1360
 6000 1360, 2444
 9000 1360

249 Pa. Code (Philadelphia Rules)

Unclassified 544, 545

252 Pa. Code (Allegheny County Rules)

Unclassified 17, 1387

255 Pa. Code (Local Court Rules)

Unclassified 19, 24, 171, 330, 449, 453, 454, 809,
 977, 978, 1067, 1388, 1389, 1390,
 1495, 1853, 1873, 2143

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 5, 9, 15 AND 21]

Proposed Amendments to Pa.R.A.P. 511, 903, 1113, 1512, 2133, 2136 and 2185; Recommendation 33

The Appellate Court Procedural Rules Committee proposes to amend Rules 511, 903, 1113, 1512, 2133, 2136 and 2185 of the Pennsylvania Rules of Appellate Procedure. The amendments are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court.

All communications in reference to the proposed amendments should be sent not later than June 30, 1999 to the Appellate Court Procedural Rules Committee, P. O. Box 447, Ridley Park, PA 19078-0447.

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

By the Appellate Court Procedural Rules Committee

JOSEPH M. AUGELLO,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 5. PERSONS WHO MAY TAKE OR PARTICIPATE IN APPEALS

MULTIPLE APPEALS

Rule 511. [Cross] Multiple Appeals.

The timely filing of an appeal shall extend the time for any other party to cross appeal as set forth in Rules 903(b)(cross appeals), 1113(b)(cross petitions for allowance of appeal) and 1512(a)(2)(cross petitions for review). The discontinuance of an appeal by a party shall not affect the right of appeal of any other party regardless of whether the parties are adverse.

Official Note: [Based on former Supreme Court Rule 20B, former Superior Court Rule 10B, and the last sentence of former Commonwealth Court Rule 28.]

The 1998 amendment clarifies the intent of the former rule that the filing of an appeal extends the time within which any party may cross appeal as set forth in Rules 903(b), 1113(b) and 1512(a)(2) and that a discontinuance of an appeal by any other party will not affect the right of any other party to file a timely cross appeal under Rules 903(b), 1113(b) or 1512(a)(2) or to otherwise pursue an appeal or cross appeal already filed at the time of the discontinuance. The discontinuance of the appeal at any time before or after a cross appeal is filed will not affect the right of any party to file or

dismiss a cross appeal. The 1998 amendment supersedes *In Re: Petition of the Board of School Directors of the Hampton Township School District*, 698 A.2d 279 (Pa.Cmwlt. 1997), to the extent that decision requires that a party be adverse to the initial appellant in order to file a cross appeal.

See also: Rules 2113, 2136 and 2185 regarding briefs in cross-appeals and Rule 2322 regarding oral argument in multiple appeals.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 903. Time for Appeal.

* * * * *

Official Note: 42 Pa.C.S. § 5571(a) (appeals generally) provides that the time for filing an appeal, a petition for allowance of appeal, a petition for permission to appeal or a petition for review of a quasi-judicial order, in the Supreme Court, the Superior Court or the Commonwealth Court shall be governed by general rules and that no other provision of 42 Pa.C.S. Ch. 55D shall be applicable to such matters. In order to prevent inadvertent legislative creation of nonuniform appeal times, 42 Pa.C.S. § 1722(c) (time limitations) expressly authorizes the suspension by general rule of nonuniform statutory appeal times. See also 42 Pa.C.S. § 5501(a) (scope of chapter), which makes Chapter 55 (limitation of time) of the Judicial Code subordinate to any other statute prescribing a different time in the case of an action or proceeding, but which does not so provide in the case of an appeal.

[Prior to enactment of the Judicial Code it had been established that the time within which a matter may move from one stage to another within the Unified Judicial System is a procedural matter similar to the deadline for responsive pleadings, etc., and is not a "statute of limitation or repose" as that phrase is used in Section 10(c) of the Judiciary Article. E.g., the Supreme Court had fixed the time for Supreme Court review on certiorari, had prescribed the time for seeking review of sheriffs' and district justices' determinations in execution matters, and of changes of venue in criminal matters, had fixed the time for appeal in certain PCHA matters and had fixed the time for appeal in certain arbitration matters. See former Supreme Court Rule 68 1/2 (416 Pa. xxv); Pa.R.Civ.P. 3206(b) and 3207(b); Pa.R.C.P.J.P. 1016; former Pa.R.Crim.P. 313(a) (471 Pa. XLIV); Pa.R.Crim.P. 325; former Pa.R.J.A. 2101 (451 Pa. lxxiii).]

Thus, on both a statutory and constitutional basis, this rule supersedes all inconsistent statutory provisions prescribing times for appeal.

[Subdivision (a) is patterned after 42 Pa.C.S. § 5571(b) (other courts). Where an appeal is taken under Rule 311 (interlocutory appeals as of right), unless an extension to plead is obtained it will as a practical matter continue to be necessary to take the appeal within the 20 day pleading period specified in Pa.R.Civ.P. 1026.]

As to Subdivision (b), compare 42 Pa.C.S. § 5571(f) (cross appeals). A party filing a cross appeal pursuant to Subdivision (b) should identify it as a cross

appeal in the Notice of Appeal to assure that the prothonotary will process the cross appeal with the initial appeal. See also Rule 511 (cross appeals), Rule 2113 (reply brief), Rule 2136 (briefs in cases of cross appeals), Rule 2185 (time for service and filing of briefs) and Rule 2322 (oral argument in cross and separate appeals).

Rule of Appellate Procedure 107 incorporates by reference the rules of construction of the Statutory Construction Act of 1972, 1 Pa.C.S. §§ 1901 through 1991. See 1 Pa.C.S. § 1908 relating to computation of time for the rule of construction relating to (1) the exclusion of the first day and inclusion of the last day of a time period and (2) the omission of the last day of a time period which falls on Saturday, Sunday or legal holiday.

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) *General Rule.*—Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days [after] of the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed. If a timely application for reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision. Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

* * * * *

Official Note: See Note to Rule 903 (time for appeal).

A party filing a cross petition for allowance of appeal pursuant to Subdivision (b) should identify it as a cross petition to assure that the prothonotary will process the cross petition with the initial petition. See also Rule 511 (cross appeals), Rule 2136 (briefs in cases of cross appeals) and Rule 2322 (oral argument in cross and separate appeals).

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1512. Time for Petitioning for Review.

* * * * *

(b) *Special Provisions.*—A petition for review of:

(1) A determination of the Department of Community [Affairs] and Economic Development in any matter arising under the Local Government Unit Debt Act [(53

P. S. § 8001, et seq.)] shall be filed within 15 days after entry of the order or the date the determination is deemed to have been made, when no order has been entered.

* * * * *

Official Note: [See note to Rule 903 (time for appeal).] Rule 102 defines a “quasijudicial order” as “an order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.”

See Note to Rule 903 (time for appeal.) A party filing a cross petition for review pursuant to Subdivision (a)(2) should identify it as a cross petition for review to assure that the prothonotary will process the cross petition for review with the initial petition for review. See also Rule 511 (cross appeals), Rule 2136 (briefs in cases of cross appeals) and Rule 2322 (oral argument in cross and separate appeals).

* * * * *

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2113. Reply Brief.

* * * * *

[(c) *Cross Appeal.*—A reply brief may be filed by the appellant as prescribed in Rule 2136 (briefs in cases involving cross appeals).]

[(d)] (c) *Other briefs.*—No further briefs may be filed except with leave of court.

Official Note: The 1987 amendment grants a general right to file a reply brief in every case to matters not previously raised in appellant’s brief. Appellees may file a similarly limited reply brief to the response of the appellant to the issues presented by the cross-appeal. The length of a reply brief is provided in Rule 2135(b). **The 1998 amendment makes clear that the time for filing is set forth in Rule 2185(a).**

Rule 2136. Briefs in Cases Involving Cross Appeals.

* * * * *

Official Note: [Ordinarily there will be three briefs in a case involving a cross appeal: appellant’s main brief, appellee’s main brief, and appellant’s reply brief directed to the issues on the cross appeal. However, Rule 2113 permits a fourth brief; appellee’s reply to appellant’s answer on the cross appeal.]

When there are cross appeals, there may be up to four briefs: (1) the deemed or designated appellant’s principal brief on the merits of the appeal; (2) the deemed or designated appellee’s brief responding to appellant’s arguments and presenting the merits of the cross appeal; (3) the appellant’s second brief replying in support of the appeal and responding to the issues raised in the cross appeal; and (4) appellee’s second brief replying in support of the cross appeal. See Pa.R.A.P. 2113(a).

In cross appeals, appellant's second brief shall be served within 30 days after service of the preceding brief. The appellee's second brief is due 14 days later. See Rule 2185(a).

[Explanatory Note—1979

The appellate prothonotary is directed to designate the party who shall file the first brief in cases involving cross appeals where the identity of the "moving party" below is not readily apparent.] Where the identity of the moving party below is not readily apparent, either party may notify the prothonotary by letter that the prothonotary must designate the appellant or that the parties have agreed which party shall be the appellant.

FILING AND SERVICE

Rule 2185. Time for Serving and Filing Briefs.

(a) *General Rule.*—The appellant shall serve appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve appellee's brief within 30 days after service of appellant's brief and reproduced record if proceeding under Rule 2154(a). A party may serve a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. **In cross appeals, the brief of the appellee in the cross appeal shall be served within 30 days after service of the preceding brief.** Except as prescribed by Rule 2187(b) (advance text of briefs) each brief shall be filed not later than the last day fixed by or pursuant to this rule for its service.

* * * * *

Explanatory Comment to Recommendation 33: Proposed Amendments to Pa.R.A.P. 511, 903, 1113, 1512, 2113 and 2136

Introduction: The Appellate Rules contemplate three "multiple appeal" situations in which more than one party may wish to challenge individually an order of a court. These are cross appeals; cross petitions for review; and cross petitions for allowance of appeal. The proposed amendments are intended to simplify and clarify the procedures in such cases. The proposed amendments do not create the right to file new briefs or affect the right to file briefs heretofore permitted by the Appellate Rules.

Rule 511. (Multiple Appeals)

The 1998 amendment clarifies the intent of the former rule that the filing of an appeal extends the time within which any party may cross appeal as set forth in Rule 903(b), 1113(b) and 1512(a)(2) and that a discontinuance of an appeal by any other party will not affect the right of any other party to file a timely cross appeal under rules 903 (b), 1113(b) or 1512(a)(2) or to otherwise pursue an appeal or cross appeal already filed at the time of the discontinuance. The discontinuance of the appeal at any time before or after a cross appeal is filed will not affect the right of any party to file or dismiss a cross appeal. The 1998 amendment supersedes *In Re: Petition of the Board of School Directors of the Hampton Township School District*, 698 A.2d 279 (Pa.Cmwlth. 1997) to the extent that decision requires that a party be adverse to the initial appellant in order to file a cross appeal.

Rule 903. (Time for Appeal)

The proposed amendment to the note to Rule 903 includes a suggestion, for the aid of the appellate court filing office, that a party identify a cross-appeal in its notice of appeal. This will assure that the appeals are linked for processing purposes. The proposed amendment to the note also cross-references Rule 511 (cross appeals), Rule 2136 (briefs in cases of cross appeals) and Rule 2322 (oral argument in cross and separate appeals). This is for the convenience of counsel and the parties to alert them to the unique aspects of cross appeal or petition practice. See also proposed conforming amendments to the Notes to Rules 1113 and 1512. The proposed Recommendation also deletes a portion of the Note which may be misleading insofar as it may be construed to imply that an aggrieved party has less than 20 days to appeal under Pa.R.A.P. 311 where there has been no extension to plead.

Rule 1113. (Time for Petitioning for Allowance of Appeal)

See explanatory comment to Rule 903.

Rule 1512. (Time for Petitioning for Review)

See explanatory comment to Rule 903.

Rule 2113. (Reply Brief)

The proposed amendment deletes subdivision (c), an obsolete cross reference to a reply brief in cross-appeals. The briefs permitted and proper sequence in cases involving cross appeals are explained in the Note to Rule 2136.

Rule 2136. (Briefs in Cases Involving Cross Appeals)

In a single party appeal or petition situation, there are three briefs: appellant's principal brief on the merits, appellee's principal brief on the merits, and appellant's reply brief. In a cross appeal or petition situation, there are four briefs, because the designated appellant's second brief must serve two purposes, that is, it is the appellant's reply brief (a brief limited in scope by Rule 2113) and, simultaneously, the appellant's principal brief on the merits of the cross appeal or petition. The appellee may then file a "reply" brief on the merits of the cross appeal, that is, a reply brief in the appeal filed by the appellee. This procedure is explained in the proposed amendment to the Note as follows:

When there are cross appeals, there may be up to four briefs: (1) the deemed or designated appellant's principal brief on the merits of the appeal; (2) the deemed or designated appellee's brief responding to appellant's arguments and presenting the merits of the cross appeal; (3) the appellant's second brief replying in support of the appeal and responding to the merits of the cross appeal; and (4) appellee's reply brief in the cross appeal, see Pa.R.A.P. 2113(a).

Rule 2185. (Time for Serving and Filing Briefs)

The existing rule is unclear as to the due date for the filing of the cross-appellee's first brief in response to the merits of the cross appeal and second brief in support of the original appeal. (Brief No. 3 as described above). Under the proposed amendment that brief is due thirty days after the deemed appellee's brief (Brief No. 2) as described above.

[Pa.B. Doc. No. 99-745. Filed for public inspection May 7, 1999, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

PART II. LOCAL AND MINOR RULES

[234 PA. CODE CHS. 100, 200, 300, 1100 AND 6000]

Procedures in Cases in Which Summary Offense is Joined with Misdemeanor or Felony Charges

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Pa.R.Crim.P. 309 (Pretrial Disposition of Summary Offenses Joined with Misdemeanor or Felony Charges), and amend Pa.R.Crim.P. 101, 104, 141, 143, 145, 151, 179, 225, 313, 314, 315, 1120, 1122, and 6010. These rule changes clarify the procedures for handling cases in which a summary offense is joined with misdemeanor or felony charges both when the case is before the issuing authority and after the case is held for court. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Committee on Rules of Evidence, 5035 Ritter Road, Mechanicsburg, PA 17055 no later than Monday, June 21, 1999.

By the Criminal Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 100. PROCEDURE IN COURT CASES

PART I. INSTITUTING PROCEEDINGS

Rule 101. Means of Instituting Proceedings in Court Cases.

* * * * *

Official Note: Original Rule 102(1), (2), and (3), adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 102 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 101, and made applicable to court cases only, September 18, 1973, effective January 1, 1974; Comment revised February 15, 1974, effective immediately; amended June 30, 1975, effective September 1, 1975; Comment amended January 4, 1979, effective January 9, 1979; paragraph (1) amended October 22, 1981, effective January 1, 1982; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective

date extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; amended August 9, 1994, effective January 1, 1995; Comment revised January 16, 1996, effective immediately; Comment revised _____, effective _____.

Comment:

* * * * *

There are only a few exceptions to this rule regarding the instituting of criminal proceedings in court cases. There are, for example, special proceedings involving a coroner or medical examiner. See *Commonwealth v. Lopinson*, 234 A.2d 552 (Pa. 1967), and *Commonwealth v. Smouse*, 594 A.2d 666 (Pa. Super. 1991).

Except in cases in which a summary offense is a summary motor vehicle offense within the jurisdiction of a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, [Whenever] whenever a misdemeanor or felony is charged, even if [a] the summary offense is also charged in the same complaint, the case should proceed as a court case under Chapter 100. See *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973). In cases in which the summary traffic offense is within the jurisdiction of a traffic court, these summary traffic offenses should not be charged in the same complaint as the misdemeanors or felonies. Traffic Court has exclusive jurisdiction over summary traffic offenses. See 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, 418 A.2d 664 (Pa. Super. 1980).

* * * * *

Committee Explanatory Reports:

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Report explaining the January 16, 1996 Comment revisions published with the Court's Order at 26 Pa.B. 437 (February 3, 1996).

Report explaining the proposed Comment revisions concerning joinder of summary offenses and misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

PART II. COMPLAINT PROCEDURES

Rule 104. Contents of Complaint.

* * * * *

Official Note: Original Rule 104, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 104 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 132 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended November 9, 1984, effective January 2, 1985; amended July 25, 1994, effective January 1, 1995; renumbered Rule 104 and Comment revised August 9, 1994, effective January 1, 1995; **Comment revised _____, effective _____.**

Comment:

This rule sets forth the required contents of all complaints whether the affiant is a law enforcement officer, a police officer, or a private citizen. When the affiant is a private citizen, the complaint must be submitted to an attorney for the Commonwealth for approval. See Rule 106. When the district attorney elects to proceed under Rule 107 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth),

the police officer must likewise submit the complaint for approval by an attorney for the Commonwealth.

Except in cases in which a summary offense is a summary motor vehicle offense within the jurisdiction of a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, whenever a misdemeanor or felony is charged, the summary offense should be charged in the same complaint, and the case should proceed as a court case under Chapter 100. See *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973). In cases in which the summary traffic offense is within the jurisdiction of a traffic court, these summary traffic offenses should not be charged in the same complaint as the misdemeanors or felonies. Traffic Court has exclusive jurisdiction over summary traffic offenses. See 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, 418 A.2d 664 (Pa. Super. 1980).

* * * * *

Committee Explanatory Reports:

* * * * *

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

Report explaining the proposed Comment revisions concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

PART IV. PROCEEDINGS BEFORE ISSUING AUTHORITIES

Rule 141. Preliminary Hearing.

* * * * *

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

(D) In any case in which a summary offense is joined with a misdemeanor or felony charge, the issuing authority shall not proceed on the summary offense except as provided in Rule 143(E).

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

Comment:

* * * * *

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a prima facie case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v.*

Mullen, 333 A.2d 755 (Pa. 1975). This amendment was made to preserve the limited function of a preliminary hearing.

In cases in which summary offenses are joined with misdemeanor or felony charges, pursuant to paragraph (D), during the preliminary hearing, the issuing authority is prohibited from proceeding on the summary offenses, including the taking of evidence on the summary offenses, or adjudicating or disposing of the summary offenses except as provided in Rule 143(E).

Committee Explanatory Reports:

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

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

Rule 143. Disposition of Case at Preliminary Hearing.

(A) At the conclusion of the preliminary hearing, the decision of the issuing authority shall be publicly pronounced.

[(a)] (B) If the Commonwealth establishes a prima facie case of the defendant's guilt, the issuing authority shall hold the defendant for court. [Otherwise, the defendant shall be discharged. In either event, the decision of the issuing authority shall be publicly pronounced.]

[(b)] (C) ***

(D) If the Commonwealth does not establish a prima facie case of the defendant's guilt, and no application for a continuance is made and there is no reason for a continuance, the issuing authority shall dismiss the complaint.

(E) In any case in which a summary offense is joined with misdemeanor or felony charges:

(1) If the Commonwealth establishes a prima facie case pursuant to paragraph (B), the issuing authority shall not adjudicate or dispose of the summary offenses, but shall forward the summary offenses to the court of common pleas with the charges held for court.

(2) If the Commonwealth does not establish a prima facie case pursuant to paragraph (C), upon the request of the Commonwealth, the issuing authority shall dispose of the summary offense as provided in Rule 83 (Trial In Summary Cases).

(3) If the Commonwealth withdraws all the misdemeanor and felony charges, the issuing authority shall dispose of the summary offense as provided in Rule 83 (Trial In Summary Cases).

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

1996; the April 1, 1996 effective date extended to July 1, 1996; amended _____, effective _____.

Comment:

Paragraph [(b)] (D) was amended in 1983 to reflect the fact that a bail determination will already have been made at the preliminary arraignment, except in those cases [where] in which, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. See Rules 109 and 110.

Rule 141(D) specifically prohibits an issuing authority at a preliminary hearing from proceeding on any summary offenses that are joined with misdemeanor or felony charges, except as provided in Rule 143(E). Paragraph (E) sets forth the procedures for the issuing authority to handle these summary offenses at the preliminary hearing. These procedures include the issuing authority (1) forwarding the summary offenses together with the misdemeanor or felony charges held for court to the court of common pleas, or (2) disposing of the summary offenses as provided in Rule 83 by accepting a guilty plea or conducting a trial whenever (a) the misdemeanor and felony charges are withdrawn or (b) a prima facie case is not established at the preliminary hearing and the Commonwealth requests that the issuing authority proceed on the summary offenses.

Under paragraph (E)(2), in those cases in which the Commonwealth does not intend to refile the misdemeanor or felony charges, the Commonwealth may request that the issuing authority dispose of the summary offenses.

In those cases in which a prima facie case is not established at the preliminary hearing, and the Commonwealth does not request that the issuing authority proceed on the summary offenses, the issuing authority should dismiss the complaint, and discharge the defendant unless there are outstanding detainers against the defendant that would prevent the defendant's release.

Nothing in this rule would preclude the refile of one or more of the charges, as provided in these rules.

The requirements in paragraph (E) do not apply to summary motor vehicle offenses within the jurisdiction of a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342. Ordinarily, these offenses would not be joined with misdemeanor or felony charges, but would be filed separately.

See Rule 179 for the disposition of any summary offenses joined with misdemeanor or felony charges when the defendant is accepted into an ARD program on the misdemeanor or felony charges.

Committee Explanatory Reports:

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

Final Report explaining the September 13, 1995 amendments published with the Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

Rule 145. Dismissal Upon Satisfaction or Agreement.

* * * * *

Official Note: Formerly Rule 121, adopted June 30, 1964, effective January 1, 1965; suspended effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered and amended September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended April 18, 1997, effective July 1, 1997 [.] ; **Comment revised _____, effective _____.**

Comment:

* * * * *

The requirement in paragraph (b), that when the attorney for the Commonwealth is present, he or she must consent to the dismissal, is one of the criteria which, along with the other enumerated criteria, gives the issuing authority discretion to dismiss, even when the affiant refuses to consent.

If a summary offense has been joined with a misdemeanor charge, and therefore is part of the court case, a dismissal of the case pursuant to this rule may include a dismissal of the summary offense. See the Comment to Rule 101 (Means of Instituting Proceedings in Court Cases).

* * * * *

Committee Explanatory Reports:

Final Report explaining the April 18, 1997 amendments aligning the rule with Rule 88 published with the Court's Order at 27 Pa.B. 2119 (May 3, 1997).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

PART V. MISCELLANEOUS

Rule 151. Withdrawal of Prosecution Before Issuing Authority.

In any court case pending before an issuing authority, the attorney for the Commonwealth, or his or her designee, may withdraw [the prosecution] one or more of the charges. The withdrawal shall be in writing.

Official Note: Adopted September 18, 1973, effective January 1, 1974; amended August 14, 1995, effective January 1, 1996; amended _____, effective _____.

Comment:

This rule was amended in 1995 to make it clear that only the attorney for the Commonwealth or a designee has the authority to withdraw a prosecution.

In any case in which a summary offense is joined with the misdemeanor or felony charges, if all misdemeanor and felony charges are withdrawn pursuant to this rule, the issuing authority must dispose of the summary offense as provided in Rule 83 (Trial in Summary Cases). See Rule 143(E).

Committee Explanatory Reports:

Final Report explaining the August 14, 1995 amendments published with the Court's Order at 25 Pa.B. 3468 (August 26, 1995).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

**PART VII. ACCELERATED REHABILITATIVE
DISPOSITION COURT CASES**

Rule 179. Hearing, Manner of Proceeding.

[(a)] (A) ***

[(b)] (B) ***

[(c)] (C) ***

[(d)] (D) ***

[(e)] (E) ***

Official Note: Approved May 24, 1972, effective immediately; amended April 10, 1989, effective July 1, 1989; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; amended _____, effective _____.

Comment:

The phrase "or civil" was deleted from paragraph (b) in the 1989 general revision of the ARD rules. Whether a defendant's statement may be used in a noncriminal proceeding is a matter of substantive law.

In any case in which a summary offense has been joined with the misdemeanor or felony charges that have been disposed of by the defendant's acceptance into an ARD program, if the summary offense has not been disposed of prior to the ARD hearing, the trial judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. The Crimes Code § 110, 18 Pa.C.S. § 110, *Commonwealth v. Cauffman*, 662 A.2d 1050 (Pa. 1995), and *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 314 A.2d 854 (Pa. 1974), may require in a particular case that the trial judge have the defendant execute a "*Campana*" waiver prior to disposing of the summary offense at the ARD hearing.

* * * * *

Committee Explanatory Reports:

Final Report explaining the September 13, 1995 amendments published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

**CHAPTER 200. INFORMATIONS AND
INVESTIGATING GRAND JURIES**

PART I. INFORMATIONS

Rule 225. Information: Filing, Contents, Function.

[(a)] (A) ***

[(b)] (B) ***

[(c)] (C) ***

[(d)] (D) ***

Official Note: Adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; amended _____, 1999, effective _____, 1999.

Comment:

Before an information is filed, the attorney for the Commonwealth may withdraw one or more of the charges by filing a notice of withdrawal with the clerk of courts. See Rule 224(a). Upon the filing of an information, any charge not listed on the information will be deemed withdrawn by the attorney for the Commonwealth. See Rule 224(b). After the information is filed, court approval is required before a nolle prosequi may be entered on a charge listed therein. See Rule 313.

In any case in which there are summary offenses joined with the misdemeanor or felony charges that are held for court, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Hoffman*, 594 A.2d 772 (Pa. Super. 1991).

When there is an omission or error of the type referred to in paragraph (c), the information should be amended pursuant to Rule 229.

Committee Explanatory Reports:

Final Report explaining the August 14, 1995 amendments published with the Court's Order at 25 Pa.B. 3468 (August 26, 1995).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

CHAPTER 300. PRETRIAL PROCEEDINGS

[This is an entirely new rule.]

**Rule 309. Pretrial Disposition of Summary Offenses
Joined with Misdemeanor or Felony Charges.**

(A) In any case in which a summary offense is joined with a misdemeanor or felony charge, and therefore is part of the court case, when there is a dismissal or a nolle prosequi of all misdemeanor and felony charges, unless the Commonwealth appeals the disposition, the trial judge shall dispose of the summary offense.

(B) In no event shall the trial judge remand the summary offense to the issuing authority for disposition.

Official Note: Adopted _____, effective _____.

Comment:

In any case in which a summary offense is joined with a misdemeanor or felony charge, and therefore is part of the court case, when an appeal of a pretrial disposition of the misdemeanor and felony charge is taken, disposition of the summary offense should be delayed pending the appeal. See Pa.R.A.P. 1701 (Effect of Appeal Generally).

Notwithstanding the provisions of this rule, a dismissal of the prosecution pursuant to Rule 314 (Court Dismissal Upon Satisfaction or Agreement) may include the dismissal of the summary offense.

For the procedures for nolle prosequi see Rule 313 (Nolle Prosequi).

Committee Explanatory Reports:

Report explaining the proposed new rule published at 29 Pa.B. 2450 (May 8, 1999).

Rule 313. Nolle Prosequi.

[(a)] (A) ***

[(b)] (B) ***

Official Note: Formerly Rule 314, adopted June 30, 1964, effective January 1, 1965; Comment amended February 15, 1974, effective immediately; renumbered Rule 313 and Comment amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended August 12, 1993, effective September 1, 1993; amended August 14, 1995, effective January 1, 1996; amended _____, effective _____.

Comment:

* * * * *

Before an information is filed, the attorney for the Commonwealth may withdraw one or more of the charges by filing a notice of withdrawal with the clerk of courts. See Rule 224(a). Upon the filing of an information, any charge not listed on the information will be deemed withdrawn by the attorney for the Commonwealth. See Rule 224(b). After the information is filed, court approval is required before a nolle prosequi may be entered on a charge listed therein. 42 Pa.C.S. § 8932.

In any case in which a summary offense is joined with a misdemeanor or felony charge: (1) the judge may order a nolle prosequi on all the charges including the summary offense; and (2) if the judge has ordered a nolle prosequi on all the misdemeanors or felonies pursuant to this rule, the judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense in the court of common pleas as required by Rule 309 (Pretrial Disposition of Summary Offenses Joined With Misdemeanor or Felony Charges).

Committee Explanatory Reports:

Report explaining the August 12, 1993 amendments published at 22 Pa.B. 3826 (July 25, 1992).

Final Report explaining the August 14, 1995 amendments published with the Court's Order at 25 Pa.B. 3468 (August 26, 1995).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

Rule 314. Court Dismissal Upon Satisfaction or Agreement.

* * * * *

Official Note: Adopted June 30, 1964, effective January 1, 1965; amended September 18, 1973, effective January 1, 1974; formerly Rule 315, renumbered 314 and amended June 29, 1977, effective January 1, 1978; amended January 28, 1983, effective July 1, 1983; **Comment revised _____, effective _____.**

Comment:

This rule applies only to courts of common pleas. Neither justices of the peace, Philadelphia Municipal Court judges, Pittsburgh Police Magistrates, nor any other issuing authority may dismiss a case under this rule, but rather only as provided in Rule 145. This rule was amended in 1983 to set forth concisely the criteria a defendant must satisfy before the Court has the discretion to order dismissal under this rule.

If a summary offense is joined with a misdemeanor or felony charge, and therefore is part of the court case, a dismissal of the case pursuant to

this rule may include a dismissal of the summary offense. See the Comment to Rule 101 (Means of Instituting Proceedings in Court Cases).

Committee Explanatory Reports:

Report explaining the proposed Comment revisions concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

Rule 315. Motion for Dismissal.

[(a)] (A) ***

[(b)] (B) ***

Official Note: Formerly Rule 316, adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; renumbered Rule 315 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended August 12, 1993, effective September 1, 1993; **Comment revised _____, effective _____.**

Comment:

Cf. Pa.R.J.A. 1901 concerning termination of inactive cases.

In any case in which a summary offense is joined with a misdemeanor or felony charge, and therefore is part of the court case, a dismissal of the prosecution pursuant to paragraph (A) would include the dismissal of the summary offense. See the Comment to Rule 101 (Means of Instituting Proceedings in Court Cases).

Committee Explanatory Reports:

Report explaining the August 12, 1993 amendments published at 22 Pa.B. 3826 (July 25, 1992).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

CHAPTER 1100. TRIAL

Rule 1120. Verdicts.

[(a)] (A) ***

[(b)] (B) ***

[(c)] (C) ***

[(d)] (D) ***

[(e)] (E) ***

(F) If there is a summary offense joined with the misdemeanor or felony charge that was tried before the jury, the trial judge shall not remand the summary offense to the issuing authority. The summary offense shall be disposed of in the court of common pleas, and the verdict with respect to the summary offense shall be recorded in the same manner as the verdict with respect to the other charges.

[(f)] (G) ***

Official Note: Adopted January 24, 1968, effective August 1, 1968; amended February 13, 1974, effective immediately; paragraph (e) amended to correct printing error June 28, 1976, effective immediately; **paragraph**

(G), formerly paragraph (f), amended April 26, 1979, effective July 1, 1979; amended August 12, 1993, effective September 1, 1993; **amended _____, effective _____.**

Comment:

[Section (a)] Paragraph (A) of the rule replaces the practice of automatically appointing the first juror chosen as foreman of the jury. **[Sections (c), (d), and (e)] Paragraphs (C), (D), and (E)** serve only to codify the procedure where conviction or acquittal of one offense operates as a bar to a later trial on a necessarily included offense. Similarly, the rule applies to situations of merger and autrefois convict or **autrefois** acquit. No attempt is made to change the substantive law which would operate to determine when merger or any of the other situations arise. See, e.g., *Commonwealth v. Comber*, **[374 Pa. 570,] 97 A.2d 343 (Pa. 1953).**

Paragraph (F) provides for the disposition in the court of common pleas of any summary offense that is joined with the misdemeanor or felony charges that were tried before the jury. Under no circumstances may the trial judge remand the summary offense to the issuing authority, even in cases in which the defendant is found not guilty by the jury. See also Rule 143 (Disposition of Case at Preliminary Hearing).

[Section (f)] Paragraph (G) provides for the polling of the jury and requires the judge to send the jury back for deliberations in accordance with *Commonwealth v. Martin*, **[379 Pa. 587,] 109 A.2d 325 (Pa. 1954).** With respect to the procedure upon nonconcurrence with a sealed verdict, see Rule 1121(c).

* * * * *

Committee Explanatory Reports:

Report explaining the August 12, 1993 amendments published at 22 Pa.B. 3826 (July 25, 1992).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

Rule 1122. Time for Court Action Following Non-Jury Trial.

(A) A verdict shall be rendered in all non-jury cases within 7 days after trial.

(B) In any case in which a summary offense is joined with the misdemeanor or felony charges that were tried before the trial judge, the trial judge shall render a verdict on the summary offense, and impose sentence if the judge finds the defendant guilty of the summary offense, even in cases in which the judge has dismissed or found the defendant not guilty on the misdemeanors or felonies.

Official Note: Formerly Rule 302, adopted June 30, 1964, effective January 1, 1965; renumbered and moved to Chapter 1100, June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended January 28, 1983, effective July 1, 1983; amended March 22, 1993, effective as to cases in which trial commences on or after January 1, 1994; **amended _____, effective _____.**

Comment:

The 1993 amendment to this rule was prompted by the general revision of post-trial procedures reflected in large part by Rule 1410 (Post-Sentence Procedures; Appeal). Before this amendment, Rule 1122 was a hybrid. It contained time limits for decisions on several types of motions, and also contained a time limit for verdict in non-jury trials. As a result of the adoption of Rule 1410, post-verdict motions for a new trial, for judgment of acquittal, and motions in arrest of judgment were moved to post-sentence under Rule 1410. The procedures for a motion for judgment of acquittal after the jury is discharged without agreeing on a verdict were amended in 1993 and moved to Rule 1125. Rule 1122, as amended, only provides the time limit for verdict in a non-jury case.

Pursuant to Rule 143 (Disposition of Case at Preliminary Hearing), in cases in which there are summary offenses that are joined with the misdemeanor or felony charges, the issuing authority is prohibited from adjudicating or disposing of the summary offenses, and must forward the summary offenses to the court of common pleas for disposition with the charges held for court. Therefore, when a judge is the trier of fact as to the misdemeanors or felonies pursuant to this rule, the judge may not remand the summary offense to the issuing authority, but must dispose of the summary offense together with the misdemeanor and felony.

Committee Explanatory Reports:

Final Report explaining the March 22, 1993 amendments published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Report explaining the proposed amendments concerning summary offenses joined with misdemeanor or felony charges published at 29 Pa.B. 2450 (May 8, 1999).

PART II. LOCAL AND MINOR RULES

CHAPTER 6000. RULES OF CRIMINAL PROCEDURE FOR THE MUNICIPAL COURT OF PHILADELPHIA

Rule 6010. Procedure on Appeal.

* * * * *

Comment:

In any case in which there are summary offenses joined with the misdemeanor charges that are the subject of the appeal, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Speller*, 458 A.2d 198 (Pa. Super. 1983).

Committee Explanatory Reports:

Final Report explaining the August 28, 1998 amendment published with the Court's Order at 28 Pa.B. 4627 (September 12, 1998).

Report explaining the proposed Comment revision concerning summary offenses joined with misdemeanor charges published at 29 Pa.B. 2450 (May 8, 1999).

REPORT

Proposed new Pa.R.Crim.P. 309 (Pretrial Disposition of Summary Offenses Joined with Misdemeanor or Felony Charges), and amendments to Pa.Rs.Crim.P. 101, 104, 141, 143, 145, 151, 179, 225, 313, 314, 315, 1120, 1122, and 6010.

Joinder of Summary Offenses with Misdemeanor or Felony Charges

Background

The question of how to handle cases in which a summary offense is joined with misdemeanor or felony charges ("joined summary offense") has been raised from time to time with the Committee in correspondence from members of the bench and bar. The correspondents have indicated that there is a great deal of diversity statewide, and even among judges and district justices within judicial districts, in the procedures employed for handling summary offenses that are joined with misdemeanor or felony charges, and that this lack of uniformity is confusing for members of the bench and bar. According to the correspondents, the diversity problems arise throughout the criminal justice system—in the ARD context; when a case is within the jurisdiction of the minor judiciary, both at and following the preliminary hearing; and after a case is held for court in pretrial and trial proceedings. The correspondents have asked the Committee to consider specifically (1) the impact that the joined summary offenses might have on the defendant's eligibility for ARD, and (2) whether there should be one uniform procedure for handling the summaries (a) when a defendant is accepted into an ARD program; (b) at the preliminary hearing; and (c) when the case is held for court.

The Committee reviewed the rules, the various procedures being used statewide, and the case law. The Committee's research, as well as the members' experiences, confirmed what the correspondents had noted—there is widespread diversity in the procedures from judicial district to judicial district, and even from judge to judge within judicial districts, and this diversity is creating a great deal of confusion for members of the minor judiciary, the judges and clerks in the courts of common pleas, members of the bar, and defendants. Furthermore, the obvious cause of this lack of uniformity is that there are no statewide rules establishing procedures, and the case law offers little guidance. In view of these considerations, the Committee agreed that the criminal justice system would be benefitted by rules that establish a uniform procedure for handling these joined cases.

The issue we next faced was which of the various procedures should be developed into a statewide procedure, or should the Committee develop a new procedure. Recognizing that, as provided in the Rule 3 definition of "court case," once the summary offense has been joined with misdemeanor or felony charges, the joined summary offense becomes part of the court case, we concluded that the joined summary offense should remain, and be treated as, part of the court case. In addition, we agreed that to promote judicial economy and the efficient administration of justice, when the case is before the minor judiciary and the circumstances warrant the disposition of the summary offense alone, the issuing authority should be responsible for the disposition. On the other hand, we recognized that once the case has been held for court and has been forwarded to the court of common pleas, when the circumstances warrant the disposition of the summary offense alone, it makes no sense to send the

summary to the minor judiciary, and therefore the judge in the court of common pleas should dispose of the summary offense. These conclusions became the Committee's guiding principles as we worked through the rules.

Discussion of Rule Changes

The Committee approached this project by examining the rules in groupings consistent with the "chapter" organization of the rules: ARD, preliminary proceedings when the case is before the minor judiciary, pretrial proceedings after the case is held for court, trial procedures in the court of common pleas, and procedures in Philadelphia Municipal Court.

1. ARD Cases: Rule 179

A number of the questions posed to the Committee concern the handling of joined summary offenses in court cases in which the defendant is potentially eligible for ARD, and seem to fall into two broad categories. First, if the defendant is going to be admitted into ARD on the misdemeanor or felony charge, how should the summary offense be handled? Second, what is the effect of the joined summary offense on ARD eligibility if the defendant pleads guilty to the summary offense or if the judge finds the defendant guilty of the summary offense. Would these "convictions" be considered by the district attorney as a bar to admitting the defendant into ARD? We also considered whether these "convictions" would be a bar to future prosecution if the defendant failed to complete the ARD program.

Proceeding with the Committee's basic premise that cases with joined summary offenses are court cases, the Committee reached the following conclusions. First, there would be no reason why a judge could not include the summary offense in the ARD disposition. Second, if the summary offense is not included in the ARD disposition, and the summary offense has not been disposed of prior to the ARD hearing, the judge may not remand the summary offense to the issuing authority for disposition, but must dispose of the summary offense at the ARD hearing. Third, by virtue of the charging function and the broad discretion given to district attorneys in deciding ARD eligibility, see, e.g., *Commonwealth v. Benn*, 675 A.2d 261 (Pa. 1996), the district attorney has discretion to determine which offenses may be considered for ARD, to nolle pros or withdraw the summary offense, or to recommend the inclusion of the summary offense in the ARD program. Fourth, if the summary offense is disposed of by a guilty plea or a guilty verdict, there may be a *Campana* or Crimes Code Section 110 issue that should be addressed.

Based on these considerations, the Committee ultimately agreed that the ARD issue could be addressed by adding a provision to the Comment to Rule 179 (Hearing, Manner of Proceeding) that would make it clear that if the summary offense has not been disposed of by the time of the ARD hearing, then the judge may not remand the summary offense to the issuing authority, but must dispose of the summary offense at the ARD hearing, and that it may be necessary for the judge to have the defendant execute a "*Campana*" waiver prior to disposing of the summary offense to avoid any problems should the defendant fail to complete the ARD program on the misdemeanor or felony charge.

2. Proceedings Before Issuing Authority

a. Preliminary Hearings: Rules 141 and 143

The second consideration for the Committee concerned how the joined summary offenses should be handled at

the preliminary hearing. The Committee examined Rules 141 (Preliminary Hearing) and 143 (Disposition of Case at Preliminary Hearing) and agreed that the rules should be amended to provide a uniform procedure for the handling of the joined summary offenses. As the members worked through the various permutations of preliminary hearing dispositions, they concluded that before trying to address the joined summary offense issue, Rules 141 and 143 should be amended to more distinctly address their respective subjects. Rule 141 should clearly only apply to the procedures for the conduct of the preliminary hearing, and Rule 143 should distinctly cover the disposition of the case at the preliminary hearing. Accordingly, to accomplish this, we are proposing that Rule 141(D) be moved to Rule 143 as new paragraph (D), and amended to provide that the issuing authority must dismiss the complaint when no prima facie case is established.

Resuming consideration of the joined summary offense issues, the Committee agreed that to further the "court case" premise, the issuing authority should only proceed in any way with the joined summary when the Commonwealth fails to establish a prima facie case and the Commonwealth requests that the issuing authority dispose of the summary offense, for example when the Commonwealth does not intend to refile the misdemeanor or felony charge; or the Commonwealth withdraws all the misdemeanor and felony charges. To accomplish this, the Committee is proposing that a new paragraph (D) be added to Rule 141 that provides:

In any case in which a summary offense is joined with a misdemeanor or felony charge, the issuing authority shall not proceed on the summary offense except as provided in Rule 143(E).

Correlatively with the new Rule 141(D) provision, the Committee is proposing the addition of a new paragraph (E) to Rule 143. Paragraphs (E)(2) and (E)(3) set forth the two exceptions noted above. Paragraph (E)(1) implements the joined summary offense policy by providing that in any case in which the Commonwealth establishes a prima facie case, the issuing authority is to forward the summary offense to the court of common pleas with the charges held for court. The Rule 143 Comment would be revised to amplify these changes.

In addition, as previously discussed, a new paragraph (D) would be added to Rule 143 to address cases in which the Commonwealth does not establish a prima facie case. A new Comment provision makes it clear that, when the complaint is dismissed, (1) the issuing authority should discharge the defendant unless there are outstanding detainees preventing the defendant's release, and (2) the Commonwealth may refile some or all of the charges, including the summary offense.

b. Dismissal or Withdrawal of Charges: Rules 145 and 151

Two other issues arose concerning the joined summary offenses when the case is before the issuing authority. First, how should the joined summary be handled when the case is going to be dismissed pursuant to Rule 145 (Dismissal Upon Satisfaction or Agreement). The Committee agreed that, in this situation, the joined summary offense is part of the case and should be dismissed with the misdemeanor. Although this reasoning seemed apparent on the face of the rule, in view of the ongoing confusion in this area, the Committee agreed that an explanation in the Rule 145 Comment would be helpful.

Rule 151 (Withdrawal of Prosecution Before Issuing Authority), which provides for the withdrawal of the

prosecution, presents a slightly different issue. As several members pointed out, the Commonwealth has the option to withdraw some or all of the charges. The Committee agreed that, if only some of the charges are withdrawn, and the remainder are held for court, the joined summary offense, unless withdrawn, would be forwarded to the court of common pleas as required by Rule 143(E). However, if all the misdemeanor and felony charges are withdrawn and only the summary offense remains, the Committee did not see any utility in requiring the summary to be forwarded, and agreed that the issuing authority should dispose of the summary offense in the same manner that any summary offense is disposed of pursuant to Rule 83 (Trial in Summary Cases). To make this concept clear, the Committee proposes a revision of the Rule 151 Comment that explains the process and cross-references Rule 143(E).

As part of the discussion of Rule 151, some members commented that the provisions "may withdraw the prosecution" in the text of the rule could be confusing since the Commonwealth is permitted to withdraw less than all the charges. To remedy this concern, the Committee agreed to replace "the prosecution" with "one or more of the charges" in the text of the rule.

3. Pretrial Proceedings After Case Held for Court

a. Filing Information: Rule 225

Once the case is held for court and the case includes a joined summary offense, the Committee noted that the summary offense should be charged in the information. Although there is case law on point, see *Commonwealth v. Hoffman*, 594 A.2d 772 (Pa. Super. 1991), some members suggested that because the rule does not specifically require this procedure, even though paragraph (5) requires a statement of the elements of the offense charged, it is not uniformly being done. To eliminate any question, the Committee agreed that a short cautionary explanation with a citation to *Hoffman*, supra, should be added to the Rule 225 Comment.

b. Pretrial Disposition of Joined Summary: New Rule 309, Rules 313, 314, and 315

The Committee next considered the handling of the joined summary offense in the context of the pretrial proceedings under Chapter 300. The handling of the joined summary offense only becomes an issue when there is a dismissal or a nolle prosequi of all the misdemeanor and felony charges. We agreed that, consistent with the "court case" concept, and to promote judicial economy, the common pleas court judge must dispose of the remaining joined summary offense, and may not return the summary offense to the issuing authority for disposition. In discussing this matter, several members expressed concern about the potential for double jeopardy issues or conflicts with the Appellate Rules if the summary offense is disposed of in cases in which the Commonwealth appeals the pretrial disposition of any of the misdemeanor or felony charges. We reviewed the relevant Appellate Rule, Rule 1701 (Effect of Appeal Generally), and agreed that when there is an appeal in these circumstances, the disposition of the summary offense should be delayed pending the appeal, and this should be made clear in the rules.

As the Committee considered the issue, we realized that none of the present rules provided an adequate place for clarifying the pretrial handling of joined summary offenses. We, therefore, are proposing a new rule to specifically address this matter. The new rule will be Rule 309 (Pretrial Disposition of Summary Offenses Joined

with Misdemeanor or Felony Charges), and will be divided into two paragraphs. Paragraph (A) provides that "when there is a dismissal or nolle prosequi of all the misdemeanor and felony charges, unless the Commonwealth appeals the disposition, the trial judge shall dispose of the summary offense." Paragraph (B) makes it clear that the judge may not remand the summary offense. In addition, the Comment explains about the delay pending appeal, cites Appellate Rule 1701, and includes cross-references to Rules 313 (Nolle Prosequi) and 314 (Court Dismissal Upon Satisfaction or Agreement).

The Committee is also proposing correlative revisions of the Comments to Rules 313, 314, and 315 (Motion for Dismissal) that provide clarifications about the handling of the joined summary offense under the circumstances of each rule. The Rule 313 Comment revision explains that (1) the judge may order a nolle prosequi on all the charges including the joined summary offense, and (2) when the nolle prosequi is of all the misdemeanor and felony charges, the judge must dispose of the joined summary offense. The Rule 314 Comment revision explains that the dismissal of the case may include a dismissal of the joined summary offense. Finally, the Rule 315 Comment revision explains that a dismissal of the prosecution includes a dismissal of the joined summary offense.

3. Trial Procedures: Rules 1120 and 1122

The last procedural area concerning joined summary offenses the Committee discussed was trials in the court of common pleas. The issue of handling the joined summaries had to be considered both when there is a jury and when the judge is the trier of fact. Again reaffirming the principle that the joined summary should be handled by the judge consistent with the "court case" concept, the Committee looked at Rules 1120 (Verdicts) and 1122 (Time for Court Action Following Non-Jury Trial). Although neither rule specifically addresses the handling of the joined summary offense, the Committee thought that the rules were the best place in Chapter 1100 to clarify the procedure. Accordingly, we are proposing that Rule 1120 be amended by adding a new paragraph (f) that specifically prohibits the judge from remanding the joined summary offense to the issuing authority, no matter what the disposition of the misdemeanor or felony charges are, and requires that the summary offense be disposed of in the court of common pleas. Similarly, Rule 1122 would be amended by adding a new paragraph (B) that would require the judge to dispose of the joined summary offense. Finally, the Committee has included a cross-reference to Rule 143 in both Comments.

4. Summary Motor Vehicle Offenses: Rules 101 and 104

As the Committee was considering the issue of joined summary offenses, several members questioned whether summary motor vehicle offenses would be treated in the same manner as other summary offenses. These members pointed out that, at least in Philadelphia and Allegheny Counties, there are Traffic Courts that have jurisdiction of these offenses. The Committee agreed that these offenses might be different, and looked at the jurisdictional provisions for all traffic courts. See 42 Pa.C.S. §§ 1301—1342. Section 1302 provides that the jurisdiction of a traffic court is exclusive of the courts of common pleas and district justices. We also found that there are

some cases that address this issue. The courts have determined that a disposition in the Philadelphia Traffic Court is not a bar to a subsequent prosecution on a related misdemeanor or felony in common pleas court because, relying on the exclusive jurisdiction, there is no single court which could try both offenses. See, e.g., *Commonwealth v. Masterson*, 418 A.2d 664 (Pa.Super. 1980). Although the case law we reviewed addresses the issue in the context of Philadelphia Traffic Court, the Committee agreed that the exclusion also would apply to Pittsburgh Traffic Court, as well as any other Traffic Courts created pursuant to Section 1341. Base on this information, the Committee agreed to add language to the Comments to Rules 101 (Means of Instituting Proceedings in Court Cases) and 104 (Contents of Complaint) that would make it clear that summary traffic offenses that are within the jurisdiction of a traffic court should not be charged in the same complaint as the misdemeanor or felony charges, and would include a citation to 42 Pa.C.S. §§ 1301—1342 and to *Masterson*, supra. For purposes of clarity, we have also added a correlative provision to the Rule 143 Comment.

5. Philadelphia Municipal Court: Rule 6010

As a result of the Committee's research, we noted that the Superior Court in *Commonwealth v. Speller*, 458 A.2d 198 (Pa.Super. 1983) held that when, in a Philadelphia case, there is a summary offense joined with a misdemeanor, upon appeal of the disposition in the Municipal Court, the district attorney is required to include the summary offense in the information that the district attorney is required to prepare pursuant to Rule 6010 (Procedure on Appeal). Because the joined summary is coming to the Court of Common Pleas in a slightly different manner than the joined summaries in other court cases, the Committee agreed that the Rule 6010 Comment should be revised to include a cross-reference to *Speller*, supra, to acknowledge this variation.

[Pa.B. Doc. No. 99-746. Filed for public inspection May 7, 1999, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Charles A. Victor, II, having been disbarred from the practice of law in the Commonwealth of Massachusetts, the Supreme Court of Pennsylvania issued an Order dated April 23, 1999 disbaring Charles A. Victor, II from the practice of law in this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 99-747. Filed for public inspection May 7, 1999, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Christopher Lee Pearson, having been suspended from the practice of law in the State of California by Order of the Supreme Court of the State of California filed on July 1, 1998, the Supreme Court of Pennsylvania issued an Order dated April 21, 1999, Christopher Lee Pearson is suspended from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of the State of California filed on July 1, 1998. In accordance with the Rule 217(f),

Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 99-748. Filed for public inspection May 7, 1999, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION [58 PA. CODE CH. 139] Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 9, 1999 meeting, adopted the following changes:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide dates for the 1999-2000 hunting license year.

These amendments are hereby adopted under the authority of 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Amendment to § 139.4

1. *Introduction*

To effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 12, 1999, meeting proposed and at its April 9, 1999, meeting finally adopted changes to § 139.4 to provide for seasons and bag limits for the 1999-2000 license year. These seasons and bag limits were made under the provisions of sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of commission; and regulations). Notable changes for the 1999-2000 year are shorter seasons to hunt ringneck pheasants, cottontail rabbits and bobwhite quail, and the creation of an early 3-day flintlock muzzleloader antlerless deer season in special regulation areas.

2. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Section 322 of the code specifically empowers the Commission to "... fix seasons . . . and daily, season and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

After experimenting with starting the rabbit, pheasant and quail seasons 2 weeks earlier in 1998-99, it was decided that populations of those species cannot justify continuance of the extended season, so these seasons have been returned to their traditional length. Also, after receiving a great deal of input on the proposed Statewide 3-day muzzleloader antlerless season, it was decided to restrict that season to special regulation areas only.

3. *Regulatory Requirements*

These adopted seasons and bag limits would establish when and where it is lawful to hunt and trap various game species and place limits on the numbers that can be legally taken.

4. *Persons Affected*

Persons wishing to hunt and trap in this Commonwealth would be affected by these seasons and bag limits.

5. *Comment and Response Summary*

A great deal of input was received with regard to the proposed 3-day early flintlock muzzleloader antlerless

season. Of the 914 written comments written comments received, 816 were in favor of the season. It appears, however, that this may have been an orchestrated campaign. Commissioners in discussing the proposal throughout the State found the prevailing sentiment to be the opposite. The Commission has therefore decided to limit the season to the special regulations areas where there are no concerns about deer populations.

Comments were also received in favor of having a longer rifle antlerless season. Because of concerns about deer populations in parts of this Commonwealth, it was decided to keep the antlerless season as proposed.

Finally, comments were received regarding returning the start of the earlier small game season to its traditional time. As a result, the finally adopted dates are 2 weeks later than proposed.

6. *Cost and Paperwork Requirements*

The new seasons and bag limits would not result in any additional cost either to the Commission or to hunters and furtakers.

7. *Effective Dates*

July 1, 1999 to June 30, 2000.

8. *Contact Persons*

For further information on the changes, the contact person is James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending § 139.4, shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MADL,
Executive Director

Fiscal Note: Fiscal Note 48-108 remains valid for the final adoption of the subject regulation.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

**1999-2000 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
 FIELD POSSESSION LIMIT AND SEASON LIMIT
 OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined) Eligible Junior Hunters only, with or without the required licenses, when properly accompanied as required by law	Oct. 9	Oct. 11	6	12
Squirrels—(Combined)	Oct. 16	Nov. 27	6	12
	Dec. 27	and Feb. 12, 2000		
Ruffed Grouse—Statewide	Oct. 16	Nov. 27	2	4
	Dec. 27	and Jan. 29, 2000		
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA - NO GROUSE HUNTING"				
Rabbits, Cottontail	Oct. 30	Nov. 27	4	8
	Dec. 27	and Feb. 12, 2000		
Ringneck Pheasant—Male only	Oct. 30	Nov. 27	2	4
Ringneck Pheasant—Male or female combined when hunting in designated hen shooting area only	Oct. 30	Nov. 27	2	4
	Dec. 27	and Feb. 12, 2000		
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all counties except Adams, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Juniata, Lancaster, Lebanon, Perry, Snyder and York where the season is closed.	Oct. 30	Nov. 27	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 27	Jan. 1, 2000	2	4
Woodchucks (Groundhog)	No closed season except during the antlered and antlerless deer season and until 12 noon daily during the spring gobbler turkey season			Unlimited
<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male Male or Female			1	1
Management Areas #1-A, 1-B, 2, 6, 7-A & 8	Oct. 30	Nov. 13		
Management Area #7-B	Oct. 30	Nov. 6		

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Management Areas #3, 4 & 5	Oct. 30	Nov. 20		
Management Area #9-A	Closed to fall turkey hunting			
Management Area #9-B	Nov. 1	Nov. 6		
Turkey (Spring Gobbler)-Statewide Bearded Bird Only	April 29, 2000	May 27, 2000	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.
- (c) Subject to approval by the United States Fish and Wildlife Service, an early and late season for Canada geese will be held as defined in § 141.25.
- (d) There is no open season for taking Woodcock within the boundaries of State Game Land No. 69, located in Randolph, Richmond and Troy Townships in Crawford County, Pennsylvania.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 2	Nov. 28		Unlimited
	Dec. 24	and Mar. 26, 2000		
Starlings and English Sparrows	No closed season except during the antlered and antlerless deer seasons and until 12 noon daily during the spring gobbler turkey season			Unlimited

FALCONRY

Squirrels— (Combined)	Sep. 1	Mar. 31, 2000	6	12
Quail	Sep. 1	Mar. 31, 2000	4	8
Ruffed Grouse	Sep. 1	Mar. 31, 2000	2	4
Cottontail Rabbits	Sep. 1	Mar. 31, 2000	4	8
Snowshoe or Varying Hare	Sep. 1	Mar. 31, 2000	2	4
Ringneck Pheasant—Male and Female (Combined)	Sep. 1	Mar. 31, 2000	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
DEER				
Deer (Archery), Antlered or Antlerless with the appropriate license	Oct. 2	Nov. 13	1 Per Day	One antlered.**
	Dec. 27	and Jan. 15, 2000		An antlerless deer with each required antlerless license.
Deer (Buck), Antlered, (Statewide) with 2 or more points to an antler or a spike 3 or more inches long	Nov. 29	Dec. 11	1 Per Day	One antlered.**
Deer (Doe), Antlerless, (Statewide) Junior License Holders Only with required antlerless license	Dec. 4	and Dec. 11 only	An antlerless deer with each required antlerless license.	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Deer (Doe), Antlerless, (Statewide)	Dec. 13	Dec. 15	1 Per Day	An antlerless deer with each required antlerless license.
Deer (Doe), Antlerless, (Presque Isle State Park, Erie County)	Dec. 8	Dec. 10	One antlered deer.** An antlerless deer with each required antlerless license.	
Deer (Doe), Antlered or Antlerless, (Flintlock Muzzleloading firearms only)	Dec. 27	Jan. 15, 2000	1 Per Day	One antlered ** or one antlerless-plus An antlerless deer with each required antlerless license.
Deer (Doe), Antlerless, Only on those lands designated by the Executive Director as "Deer Damage Areas" and posted with approved signs	Nov. 29	Dec. 11	An antlerless deer with each required antlerless license.	
Deer (Doe), Antlerless, (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Ritchie, Raven Rock Site, Adams County)	Hunting is permitted on days Established by the United States Department of the Army.		An antlerless deer with each required antlerless license.	

**SPECIAL REGULATIONS AREAS
SOUTHEASTERN PENNSYLVANIA AND ALLEGHENY COUNTY**

Deer (Doe), Antlerless only, (Flintlock Muzzleloading firearms only)	Nov. 18	Nov. 20	An antlerless deer with each required antlerless license.
Deer (Buck), Antlered	Nov. 29	Dec. 11	One antlered deer.**
Deer (Doe), Antlerless	Nov. 29 Dec. 27	Dec. 18 and Jan. 15, 2000	An antlerless deer with each required antlerless license.

BEAR

Bear, any age	Nov. 22	Nov. 24	1	1
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FUR TAKING—TRAPPING

Minks and Muskrats—Statewide	Nov. 21	Jan. 9, 2000	Unlimited	
Beaver—Statewide	Dec. 26	Mar. 15, 2000		
Zones 1, 2 & 3 (except Bradford, McKean, Potter, Susquehanna, Tioga and Wayne Counties)			10	20
Bradford, McKean, Potter, Susquehanna, Tioga and Wayne Counties			10	40
Zone 4 & 5			10	10
Zone 6			6	6
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—Statewide	Oct. 17	Feb. 26, 2000	Unlimited	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
FURTAKING—HUNTING				
Coyotes—Statewide	No closed season. Coyotes may be taken during the regular antlered and antlerless deer seasons or extensions only by hunters who have a valid deer tag or during the spring gobbler turkey season by hunters who have a valid spring turkey tag and meet fluorescent orange and shot size requirements.		Unlimited	
Opossums, Skunks, Weasels—Statewide	No closed season. These species may not be hunted prior to 12 noon during the spring gobbler turkey season.			
Raccoons and Foxes—Statewide	Oct. 16	Feb. 26, 2000	Unlimited	

No open seasons on other wild birds or wild mammals.

**Only one antlered deer (buck) may be taken during all seasons of the hunting license year.

[Pa.B. Doc. No. 99-749. Filed for public inspection May 7, 1999, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CHS. 141 AND 143]

Hunting and Trapping; Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 9, 1999, meeting, adopted the following changes:

Make editorial amendments to § 141.41(1) (relating to general) to be consistent with the language in 34 Pa.C.S. (relating to Game and Wildlife Code) and make editorial amendments to paragraph (2) that provide for the wearing of daylight fluorescent orange while hunting.

Amend § 141.43(d) (relating to deer), with addition of further requirements for the wearing and display of daylight fluorescent orange material while hunting in the proposed early flintlock muzzleloading antlerless deer season.

Amend the flintlock muzzleloading deer license language in § 143.84 (relating to application) by extending the period of time when the license (stamp) can be purchased; and removing the requirement of surrendering the antlerless deer license application when purchasing a muzzleloading license (stamp).

These amendments are hereby adopted under the authority of 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Amendment to §§ 141.41 and 141.43

1. Introduction

To provide for the safety of hunters in the field and to simplify regulatory provisions relating to the wearing of fluorescent orange-colored material while hunting, the Commission at its January 12, 1999, meeting proposed and at its April 9, 1999, meeting finally adopted changes to §§ 141.41 and 141.43 to require the wearing of day-

light fluorescent orange-colored material during the proposed early flintlock muzzleloader season and to make some editorial changes. These changes are made under the authority contained in section 2102 of the code (relating to regulations).

2. Purpose and Authority

As part of the proposed 1999-2000 seasons and bag limits, the Commission decided to propose a 3-day early flintlock muzzleloader antlerless deer season. Although in final adoption, this season is limited to the special regulation areas, it would still overlap the small game season, so it was decided to require the wearing of daylight fluorescent orange-colored material. This necessitated the adding of a subsection to § 141.43. In addition, the following changes to § 141.41 were adopted:

a. Change the term "mammals" to "animals" in paragraph (1) to be more consistent with terminology in the code.

b. Remove mention of "turkey" in paragraph (2) because there are more specific requirements for turkey hunting contained in § 141.45 (relating to turkey).

c. Delete the last sentence of paragraph (2) because the exception is already provided for in section 2524 of the code (relating to protective material required).

Section 2101(a) of the code directs the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning ... the ways, manner, methods, and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife" This provision provides the authority for the adopted changes.

3. Regulatory Requirements

The adopted changes require the wearing of daylight fluorescent orange-colored material during the early flintlock muzzleloader antlerless deer season.

4. *Persons Affected*

Those desiring to hunt during the early flintlock muzzleloader antlerless deer season will be affected by the adopted changes.

5. *Comment and Response Summary*

No comments were received with regard to the adopted changes.

Amendment to § 143.84

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 12, 1999, proposed and at its meeting held on April 9, 1999, finally adopted changes to § 143.84 to dispense with the requirement that purchasers of flintlock muzzleloader licenses surrender their antlerless deer license application at the time they purchase their muzzleloader license. These changes were adopted under authority contained in section 2722(g) of the code (relating to regulations).

2. *Purpose and Authority*

Some time ago, to limit what seemed to be a skyrocketing population of flintlock muzzleloader hunters, the Commission established a requirement that the hunters choose between an antlerless deer license and a muzzleloader license. Antlerless deer licenses, however, in recent years have not sold very well, impacting deer population management. To counter this trend, the Commission will allow muzzleloader hunters to also obtain an antlerless license. In final adoption, however, the Commission established a deadline for obtaining a muzzleloader license of August 31.

Section 2722(g) of the code directs the Commission to adopt regulations for the administration, control and performance of license issuance. The changes are adopted under this authority.

3. *Regulatory Requirements*

The adopted changes will relax current regulatory requirements.

4. *Persons Affected*

County treasurers and their employes and persons wishing to hunt antlerless deer in this Commonwealth will be affected by the changes.

5. *Cost and Paperwork Requirements*

The changes will not result in any additional costs or paperwork.

6. *Effective Date*

The changes will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information on the changes, contact James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717)787-6526.

Findings

The Commission finds that:

(1) The public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968

(P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 143, are amended by amending §§ 141.41 and 141.43 to read as set forth at 29 Pa.B. 1398, and by amending § 143.84 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending §§ 141.41, 141.43 and 143.84, shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MAHL,
Executive Director

(Editor's Note: The proposal to amend § 143.51 (relating to application and issuance of surplus tags) included in the proposed rulemaking at 29 Pa.B. 1398, has been withdrawn by the Commission.)

Fiscal Note: Fiscal Note 48-109 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKAKER LICENSES

Subchapter E. FLINTLOCK (MUZZLELOADER) DEER LICENSES

§ 143.84. Application.

(a) Application may be made when purchasing a regular hunting license, or any time prior to August 31, upon presentation of the regular hunting license.

(b) A collector may, upon completing an application, purchase a muzzleloading firearm deer season license only after the close of the special flintlock season and is not bound by the procedures in this section.

(c) When applying for a flintlock firearm deer season license, the applicant shall surrender the entire current antlerless deer license application.

(d) The issuing agent shall write the word VOID, in ink, boldly across the face of the surrendered antlerless deer license application and attach it to the application for the flintlock license.

(e) A collector may, upon completing an application, purchase a muzzleloading firearm deer season license only after the close of the special flintlock season and is not bound by the procedures in this section.

(f) A resident serving on active duty in the Armed Forces of the United States or in the United States Coast Guard is not bound by this section as it applies to surrendering the antlerless application or deadline for application.

[Pa.B. Doc. No. 99-750. Filed for public inspection May 7, 1999, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 175]

Vehicle Equipment and Inspection; Postponement of Effective Date for Recent Amendments

The effective date of portions of the regulations of the Department of Transportation on use and inspection of mirrors and bumpers on passenger cars and light trucks and mirrors, bumpers and exhaust systems on medium and heavy trucks (67 Pa. Code Chapter 175) is postponed until further notice. The postponed portions of the regulations prohibit placement of bumpers above specific limits as measured from the ground and require the rejection of inspected vehicles equipped with bumpers that exceed the specified limit. In addition, portions of the postponed regulations require the rejection of inspected passenger vehicles that are not equipped with all mirrors as originally equipped from the manufacturer. Finally, portions of the postponed regulations require that exhaust systems exit at the rear of the cab on trucks and truck-tractors.

The amendments to the following sections are postponed indefinitely:

- § 175.78(e)(5)
- § 175.80(a)(5)(v)
- § 175.80(a)(8)(iii)
- § 175.80(a)(8)(iv)
- § 175.80(b)(7)(iv)
- § 175.105(b)(5)(i)
- § 175.110(d)(6)(viii) (A)

The repeal of § 175.78(e)(6) is also postponed indefinitely.

These regulations were originally adopted at 28 Pa.B. 5670 (November 14, 1998) and were made effective May 13, 1999.

The Department has postponed the effective date of these portions of the new regulations to allow the Department to examine the possible conflicts these regulations may have with the Federal standards and to assess the need for these regulations and the impact these regulations would have on the manufacture and use of vehicles as well as the safety issues related to these specific provisions.

All other provisions of the equipment and inspection regulations that were scheduled to go into effect on May 13, 1999, will continue to do so.

Interested persons are invited to submit written comments, suggestions or objections regarding the changes in effective dates to Thomas J. Zamboni, Vehicle Inspection

Division, 1101 S. Front St., Harrisburg, PA 17104, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 99-751. Filed for public inspection May 7, 1999, 9:00 a.m.]

Title 70—WEIGHTS, MEASURES AND STANDARDS

DEPARTMENT OF AGRICULTURE

[70 PA. CODE CHS. 1—10, 21, 35 AND 39]

Price Look-Up Systems and Universal Product Codes

The Department of Agriculture (Department) establishes regulations required or authorized under 3 Pa.C.S. §§ 4101—4194 (relating to Consolidated Weights and Measures Act) (act). This regulatory objective will be accomplished by deleting Chapters 1, 3, 35 and 39, amending Chapter 21 and adding Chapters 2 and 4—10 to read as set forth in Annex A.

The Department has the power and authority to adopt this rulemaking. This authority includes:

(1) General authority to regulate as necessary for the performance of its responsibilities under sections 4110 and 4190 of the act (relating to specific powers and duties of the department; regulations; and rules and regulations).

(2) Authority to require, through regulation, the registration of sellers, installers, servicers and repairers of commercially-used weighing and measuring devices under section 4113 of the act (relating to registration of sellers, installers and repairers of weighing and measuring devices).

(3) Authority to require, through regulation, the registration and reporting of testing of commercially-used weighing and measuring devices under section 4114 of the act (relating to registration and report of inspection of weighing and measuring devices used for commercial purposes).

(4) The duty to establish, by regulation, minimum training standards for State inspectors and county and city sealers of weights and measures under section 4115 of the act (relating to training program).

(5) Authority to regulate the method of sale of commodities in this Commonwealth under section 4127(c) of the act (relating to method of sale of commodities).

(6) The duty to establish, by regulation, reasonable variations in weight, measure or count with respect to commodities under section 4128(b) of the act (relating to packages; declarations of quantity and origin; variations; exemptions).

(7) General authority to regulate with respect to public weighmasters under sections 4150 and 4167 of the act (relating to enforcement and regulations; and rules and regulations).

(8) Authority to regulate the weighing and measuring device types which must be reviewed and approved by the Department before being used in commerce in this Commonwealth under sections 4170 and 4176 of the act (relating to approval of types of weights and measures and weighing and measuring devices; and rules and regulations).

(9) Authority to regulate with respect to domestic fuel oil under section 4183(b) of the act (relating to enforcement of chapter, rules and regulations).

Need for the Rulemaking

The act assigns the Department primary responsibility for conducting periodic inspections of every commercially used weighing and measuring device in this Commonwealth. It also allows some of this inspection responsibility to be assumed by county sealers or city sealers (if working under a memorandum of understanding with the Department), certified examiners of weights and measures (with respect to specific designated types of weighing and measuring devices) and private certification programs (with respect to Universal Product Code (UPC) scanning systems and Price Look Up (PLU) devices). This rulemaking establishes minimum training and certification requirements for persons conducting inspections under authority of the act.

A number of provisions in this rulemaking are specifically required by the act. These provisions are referenced in this Preamble, under the "Authority" heading.

This rulemaking should ultimately make the weighing or measuring devices in commercial use in this Commonwealth more reliable, and help ensure that a consumer gets the full measure of any product the consumer purchases by weight, measure or count, or which is passed through a UPC scanning system or PLU device.

This rulemaking should benefit this Commonwealth's business community by helping to lessen underpricing or underweighing of products and the monetary losses associated with the underpricing or underweighing. In addition, this rulemaking may boost consumer confidence.

In summary, the Department is satisfied there is a need for this rulemaking, and that it is otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

Comments

Notice of proposed rulemaking was published at 28 Pa.B. 5109 (October 10, 1998), and provided for a 30-day public comment period. The Legislative Reference Bureau published nonsubstantive corrections to the notice of proposed rulemaking at 28 Pa.B. 5244 (October 17, 1998). These corrections related to the renumbering of sections, and did not substantively alter the proposed rulemaking or affect the comment period.

Comments were received from the House Agriculture and Rural Affairs Committee (House Committee), the Senate Agriculture and Rural Affairs Committee (Senate Committee), Representative Italo Cappabianca (Minority Chairperson of the House Committee), Senator Roger Madigan (the prime sponsor of the Act), the Independent Regulatory Review Commission (IRRC), the Pennsylvania Association of Weights and Measures (PAWM), the Scanning Certification Program (SCP), PennAg Industries Association (PAIA), the Bitterman Scale Company (BSC), the Precision Weight Scale Company, Inc. (PWSC), the Pennsylvania Propane Gas Association (PPGA) and others.

Comment: The PAIA found the proposed rulemaking satisfactory and agreed the proper training of examiners of weights and measures will benefit all Pennsylvanians.

Response: The Department accepts this comment and believes further elaboration is not required.

Comment: A commentator offered the general observation that the proposed rulemaking did not address the subject of package inspections. The commentator emphasized the importance of random package inspections, and noted the high number of prosecutions resulting from package inspections in the past.

Response: The Department agrees that package inspections are an important component of the enforcement role prescribed for the Department under the act. Section 4117 of the act (relating to inspection of packages) makes it the responsibility of the Department (or any entity to which it transfers enforcement responsibilities pursuant to a memorandum of understanding under section 4121 of the act (relating to powers and duties of director and inspector) to conduct package inspections. Although the act requires these package inspections be conducted from time to time, it is the intention of the Department to conduct regular random package inspections and to require the same of the entities to which it transfers enforcement responsibilities. The Department believes the language of the act relating to package inspections is self-executing, and need not be addressed in a formal rulemaking.

Comment: The BSC offered the comment that the proposed rulemaking would allow persons conducting weights and measures inspections under the act to interpret the procedures in the *National Institute of Standards and Technology (NIST) Handbook 44* so that there might be inconsistency in enforcement. The commentator believed the proposed rulemaking is too subjective in this regard.

Response: The Department is satisfied the standards, tolerances and procedures in *NIST Handbook 44* will facilitate uniform interpretation and application. In addition, the Department notes that although section 4110(b) of the act would allow the Department to adopt procedures that vary from those prescribed by the *NIST Handbook 44*, the language of that subsection also suggests the *NIST Handbook 44* standards would be adequate.

Comment: The PWSC asked whether a certified examiner of weights and measures (CEWM) can take a commercially used weighing and measuring device out of service if the CEWM finds the device to be inaccurate during the course of an inspection authorized under section 4112(b) of the act (relating to general testing and inspections).

Response: There is no provision in the act or the final-form regulations to allow a CEWM to reject an inaccurate commercially used weighing and measuring device. Section 4126 of the act (relating to duty of owners of incorrect apparatus) allows State inspectors, county sealers or city sealers to take this action.

The comment underscored the need for some regulatory requirement that a CEWM promptly report inaccurate commercially used weighing and measuring devices to the Department. In response, the Department has added a new § 4.13(e) (relating to reporting procedure for a CEWM) to the final-form regulations, which requires a CEWM to promptly report inaccurate commercially used weighing and measuring devices to the Department. The

Department will either reject the device in accordance with the act or advise the appropriate county sealer or city sealer to do the same.

Comment: The PPGA suggested the final-form regulations reflect that the Department is required to provide any inspection required under the act free of charge. An owner or user of a commercial weighing and measuring device should be made aware that he need not incur any cost in obtaining the inspections required under the act.

Response: The act does not authorize the Department to charge a fee for inspections required under the act. A county sealer or city sealer may charge a fee for inspections under its general authority to make provisions for defraying expenses that are incidental to carrying out official duties under the act. This authority is found in section 4123(a)(3) of the act (relating to city and county standards and equipment). In a county or city where the Department has transferred inspection responsibilities to the county or city under a memorandum of understanding, persons within that county or city will not have the option to choose between a free inspection by a State inspector or an inspection conducted by a county sealer or city sealer for a fee. In that instance, the county sealer or city sealer shall conduct the inspection.

Section 4.3(b) (relating to authority of a CEWM) specifies that a CEWM may charge a fee for inspection services. Section 5.5(c) (relating to authority of a certified UPC/PLU inspector) clarifies that certified UPC/PLU inspectors (including certified UPC/PLU inspectors who are State inspectors, county sealers or city sealers) may not charge a fee for inspection services unless they are county sealers or city sealers, or are part of a private certification program. The Department believes the final-form regulations are sufficiently specific as to the circumstances under which a fee may be charged.

Comment: Representative Cappabianca noted the Department's use of the undefined term "commercially used" in proposed §§ 4.3 and 5.1 (relating to purpose) and at other locations in the proposed rulemaking, and suggested this term be defined in § 2.1 (relating to definitions). IRRC also recommended that this term be defined. The PWSC repeated this comment, and asked whether weighing and measuring devices used for "business to business" transactions (scales used to ". . . weigh product for the purpose of transferring ownership of the product from one business to another") would be included within the definition of "commercially used." The Independent Regulatory Review Commission (IRRC) recommended that the term "commercial weighing device" be defined in § 2.1.

Response: The Department accepts these comments, and has included a definition of "commercially used weighing and measuring device" in § 2.1. This definition derives from section 4112(a) of the act.

Comment: IRRC suggested the definition of the term "UPC scanning system" be reworked in the final-form regulations. IRRC noted that the term "scanning system" is separately defined, and suggested that by rewriting this definition to address UPC technologies the Department might obviate the need to separately define "UPC scanning system."

Response: The Department has revised the definition of "UPC scanning system" in § 2.1. The Department declines to revise the definition of "scanning system" to include this term, since the terms "UPC scanning system" and "PLU device" appear in section 4112 of the act.

Comment: The BSC asked whether "event counters" are included within the definition of "weights and measures" for purposes of the final-form regulations.

Response: If an event counter is a turnstile or similar device that counts the number of persons passing through it, such a device would not be a commercially used weighing and measuring device unless the count recorded by that device is used in some commercial transaction.

Comment: The BSC reviewed proposed Chapter 4 (relating to certified examiners of weights and measures) and asked how it will be determined whether a CEWM is performing inspections correctly. The commentator opined that there appears to be a presumption against the CEWM, and that the proposed rulemaking did not adequately address the possibility that a less-than-honest owner of a commercially used weighing and measuring device might alter that device after it had been inspected by a CEWM.

Response: The commentator's point is well taken. The Department is aware that a CEWM might correctly perform a required inspection of a commercially used weighing and measuring device and that—whether by design or accident—the device might be rendered inaccurate shortly after the CEWM completes the inspection. The Department attempts to take this into account in § 4.14(c) (relating to inspection and testing by the Department). It is not the intention of the Department to revoke or suspend the certification of a CEWM in the absence of clear evidence the action is warranted.

Comment: The BSC listed the various costs it expected to incur in training and equipping a CEWM.

Response: A CEWM may pass training costs along to the owners or users of the commercially used weighing and measuring devices it inspects. If a person feels the costs of becoming a CEWM or maintaining CEWM status are too high, that person need not become or remain a CEWM. CEWM status is completely voluntary.

Comment: The BSC asked whether the Department intends to establish any form of interstate reciprocity to allow an out-of-State entity to act as a CEWM.

Response: The answer to this question is no. The Department will not accept the inspection report of an individual who has not received the required training and who has not followed the certification procedure in Chapter 4.

Comment: The BSC recommended proposed § 4.3 be revised to add several types of weighing and measuring devices that were not identified in that section as being types which a CEWM is authorized to inspect.

Response: The Department declines to implement this recommendation, since the types of weighing and measuring devices that had been in proposed § 4.3 are identical to the types in section 4112(b) of the act. The Department may only accept an inspection report from a CEWM with respect to a type of weighing and measuring device listed in section 4112(b) of the act. The Department deleted these types of weighing and measuring devices from § 4.3, since they are also listed in § 4.4 (relating to categories and types of weighing and measuring devices which a CEWM may inspect).

Comment: The Senate Committee recommended proposed § 4.3(a) be revised to specifically state that it is acceptable under the act for a CEWM to conduct an inspection of weighing and measuring devices which the CEWM owns or operates, or which are owned or operated by the CEWM's employer.

Response: The Department accepts the Senate Committee's recommendation, and has revised § 4.3 accordingly.

Comment: The PPGA noted that proposed § 4.3(b) would allow a CEWM to set the fees for that CEWM's inspection services, and expressed concern that these fees should be more closely-regulated.

Response: The Department will allow a CEWM to charge whatever fees the market for the CEWM's services will bear. The prospect that a CEWM could price himself out-of-business should act to temper the fees a CEWM will charge. It should also be considered that the Department is ultimately obligated to provide any inspection required under the act free of charge (except where a county or city has undertaken inspection responsibilities pursuant to a memorandum of understanding with the Department—in which case the county or city may charge a fee that reflects the costs that are incidental to the performance of its contractual duties). For this reason, a business entity need hire a CEWM to perform a required inspection only when considerations of time, convenience or other reasons militate in favor of paying a CEWM to perform a required inspection.

Comment: PWSC reviewed the various categories of commercially used weighing and measuring devices with respect to which a person can be certified as a CEWM, and asked how the Department intends to address scales that weigh items over 1,000 pounds and vehicle scales. The referenced categories are in § 4.4.

Response: Section 4.4 restates the statutorily-prescribed categories of commercially used weighing and measuring devices with respect to which the Department may accept the inspection report of a CEWM in lieu of conducting the inspection itself. These categories are found in section 4112(b) of the act. Although the Department agrees with the commentator that it would be of benefit if the Department could accept inspection reports from CEWMs with respect to more types of commercially used weighing and measuring devices than are listed in § 4.4 or section 4112(b) of the act, it is constrained by the act in this regard. Scales that weigh items over 1,000 pounds would have to be inspected by a State inspector or an authorized county sealer or city sealer.

Comment: The PPGA voiced concern regarding the Department's proposed rulemaking of weighing and measuring devices on liquid petroleum gas meters. Proposed § 4.4(6) makes specific reference to truck-mounted liquid petroleum gas meters. The PPGA commented that the proposed rulemaking would have an adverse economic impact on propane companies and consumers throughout this Commonwealth. The PPGA referenced the requirements of Executive Order 1996-1 ("Regulatory Review and Promulgation"), and commented that the Department had not conducted the cost-benefit analysis that order requires.

Response: The Department does not have the discretion to exclude truck-mounted liquid petroleum gas meters from those commercially used weighing and measuring devices it inspects. The inclusion of truck-mounted liquid petroleum gas meters among those commercially used weighing and measuring devices the Department must inspect is not the product of the regulation, but is the specific requirement of section 4112(b) of the act. Since this requirement is imposed by statute, any resultant financial impact upon propane companies or the public is the product of the act, rather than the final-form regulations.

Comment: The PPGA also commented that the proposed regulation might result in inspections of truck-

mounted liquid petroleum gas meters occurring at intervals of between 14 and 18 months, and that this would result in increased costs to the propane industry "... as the meters tend to malfunction at about 14 months from the last inspection by providing more product to the consumer than identified by the meter." These meters are referenced in proposed § 4.4(6).

Response: Section 4112(b) of the act requires the inspection of truck-mounted liquid petroleum gas meters at intervals of no more than 12 months. A seller of liquid petroleum gas who suspects the truck-mounted meter used to dispense the gas is allowing purchasers to acquire more gas than they paid for can arrange for the immediate repair of the meter, without the involvement of the Department in the repair process. The inspection requirements in § 6.6 (relating to newly-installed or repaired commercial weighing and measuring devices) would then be applicable to the repaired device.

Comment: The PPGA acknowledged the Department's authority to delegate inspection responsibility with respect to truck-mounted liquid petroleum gas meters, but expressed concern that inspections be conducted promptly, efficiently and at a reasonable cost. The PPGA also commented that the Department should ensure there are adequate numbers of inspectors to meet the inspection demands. As stated, these meters are referenced in proposed § 4.4(6).

Response: The Department is ultimately required to conduct the referenced inspections at no cost (except where a county or city has undertaken inspection responsibilities pursuant to a memorandum of understanding with the Department—in which case the county or city may charge a fee that reflects the costs that are incidental to the performance of its contractual duties). It will be the Department's responsibility to ensure it has an adequate number of trained, equipped State inspectors, county sealers or city sealers to perform these inspections. The Department will conduct these inspections on schedule and with efficiency. Any CEWM conducting these inspections may charge whatever fee the market will bear.

Comment: IRRC suggested proposed §§ 4.5(1) and 4.6 (relating to certification standards; and training courses) be revised to delete any reference to the Department approving NIST training courses. IRRC further commented that under section 4110(a)(4) of the act, these NIST courses are already considered approved.

Response: The Department accepts this suggestion, and has revised the referenced sections accordingly in the final-form regulations.

Comment: The PPGA recommended the Department establish procedures under which it will review the qualifications of a CEWM to ensure that "... a systematic and uniform inspection program is achieved."

Response: The Department is satisfied that the final-form regulations will result in a uniform CEWM program. Section 4.6 requires that a CEWM candidate successfully complete appropriate NIST training. Section 4.13 requires a CEWM to report the results of any inspection conducted under authority of a CEWM certificate. Section 4.14 allows for random inspection and testing by the Department to verify that a CEWM is conducting inspections in the proper manner. Section 4.15 (relating to suspension or revocation of certification) allows for the revocation or suspension of a CEWM's certificate. On balance, the Department is satisfied these provisions, and the other provisions of Chapter 4, are adequate to ensure the CEWM program is systematic and uniform.

Comment: IRRC recommended the Department delete the list of approved NIST courses appearing in proposed § 4.6(b) and either publish the referenced list at intervals in the *Pennsylvania Bulletin* or indicate that a current list may be obtained from the Department.

Response: The Department accepts this recommendation and has revised § 4.6(b) to indicate that a current list of NIST courses may be obtained from the Department.

Comment: In the context of its comments with respect to proposed § 4.6, IRRC suggested the final-form regulations contain the standards, technical procedures and reporting procedures referenced in section 4110(a)(1) and (2) of the act.

Response: Section 4110(a)(1) and (2) of the act allow the Department to incorporate into its regulations standards of net weight, measure, count and fill for any commodity in package form, and technical and reporting procedures for State inspectors, county sealers and city sealers to follow in the discharge of their official duties. The Department is satisfied the final-form regulations address these topics to the extent necessary. It should also be noted that the current regulations in Chapters 21, 23, 25 and 27 address a number of the standards and procedures referenced in the comment. If, in the administration of these final-form regulations, the Department determines more detailed regulatory provisions on the topics addressed in section 4110(a)(1) and (2) are necessary, the Department will amend the regulations.

Comment: The BSC asked whether an application for certification, as described in proposed § 4.8 (relating to applying for certification) could be denied.

Response: An application for a CEWM certificate can be denied, as described in § 4.8(c).

Comment: IRRC suggested proposed § 4.10 (relating to expiration of CEWM certificate) be reworded for greater clarity.

Response: The Department accepts this suggestion, and has implemented it in § 4.10.

Comment: The BSC commented that proposed § 4.12 (relating to testing and inspection performance standards) does not clearly identify or list the NIST standards it adopts in that section, and suggested these standards be cited in the final-form regulations.

Response: The referenced NIST standards represent an evolving body of knowledge, and are revised and updated on a fairly regular basis. Just as the Department elected to delete the list of current approved NIST training courses for CEWMs that had been included in proposed § 4.6(b), the Department is reluctant to include specific NIST standards in § 4.12. As written, § 4.12 automatically makes any new or revised NIST standards those of the Department. The Department believes this approach will obviate the need to revise the regulation on a regular basis to address new NIST standards.

Comment: Representative Cappabianca recommended the Department develop a specific inspection report form for CEWMs and require the use of that form to make it easier for the Department to handle these required reports and compile information from them. It was further recommended that proposed § 4.13 be revised to implement this recommendation. IRRC and the BSC offered similar comments, suggesting there be a single, uniform inspection form for use throughout this Commonwealth.

Response: The Department believes it will not have any significant problems in compiling information from inspection report forms. Section 4.13(c) adequately sets forth the information an inspection report form must contain. In addition, the Department will provide sample inspection report forms to any requesting party. Although a CEWM might vary the form, the form must still meet the substantive requirements of § 4.13. For these reasons, the Department declines to implement the suggested revision.

Comment: The BSC offered the comment that the CEWM inspection report form described in proposed § 4.13 calls for subjective determinations on the part of the person completing the form and has the potential to result in inconsistency in reporting. The BSC focused on proposed § 4.13(c)(7) and (8), which call for determinations as to defects or deficiencies in a weighing or measuring device and a statement of whether the device is in compliance with NIST performance standards.

Response: The NIST performance standards prescribe tolerances for various weighing and measuring devices, and are quite objective in this regard. A weighing and measuring device is either in compliance or it is not. The Department believes the NIST performance standards and the inspection report form will serve to make inspections less subjective and more consistent. In response to this comment, though, the Department has revised § 4.13(c) to add a comment space on the inspection report form to allow a CEWM to offer an explanation or clarification of any inspection the CEWM performs.

Comment: The BSC suggested proposed § 4.13 be revised to require a CEWM to report items such as: "pit condition, strain load test, repeatability, RFI, bi-directional test, missing security seal, over-capacity use and decreasing load readings. . ."

Response: The items referenced in this comment can be reported by a CEWM in the comment section of the inspection report form.

Comment: Representative Cappabianca reviewed proposed § 4.14 and agreed with the Department's plan to conduct random inspection and testing of a sample of the devices that have been inspected and tested by CEWMs. It was further recommended, though, that the testing described in this section constitute a statistical sample of each type of device inspected by CEWMs. These types are listed in § 4.4. IRRC endorsed this comment, as well.

Response: The Department will conduct random inspections of a cross section of each of the types of weighing and measuring devices described in § 4.4. Section 4.14(a) has been revised to make this more clear.

Comment: The BSC reviewed proposed § 4.15 (relating to suspension or revocation of certification) and asked whether it was the original intent of the Department to have suspension and revocation matters reviewed by a board comprised of knowledgeable industry representatives, other neutral parties and representatives of the Department.

Response: The Department does not intend to establish a board to resolve CEWM revocation, suspension or enforcement issues under the act.

Comment: In the course of a conversation with one of the commentators, the commentator suggested it would be useful if the Department had some mechanism by which to suspend or revoke the authority of a CEWM or a certified UPC/PLU inspector on an emergency basis.

Response: The Department rejects this informal comment. The statute at 2 Pa.C.S. § 504 (relating to hearing and record) requires that a license holder be afforded reasonable notice and an opportunity to be heard prior to suspension or revocation of the license.

Comment: The BSC noted proposed § 4.15(a)(3) and observed that in its experience State inspectors have tested and approved scales for commercial use that the BSC determined should not have been approved. The BSC stated that this situation underscores the need for a rigid, uniform testing procedure.

Response: The Department believes the final-form regulations will help establish a uniform testing procedure for commercially used weighing and measuring devices, and encourages the commentator to report any incident when a State inspector approved a device which the commentator feels should not have been approved.

Comment: IRRC recommended proposed § 4.15(b) be revised to require the Department to include in a due process hearing notice a reference to the rules of administrative practice and procedure applicable to the proceedings.

Response: Although the Department will cite any applicable rules of administrative practice and procedure in the written notice of its intention to suspend or revoke certification described in § 4.15(b) it does not believe it necessary that the final-form regulations impose this as a regulatory requirement.

Comment: The PWSC reviewed the penalty provisions in proposed § 4.17 (relating to civil penalties), and expressed apprehension that this section might be used as a revenue generating device by the Department. The commentator acknowledged that—under the Department's long standing "inform, warn, prosecute" approach to weights and measures matters—§ 4.17 is not likely to be misused. The commentator's apprehensions were with respect to future administration of the act by the Department.

Response: The provisions appearing in § 4.17 are derived from section 4191(b) of the act, which authorizes civil penalties of up to \$10,000 for violations of the act. The Department has no plans to change its "inform, warn, prosecute" approach to enforcement, though. Any civil penalty assessed by the Department will be in proportion to the seriousness of the violation.

Comment: The House Committee, the Senate Committee, Representative Cappabianca and Senator Madigan—the prime sponsor of the act—noted that the Legislative intent of the act was to permit the private sector to implement private certification programs and allow for self-inspection of UPC scanning systems and PLU devices by these private certification programs. In other words, a retail store chain that develops its own private certification program and has its UPC scanning systems and PLU devices inspected under this private certification program in accordance with the act should be exempt from annual inspection and testing by the Department.

These commentators recommended the final-form regulations contain specific language stating that self-inspection by private certification programs is acceptable. IRRC suggested that—if the Department intends to allow for self-inspection by private certification programs—§§ 5.21 and 5.22 (relating to registration; and requirements and fees), respectively should clearly reflect this. The Senate Committee recommended this be accomplished by revising proposed § 5.2(c) (relating to requirement of annual testing and inspection).

Response: The Department agrees that the final-form regulations should more clearly state that self-inspection by private certification programs is acceptable. The Department has revised § 5.5(a) (relating to authority of certified UPC/PLU inspector) to accomplish this clarification. Although the commentators suggested this clarification be accomplished in other sections the Department believes the clarification best fits within the context of the subject matter of § 5.5.

Comment: The SCP raised several concerns regarding the practice of allowing self-inspection of commercially used UPC scanning systems and PLU devices by private certification programs. The SCP registered its strong opposition to this type of self-inspection, and urged the Department to reconsider allowing this practice in the final-form regulations. The basis for this opposition was that: 1) self-inspection allows certified UPC/PLU inspectors to be employees or for-profit contractors of an entity whose UPC scanning systems and PLU devices it inspects; 2) self-inspection enables entities which have UPC scanning systems or PLU devices that must be inspected under the act to create their own private certification programs for the purpose of inspecting themselves; and 3) self-inspection cannot be unannounced or unbiased. The SCP believes self-inspection is contrary to the consumer protection interests the act attempts to protect. IRRC recommended that—if the Department intends to allow for self-inspection by private certification programs—it specify the criteria or limitations "... necessary to preserve the unannounced inspection requirement and the integrity of procedures to protect consumers and users."

Response: The Department believes the act cannot be construed as prohibiting self-inspection of commercially used UPC scanning systems and PLU devices by private certification programs. This is underscored by the fact that—as noted in the previous comment—the Department received comment letters from a number of legislators encouraging the Department to clarify in the final-form regulations that self-inspection by private certification programs is acceptable.

Section 4112(c) of the act refers to private certification programs, but imposes no requirement these programs be nonprofit or be completely disassociated from the entities whose UPC scanning systems and PLU devices they inspect.

A person conducting an inspection of a UPC scanning system or PLU device may be an employe or paid contractor of the entity owning that system or device. In accordance with § 5.4 (relating to certified UPC/PLU inspector), though, any person intending to conduct such an inspection must first be designated a certified UPC/PLU inspector. Sections 5.14 and 5.15 (relating to inspection and testing by the department; and suspension or revocation of certification, respectively) establish the Department's authority to oversee the quality of inspections being conducted by certified UPC/PLU inspectors, and allow the Department to revoke or suspend the certification of persons for a variety of reasons—including fraud or incompetence in inspections.

Section 4112 of the act requires inspections of UPC scanning systems and PLU devices by private certification programs be conducted on an unannounced basis. The Department has recourse against the certified UPC/PLU inspector if that person fails to inspect on an unannounced basis. The Department implemented IRRC's suggestion, and revised § 5.5 to address the requirement that a certified UPC/PLU inspector conducting inspections as part of a private certification program conduct

those inspections on an unannounced basis. This requirement is also in § 5.22(a) (relating to requirements and fees). The Department is satisfied the final-form regulation properly implements the provisions of the act relating to self-inspection of commercially used UPC scanning systems and PLU devices.

Comment: The PAWM voiced the same comment offered by the SCP, and suggested that self-inspection of commercially used UPC scanning systems and PLU devices be prohibited. PAWM also offered the recommendation proposed in § 5.2(c)(3) (relating to requirement of annual testing and inspection) be revised to accomplish this prohibition.

Response: The Department declines to implement PAWM's suggestion, for the reasons articulated in the response to the immediately preceding comment.

Comment: The PWSC reviewed proposed § 5.2 and stated that it is ultimately the responsibility of the owner or user of a commercially used weighing and measuring device to ensure the device is inspected in accordance with the act. The commentator asked whether an owner or user would tend to utilize State inspectors or authorized county sealers or city sealers instead of paying a CEWM for inspection services.

Response: The Department notes that the inspections of UPC scanning systems and PLU devices referenced in § 5.2 will be conducted by certified UPC/PLU inspectors, rather than CEWMs. With this clarification, the Department is inclined to agree with the commentator. The Department will not charge for inspection services required under the act. County sealers and city sealers who conduct inspections pursuant to a memorandum of understanding with the Department may charge a fee that reasonably reflects the costs of inspection. The CEWMs and private certification programs may inspect on a for-profit basis and charge any fees they deem appropriate. The commentator is correct that the owner of any commercially used weighing and measuring device that is required to be inspected under the act may have the inspection conducted by a State Inspector at no charge (except when a county or city has undertaken inspection responsibilities pursuant to a memorandum of understanding with the Department—in which case the county or city may charge a fee that reflects the costs that are incidental to the performance of its contractual duties).

Comment: IRRC suggested proposed § 5.2(c)(1) be revised for greater clarity.

Response: The Department is satisfied that § 5.2(c)(1) clearly and accurately describes the appropriate inspection interval, and declines to implement IRRC's suggestion.

Comment: Representative Cappabianca reviewed proposed § 5.15 and noted that the suspension and revocation actions described in that section are only applicable to a certified UPC/PLU inspector who conducts inspections on behalf of a private certification program—as opposed to a certified UPC/PLU inspector who is a city sealer, a county sealer or an employe of the Department. The commentator requested an explanation of the Department's reasons for limiting its suspension and revocation authority in this section.

Response: Three categories of persons may conduct inspections of commercially used UPC scanning systems and PLU devices under the act. These are: 1) State inspectors of weights and measures (who are employes of the Department); 2) employes of a city or county acting as city sealers or county sealers in accordance with a

memorandum of understanding with the Department; and 3) persons acting on behalf of private certification programs. The Department believes it has immediate and adequate recourse against any person in the first two categories who conducts any of the violations listed in § 5.15(a)(1)—(5) and that including these two categories of person within § 5.15 is unnecessary. With respect to a State inspector who commits the violation, the Department can counsel, retrain and—if necessary—discipline its employe without regard to the suspension or revocation procedure. With respect to city sealers or county sealers, the Department has recourse against the city or county under the memorandum of understanding.

Comment: IRRC recommended proposed § 5.15(b) be revised to cite the applicable rules of administrative practice and procedure the Department will employ in a due process hearing.

Response: The Department will cite any applicable rules of administrative practice and procedure in the written notice of its intention to suspend or revoke certification described in § 5.15(b).

Comment: The PWSC reviewed proposed § 5.21 (relating to registration) and asked whether a large company utilizing multiple scales could hire or employ its own CEWM. The commentator also asked whether a company could have a CEWM on staff to certify scales it loans or rents to third parties.

Response: The answer to both of the commentator's questions is yes.

Comment: Representative Cappabianca noted that proposed § 6.2 (relating to registration requirement) would exempt sellers, installers, servicers and repairers of commercially used UPC scanning systems and PLU devices from having to register with the Department. The commentator sought the rationale for this exception, noting that if the Department deleted this exception from the final-form regulations a registered seller, installer, servicer or repairer of commercially used UPC scanning systems or PLU devices would be required to provide the Department information in accordance with the reporting responsibilities in § 6.6(b) (relating to newly installed or repaired commercial weighing or measuring devices). The commentator believes this information would be useful to the Department in determining the number and location of UPC scanning systems and PLU devices throughout this Commonwealth. IRRC also endorsed this comment, and raised the question of whether the Department had the statutory authority to grant the exception in proposed § 6.2.

Response: The Department declines to delete the exception at § 6.2(b).

The Department has the statutory authority—under section 4113 of the act—to establish the registration requirements in Chapter 6. The Department believes this authority includes the discretion to exclude certain categories of persons from the registration requirement if it has a reasonable basis for doing so. This discretion is evident in section 4113 of the act, which begins with the phrase "The department shall have the authority . . ." to require registration. This grant of discretion contrasts with the next section of the act—section 4114—which begins with the phrase "The department shall establish . . ." and imposes a mandatory requirement upon the Department.

In light of the following, the Department believes it has a reasonable basis for the exception in § 6.2(b).

Although UPC scanning systems and PLU devices are referenced in the definition of "weights and measures" in section 4102 of the act and the Department is responsible to inspect them under section 4112(c) of the act, they are unlike other weights and measures in several important respects.

UPC scanning systems and PLU devices do not weigh or measure anything.

The principal components of a UPC scanning system or a PLU device typically include computer equipment that has applications other than commercial weighing or measuring. For example, computer equipment that can be used to retain a database reflecting items in a store's inventory and the corresponding price of each item in that inventory can also be used for other purposes. A person who sells or installs that computer equipment would probably not consider himself a seller or installer of commercial weighing and measuring devices.

Section 7.3 (relating to requirement: registration of devices by owners) contains a requirement that the owners of commercially used UPC scanning systems and PLU devices register these devices with the Department. In addition, § 5.12 requires all certified UPC/PLU inspectors to file reports with the Department pertaining to any inspection the certified UPC/PLU inspector conducts. On balance, the Department is satisfied these sections of the final-form regulations will facilitate the Department's effort at developing a comprehensive database of the numbers, types and locations of commercially used UC scanning systems and PLU devices in this Commonwealth.

Comment: The BSC asked whether the registration requirements in proposed Chapter 6 were applicable to business entities engaged in repairing, selling, installing or servicing commercially used weighing and measuring devices, employees of those business entities, or both.

Response: The Department intended this chapter as requiring the registration of natural persons, as opposed to legal persons such as corporations, partnerships or other business organizations. Since the term "person" is defined in § 2.1 and is used throughout the final-form regulations, and includes legal persons, the Department has revised §§ 6.1—6.4 in the final-form regulation to make the necessary distinction between natural and legal persons.

Comment: The PWSC reviewed the registration requirements for sellers, installers, servicers and repairers of commercially used weighing and measuring devices in proposed § 6.2, and asked whether there was any relationship between these requirements and being a CEWM. This also raised the question: "Can one person (technician) have both titles?"

Response: The requirements of Chapters 4 and 6 are distinct from each other. A CEWM may also be a registrant under § 6.2.

Comment: The BSC reviewed proposed Chapter 6 and asked how the Department intended to ensure persons registered under that chapter had adequate equipment and skill to perform installations and repairs of commercially used weighing and measuring devices.

Response: Section 6.3 (relating to field standards) requires a prospective registrant have adequate field standards. Section 6.4(b)(5) (relating to registration procedure) requires that an applicant for registration provide a copy of the current verification from the State Metrology Laboratory with respect to the accuracy of these field

standards. Section 6.6 requires a newly-installed or repaired commercial weighing or measuring device be inspected by a State inspector or, when appropriate, a city sealer or county sealer. These provisions will help ensure the quality of installations and repairs of commercial weighing and measuring devices.

Comment: The PWSC reviewed proposed § 6.3 and asked how often it would be necessary for a CEWM to have the accuracy of the field standards that CEWM uses certified by the State Metrology Laboratory.

Response: The Department has revised § 6.3(b) to require that verifications of accuracy for field standards be obtained at intervals of no greater than 1 year.

Comment: IRRC reviewed proposed § 6.4(c) and suggested it be revised to reflect that an applicant for registration under Chapter 6 may not act as a seller, installer, repairer or servicer of commercially used weighing and measuring devices in this Commonwealth until notified by the Department that the application has been approved.

Response: The Department accepts this comment, and has revised § 6.2(a) accordingly.

Comment: The PAWM suggested proposed § 6.6(b) be revised to allow an installer or repairer to report an installation or repair of a commercial weighing or measuring device to the appropriate city sealer or county sealer, rather than the Department, in those instances where the city or county in which the device is located has assumed enforcement responsibilities pursuant to a memorandum of understanding with the Department. The commentator stated that this revision would decrease the time between notification and inspection. IRRC suggested this subsection be revised to require reporting to both the Department and the appropriate city sealer or county sealer.

Response: The Department declines to implement the suggested revision. The Department considered two factors in arriving at its decision: first, the Department has an interest in learning the location and type of newly-installed or repaired commercially used weighing and measuring devices and adding these devices to its database. Second, the owner or operator of the device has an interest in having the Department (or, if appropriate, a county sealer or city sealer) inspect the device promptly. The Department elected to address both these interests by requiring the installation or repair be reported to the Department and by extending the time within which the Department (or county sealer or city sealer) must inspect the device. Currently, under § 35.3 (relating to conditional use prior to inspection), newly installed devices must be inspected within 5 days and repaired devices must be inspected within 10 days. Section 6.6(d) extends both of these deadlines to 15 days. This should allow ample time for the Department to conduct the inspection or advise the appropriate county sealer or city sealer to conduct the inspection.

Comment: Representative Cappabianca reviewed proposed § 6.6(d) and took issue with the language in that subsection requiring that a newly-installed or repaired commercial weighing and measuring device be removed from commercial use if the Department (whether through one of its State inspectors or through county or city sealers acting pursuant to a memorandum of understanding with the Department) is unable to complete an inspection of that device within 15 days of the installation or repair. The commentator characterized this language as punishing one entity for the inactivity of another.

Response: Although the commentator's point is well taken, the Department does not elect to revise § 6.6(d) for the reasons which follow.

Section 6.6 attempts to strike a balance among the interests of the Department, the public and those who use weighing and measuring devices in commerce. New or repaired commercial weighing and measuring devices should be inspected within a reasonable time to ensure their accuracy. At the same time, the Department cannot always dispatch an inspector to immediately inspect the device. Overlaying these considerations is the fact that the act is essentially a consumer protection statute. When the interests of consumers clash with those of users of commercial weighing and measuring devices, the Department is inclined to compromise to the extent practicable and resolve the ultimate issues in favor of the consumer.

The Department believes it a reasonable compromise to establish a 15-day period within which to accomplish the required inspection. The current regulation on this subject (which is rescinded in the final-form regulations) is in § 35.3. That section allowed the use of an uninspected new weighing or measuring device for 5 days and an uninspected repaired weighing or measuring device for 10 days. To the extent § 6.6(d) extends those use periods to a uniform 15 days, it constitutes a benefit to those who use commercial weighing and measuring devices in commerce. The Department believes its responsibility to consumers requires there be some point beyond which an uninspected new or repaired weighing and measuring device must be removed from commercial use, regardless of whether the failure to conduct the inspection in a timely manner is the fault of the Department.

Since the Department had only occasional difficulty in meeting the previous 5-day and 10-day inspection deadlines, it is anticipated there will be very few, if any, instances where a required inspection can not be conducted within the 15-day period.

Comment: IIRC suggested the insertion of a comma after the term "uninspected" in proposed § 6.6(d).

Response: The Department accepts this suggestion and has implemented it in the final-form regulations.

Comment: IIRC suggested proposed § 6.6(d) be revised to establish a requirement that a seller, installer, servicer or repairer of commercially used weighing and measuring devices notify the Department when a particular device is taken out of commercial use.

Response: The Department agrees that it would be useful in allocating the Department's inspection resources to know when a particular commercial weighing and measuring device is taken out of service. The Department believes that the entity in the best position to provide this information is the owner or user of the device. These owners or users are required to register their devices under § 7.3 (relating to requirement: registration of devices by owners). In response to this comment the Department has added § 7.3(c). The new subsection will require a person who registers a commercially used weighing and measuring device with the Department to notify the Department within 30 days of the date the device is removed from commercial use.

Comment: The BSC noted that proposed § 6.7 (relating to expiration/renewal of registration) would require a registered seller, installer, servicer or repairer of commercially used weights and measures to maintain current verification from the State Metrology Laboratory that the field standards used by that person are accurate. The BSC believes this provision contradicts proposed § 6.3(a).

Response: The Department does not believe there is an inconsistency between the standards in §§ 6.3(a) and 6.7. Both sections reference the requirement that a seller, installer or repairer of commercially used weighing and measuring devices maintain field standards that have been tested for accuracy.

Comment: The BSC asked whether proposed Chapter 7 (relating to registration and report of inspection of commercial weighing and measuring devices) was necessary, and whether it could be deleted from the final-form regulations.

Response: The subject matter of Chapter 7 is necessitated by section 4114 of the act, which requires the Department to: "... establish, by regulation, a program requiring the registration and reporting of inspection and testing of weighing and measuring devices which are required to be inspected on an annual basis in accordance with section 4112 ..." of the act.

Comment: The BSC suggested that proposed § 7.1 (relating to purpose) be revised to include timing devices, UPC scanning systems, PLU devices and other devices within the weights and measures described in that section. The BSC suggested this expanded explanation of what constitutes a weighing and measuring device be set forth throughout the final-form regulations.

Response: The Department believes the definition of the term "weights and measures" in § 2.1 is adequate to convey the meaning of the term throughout the document.

Comment: The BSC reviewed proposed § 7.3 and asked how the owner of a weighing or measuring device that is required to be registered with the Department would be made aware of this obligation. The BSC suggested the Department make an outreach effort through the media to accomplish this notification.

Response: The Department accepts this comment and will make the media outreach effort suggested by the BSC. In addition, the Department will work with industry groups, such as the Pennsylvania Retailers Association, to disseminate information regarding the registration requirement. Also, registered sellers, installers and servicers of commercially used weights and measures will be of some assistance in notifying their customers of the reporting requirements in Chapter 7. The Department will also use reports of the installation and repair of commercially used weights and measures to assemble a database of persons who own commercially-used weighing and measuring devices, and will use this information to remind device owners of their registration obligations.

Comment: Representative Cappabianca encouraged the Department to quickly develop the standardized weighing or measuring device registration form referenced in proposed § 7.5(a) (relating to registration process).

Response: The Department has already developed the form referenced by the commentator, and is in the process of distributing them. The Department may yet make further refinements to the form in an effort to make it more user-friendly.

Comment: IIRC suggested proposed § 7.5 be revised to clearly identify those persons who are required to register commercially used weighing and measuring devices, and recommended that this be accomplished by inserting a new subsection (a) and redesignating subsequent subsections. IIRC also suggested proposed § 7.5(a) be revised by inserting the word "approved" before "weighing or measuring device registration form." The PWSC also took

note of the ambiguity of this proposed section, and asked for clarification as to whether it is the device seller's responsibility or the device owner's responsibility to register.

Response: Although the Department believes § 7.3 (relating to requirement: registration of devices by owners) clearly states that owners of commercially used weighing and measuring devices are responsible to register these devices, it has restated this in § 7.5(a).

Comment: IIRC reviewed proposed § 8.3 (relating to training with respect to individual types of weighing and measuring devices) and suggested the title of that section be revised to more accurately reflect its contents. The title IIRC recommended was "Training and certification with respect to individual types of weighing and measuring devices."

Response: The Department accepts this suggestion, and has redesignated § 8.3 accordingly.

Comment: IIRC recommended proposed § 8.4 (relating to prior training) be revised to require the persons described in that section to register with the Department or obtain certification from the Department.

Response: The Department accepts this comment, and has revised § 8.4 to require the submission of proof of course completion.

Comment: IIRC suggested proposed § 8.5 (relating to supplemental or refresher training) be revised by replacing the word "adequate" with the phrase "a reasonable number of."

Response: The Department has implemented this suggestion in § 8.5.

Comment: Proposed § 9.5(b)(4) (relating to application for public weighmaster's license) would require a person to verify two items in an application for a weighmaster's license. First, the applicant would have to verify that the scales on which the applicant would conduct public weighing were the license issued belong to a type of weighing and measuring device approved by the Department in accordance with Chapter 10 (relating to device type approval). Second, the applicant would have to verify that the scales were approved for use by a weights and measures officer of the Commonwealth as of the date of application. The BSC asked how the applicant would have these two pieces of information.

Response: The Department revised § 9.5(b)(4) in response to this comment. The requirement that an applicant verify that the scale to be used in public weighing is of a type approved by the Department has been deleted, but the requirement the scale have a current inspection has been retained. The Department would have a record of whether the particular scale is of a type of weighing and measuring device approved by the Department, thereby obviating the need for an applicant to confirm this. A State inspector, county sealer or city sealer who conducts an inspection of a weighing and measuring device under authority of the act must report that inspection to the Department. In most instances this will allow the Department to cross check to determine whether the inspection is current.

Comment: IIRC suggested that the clarity of proposed § 9.5(d) and (e) would be improved if those subsections were revised to make reference to a "completed" application.

Response: The Department accepts this suggestion, and has implemented it in § 9.5(d) and (e).

Comment: IIRC noted that proposed § 9.5(e)(2) and (3) does not establish deadlines within which the actions described in those paragraphs are to occur, and suggested deadlines be inserted in the final-form version of these provisions.

Response: The Department accepts this suggestion in part and rejects it in part. Section 9.5(e)(2) provides that the Department will suspend its review of a public weighmaster's license application if the application is incomplete, illegible or otherwise deficient. Since the provision also requires the Department to apprise the applicant of the nature of the problem with the application, the Department does not believe it necessary to prescribe a particular time period within which the problem must be corrected. The onus is on the applicant to rectify the problem. The consequences of failure to rectify the problem are borne by the applicant. This should motivate an applicant to act within a reasonable time to rectify any problem with the application.

With respect to § 9.5(e)(3), the Department agrees with IIRC and has inserted language requiring that—in the event the Department refers an application to a county sealer or city sealer for the report described in that paragraph—the report be completed and returned to the Department within 30 days.

Comment: The BSC noted that proposed § 9.10(b)(7) (relating to weighmaster's certificate) would require a weighmaster's certificate to express weights in avoirdupois pounds. The BSC asked whether this language would prohibit weights from being expressed in tons. The BSC suggested the Department delete this paragraph or be more specific.

Response: The referenced paragraph restates a requirement imposed under section 4152(7) of the act. Weights must be expressed in avoirdupois pounds, rather than tons. Most—if not all—scales in commercial use in this Commonwealth reflect weight in pounds rather than tons.

Comment: The BSC noted that proposed § 9.10(d) would require a weighmaster's certificate form consist of an original marked "Customer's copy" and the two remaining copies marked "Void—Customer do not accept." The BSC asked whether existing weighmaster's certificate forms would have to be discarded and requested the reason for the requirements of this subsection.

Response: The requirements imposed by this subsection are not new. The current regulation in § 3.13(b) (relating to ownership of specific items required) imposes this exact requirement. Section 9.10(d) merely restates the current regulatory requirement. For this reason, the requirements of § 9.10 should not necessitate the replacement of current weighmaster's certificate forms. In addition, the requirement that the duplicate copies that are not "Customer's copies" be marked "Void—Customer Do Not Accept" helps prevent fraudulent transactions.

Comment: Proposed § 9.11(b) (relating to issuing a public weighmaster's certificate) required a licensed public weighmaster to use scales that are of a type approved by the Department and that have been inspected as required under the act. The BSC asked how a licensed public weighmaster is expected to know that scales meet these requirements.

Response: As stated in response to a previous comment, scales that are of a type of weighing and measuring device approved by the Department are required to be clearly, conspicuously and permanently marked to reflect this fact. This requirement appears in § 10.8(a) (relating to marking of approved devices). In addition, a State

inspector, county sealer or city sealer who conducts an inspection of a weighing and measuring device under authority of the act must report that inspection to the Department in accordance with § 7.4(a) and affix a seal to the device in accordance with section 4119 of the act. These markings, reports or seals should be of assistance to the licensed public weighmaster in meeting the requirements of § 9.11(b).

Comment: The BSC asked why the Department feels it necessary to impose the requirement that a licensed public weighmaster issue weighmaster's certificates in consecutive order of the serial numbers printed on them. This requirement appears in § 9.11(c).

Response: The Department requires licensed public weighmasters to retain copies of every weighmaster's certificate issued for 2 years. This requirement appears in § 9.12 (relating to retention and inspection of certificates). The requirement that certificates be issued in serial order should make it easier for the Department to detect fraudulent records. It should also make it more difficult for a dishonest licensed public weighmaster to defraud a customer.

Comment: Representative Cappabianca recommended the phrase "made out in" in proposed § 9.11(d) be replaced with "completed with." IRRC offered the same comment.

Response: The Department accepts the recommendation and has revised § 9.11(d) accordingly.

Comment: Proposed § 9.11(f) would require that a weighmaster's certificate clearly show what weights were actually determined. The BSC asked for clarification of this term.

Response: The Department agrees that the term "clearly" in proposed § 9.11(f) was vague, and has replaced that term with "legibly" in the final-form regulations. In the past, the Department has noted a rather high percentage of weighmaster's certificates that were illegible or incomplete. Section 9.11(f) sets forth a detailed explanation of the type of information required for a weighmaster's certificate to be complete.

Comment: The BSC asked whether proposed § 9.11(f) would require that a public weighmaster's certificate show the date the tare weight of a vehicle was determined if that date is different from the date of the commercial weighing.

Response: Section 9.11(f) clearly requires the date the tare weight of a vehicle is determined be reflected on the weighmaster's certificate.

Comment: The BSC asked whether it would be necessary for a weighmaster's certificate to identify all of the scales upon which weights reflected on that certificate have been determined. The BSC also asked whether scales would have to be identified if the exact scale used in the weighing is not known.

Response: Section 9.11(f) requires that all scales used in a public weighing be identified on the weighmaster's certificate. The Department believes this a reasonable requirement. If a licensed public weighmaster cannot identify the scales upon which a weight was determined, that weight should not be used on a weighmaster's certificate.

Comment: The BSC requested an explanation of proposed § 9.11(g), which described a procedure for reweighing solid fuel. The request also stated:

What happens when feed or coal cannot all be delivered: 5 ton was ordered only 7,600 pounds was left at the delivery site, the rest did not fit. By the way, how was it determined if it happened for two different types of products at two locations on one truck load? How do you document all that?

Response: Section 9.11(g) essentially restates the current regulation in § 1.32(a) (relating to reweighing and issuance of certificates). The Department believes § 9.11(g) describes reweighing procedures in an understandable way. The intention of the subsection is to prevent there being two separate weighmaster's certificates with respect to a single load of solid fuel. If there were two valid weighmaster's certificates, the potential for fraud would increase. Section 9.28 (relating to reweighing and issuance of certificates) also addresses reweighing of solid fuel.

In a situation where there is a weighmaster's certificate for a load of solid fuel and the entire quantity of the fuel cannot be delivered, a new weighmaster's certificate should be issued with respect to the solid fuel delivered.

With respect to the commentator's question regarding two or more types of solid fuel on the same truck, a separate weighmaster's certificate would be required with respect to each type of solid fuel. This is clarified in § 9.21 (relating to weighmaster's certificate required).

Comment: The BSC reviewed proposed § 9.11(h) and asked how owners of scales upon which licensed public weighmasters conduct public weighing would know of their obligation to retain copies of weighmaster's certificates for 2 years.

Response: The requirements of this section are not new. Section 9.11(h)(2) essentially restates the 2-year record retention requirement in the current regulation in § 3.14 (relating to duties of the weighmaster). In addition, the Department provides each weighmaster with a booklet describing—among other topics related to the duties of a licensed public weighmaster—the public weighmaster's obligation to retain records.

Comment: IRRC reviewed proposed § 9.23 (relating to certificate affecting weighing requirements) and recommended that subsections (a) and (d) be rewritten into several shorter sentences. IRRC stated that this revision would add clarity.

Response: The Department accepts the recommendation, and has revised § 9.23 accordingly.

Comment: IRRC suggested proposed § 9.24 (relating to limitations of certificate for anthracite) be revised by rewriting subsection (a) into several shorter sentences and adding the word "authorized" before the word "officer" in the Certificate of Quality in that subsection.

Response: The Department agrees that implementation of these suggestions would add clarity to the final-form regulations, and has revised that document accordingly.

Comment: IRRC noted that proposed § 9.25 (relating to responsibilities of weighmasters and shippers) does not clearly delineate a difference between the responsibilities of weighmasters and shippers. If no difference exists, IRRC would favor combining subsections (a) and (b). If there are substantive differences, IRRC recommends they be clarified.

Response: The Department accepts this comment and has revised § 9.25 by deleting any requirements or responsibilities with respect to shippers.

Comment: IRRC suggested several revisions to proposed § 9.26 (relating to certificate of special transportation). First, IRRC suggested the word “transporting” be inserted before the word “truck” in subsection (a)(2) and before the word “vehicle” in subsection (a)(4). Second, IRRC suggested subsection (b) be rewritten and divided into shorter sentences for clarity.

Response: The Department accepts these suggestions and has implemented them in the final-form regulations.

Comment: IRRC reviewed proposed § 9.28(a) (relating to reweighing and issuance of certificates) and suggested the third sentence be revised by replacing “may” with “shall” and “it” with “a weighmaster certificate.” IRRC offered the opinion this change would promote clarity.

Response: The Department accepts these suggestions, and has implemented them in the final-form regulations.

Comment: IRRC suggested proposed § 9.29 (relating to reciprocity with New York) be rewritten for improved clarity.

Response: The Department accepts this suggestion, and has revised § 9.29 accordingly.

Comment: Proposed § 10.2 (relating to prohibition with respect to unapproved devices) would prohibit the manufacture, use or sale of types of commercial weighing and measuring devices that have not been approved by the Department. The BSC asked whether failure to comply with this provision would carry a penalty.

Response: Section 4191 of the act (relating to offenses and penalties) provides for criminal and civil penalties with respect to violations of these final-form regulations. Criminal prosecutions may be brought as summary offenses or misdemeanors of the third degree—depending on whether the violator has had prior violations. Civil penalties may range to \$10,000.

Comment: With respect to the previous comment, the BSC also asked what would happen to existing homemade scales and scales already marked by the Department in accordance with § 10.8 (relating to marking of approved devices). The BSC also wanted to know how engineering firms would be informed they could no longer sell homemade scales in this Commonwealth.

Response: The Department is not aware of any of its State inspectors having approved any “homemade scales” for commercial use in the Commonwealth. If the Department becomes aware of a scale that is not of a type approved in accordance with Chapter 10, it will promptly have the scale removed from commercial use.

With respect to the question of whether engineering firms would be informed they could no longer sell homemade scales in this Commonwealth, the Department responds that it is aware of only one scale manufacturer located in this Commonwealth, and that the manufacturer will be informed of the requirements of the final-form regulations.

Comment: The BSC reviewed proposed § 10.3 (relating to general standard for approval by the department), and offered the following comment:

Who makes the judgment call out in the field, when determining what is “reasonably permanent”? Is this saying that I can make homemade levers, sell non-NTEP equipment, sell and make one of a kind devices as long as it “is reasonably permanent?” This is a double standard and must be rewritten to eliminate “anything goes if it turns out okay.”

Response: The use of homemade parts in the repair of a commercially used weighing and measuring device of a type approved by the Department would result in that device being converted into something other than a device of a type that had been approved. The Department stands by the device type approval procedures in Chapter 10. Section 10.3 establishes a general standard. Sections 10.5 and 10.6 (relating to meeting the general standard for approval and application and review, respectively) provide a more detailed explanation of the information and certifications the Department may require as a prerequisite to approving a particular type of weighing or measuring device.

Comment: IRRC suggested the Department revise proposed § 10.3 to set forth more precise standards under which the Department would consider approval of types of weighing and measuring devices.

Response: The Department is not inclined to implement this suggestion. The standard in § 10.3 is the same general standard prescribed under section 4170 of the act (relating to approval of types of weights and measures and weighing and measuring devices). The Department believes § 10.5 (relating to meeting the general standard for approval) expands on this general standard and provides a precise explanation of the documentation necessary for device type approval. That section requires the Department to approve a device type where either the NIST or NCWM has issued a certificate of conformance for that type. The standard is less precise with respect to UPC scanning systems and PLU devices, since neither NIST nor NCWM issues certificates of conformance for these devices.

Comment: Senator Madigan offered the comment that UPC scanning systems and PLU devices are not weighing and measuring devices, and recommended that proposed § 10.5(c) (relating to meeting the general standard for approval—UPC scanning systems and PLU devices) be deleted for this reason.

Response: Although the Department agrees that neither UPC scanning systems nor PLU devices weigh or measure as part of their normal function, these systems and devices are included in the definition of “weights and measures” in section 4102 of the act. In summary, UPC scanning system and PLU device technologies allow a store to maintain a computerized database of each item in its inventory—and its corresponding price. When a consumer purchases an item from that inventory, a code number is scanned or manually entered into the system and the resulting sales receipt identifies the item and its corresponding price.

Comment: The BSC commented that it is internally inconsistent for the Department to require compliance with both the general standards for device type approval in § 10.3 and the more specific standards in § 10.5. This requirement appears in proposed § 10.6(d) (relating to application and review). IRRC also raised this comment.

Response: The Department rejects this comment. There is no inconsistency between the general standards in § 10.3 and the more specific standards in § 10.5.

Comment: The PWSC reviewed proposed § 10.6 and asked whether the Department would accept National Type Evaluation Program (NTEP) certificates as sufficient evidence of suitability for use in commercial weighing applications. If the Department would not accept these certificates, the commentator requested the Department explain its reasoning.

Response: The Department will accept the NTEP certificates as proof that a particular type of weighing and measuring device is acceptable for commercial use. Section 10.5(a) provides that the Department will approve types of weighing and measuring devices that have been approved by the NTEP. Section 10.6(b)(3) also refers to the NTEP certificates as being acceptable documentation a device type should be approved.

Comment: IRRC recommended proposed § 10.6(a) be revised by substituting the word "request" for the word "obtain," inserting the word "approved" before the word "application" and deleting the second sentence.

Response: The Department has implemented these recommendations in § 10.6(a).

Comment: The BSC also commented that in implementing proposed § 10.6(d) the Department should take pains to have all of the relevant information before it prior to granting device type approval, since—once granted—device type approval would be difficult to rescind.

Response: The Department agrees with this comment, and will be prudent in granting device type approval.

Comment: IRRC recommended proposed § 10.7(a)(3) (relating to certificate of approval) be revised for greater clarity.

Response: The Department has implemented this recommendation in § 10.7(a)(3).

Comment: Representative Cappabianca suggested proposed § 10.8(b) (relating to marking of approved devices) be revised to require the posting or display of the device type approval certificates referenced in that subsection. The commentator stated that this requirement would prevent duplicate inspections.

Response: The Department believes State inspectors, county sealers and city sealers responsible for inspecting UPC scanning systems and PLU devices will know whether a particular system or device is of a type approved by the Department, since the Department is the entity that issues device type approval and will distribute its list of approved device types to these persons.

Comment: The BSC reviewed proposed § 10.10 (relating to fees) and noted that the State Metrology Laboratory could charge an applicant for device type approval for testing incidental to review of the application. The commentator expressed apprehension that this testing would be less thorough than the NIST or NCWM device type testing.

Response: The primary purpose of this section is to ensure that taxpayers' dollars do not have to pay for testing conducted by the State Metrology Laboratory in reviewing applications for device type approval. It is not the intention of the Department to create a lower approval standard than would be prescribed by the NIST or NCWM for device type approval. Instead, the Department believes it important to have some procedure in place by which it can review devices that have not yet obtained NIST or NCWM approval.

Comment: IRRC offered the general observation that throughout the proposed rulemaking the Department has broad provisions requiring other information deemed relevant by the Department or other information the Department might reasonably require, and suggested an effort be made to more specifically articulate the type of information the Department might require. IRRC noted

this type of language in proposed §§ 5.8(b)(7), 6.4(b)(9), 6.5(b)(8), 9.7(7), 10.6(b)(7) and 10.7(a)(5).

Response: The Department implemented IRRC's suggestion by clarifying the referenced provisions.

Comment: IRRC offered the suggestion the Department revise the proposed rulemaking to make more extensive use of gender-neutral language. IRRC noted proposed §§ 6.5(d), 7.5(a), 9.6(b), 9.8, 9.10(a), 9.11(a) and 9.26(a) as sections in need of revision.

Response: The Department accepts this suggestion and has revised the corresponding sections of the final-form regulations accordingly.

Fiscal Impact

Commonwealth

The final-form regulations will have some fiscal impact upon the Commonwealth. The Department will require additional personnel to assist in administering the certification, registration, inspection and enforcement provisions of the act. Although the need for these additional employees is driven by the act, rather than the final-form regulations, the Department estimates it will need 2 additional office personnel, at an estimated total cost of \$100,000 per year, to meet this obligation. The Department may also require additional field personnel, but is not certain whether this will be necessary. The need for additional field personnel will depend on the extent to which county sealers, city sealers, the CEWMs and private certification programs perform inspections the Department would otherwise be required to perform under the act.

Political Subdivisions

The final-form regulations will not impose appreciable costs upon political subdivisions. Although a county or city that agrees to perform required inspections under a memorandum of understanding with the Department must ensure that its county sealers or city sealers are adequately trained and certified to inspect the types of weights and measures they intend to inspect, this training is not expected to be costly. The Department will offer training for free or at cost to the extent practicable. In addition, section 4123 of the act (relating to city and county standards and equipment) allows counties and cities to charge fees to defray expenses that are incidental to the performance of their inspection duties.

Private Sector

The final-form regulations might result in some cost to a person who seeks to become a CEWM or a certified UPC/PLU inspector but who has not yet taken the training the final-form regulations would require.

The final-form regulations will cost a business that elects to hire a CEWM to perform an inspection whatever fee that inspector charges. Similarly, a business that has a certified UPC/PLU inspector working as part of a private certification program conduct an inspection of its UPC scanning systems or PLU devices might be assessed a fee for this service. As stated, section 4123 of the act allows counties and cities to charge fees to defray expenses that are incidental to the performance of their inspection duties. Since the number of businesses that will use these inspection alternatives is unclear, and inspection fee amounts are at the discretion of the inspector, the Department cannot offer a realistic estimate of the total costs involved.

Although the Department intends to offer some initial training for free or at cost, its ultimate intention is to

allow industry groups or for-profit training providers to undertake a greater role in providing training.

General Public

The final-form regulations will impose no costs and have no fiscal impact upon the general public.

Paperwork Requirements

The final-form regulations will result in an increase in the amount of paperwork handled by the Department. In addition, a person conducting an inspection of a commercial weighing or measuring device under authority of the act could be required to generate and file an inspection report form with respect to each establishment inspected.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Ride and Measurement Standards, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Charles Bruckner, Director, or by telephoning Mr. Bruckner at (717) 787-8744.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 1998, 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(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation. In preparing these final-form regulations, the Department has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act, these final-form regulations were deemed approved by the House and Senate Committees on April 6, 1999. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 8, 1999, and approved the final-form regulations.

Findings

The Department of Agriculture finds that:

(1) Public notice of its intention to adopt the regulations 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 regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

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

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

Order

The Department of Agriculture, acting under authority of the authorizing statute, orders the following:

(a) The regulations of the Department, 70 Pa. Code, are amended by: 1) Deleting §§ 1.1, 1.11—1.14, 1.21, 1.31—1.33, 1.41, 3.1, 3.2, 3.11—3.14, 35.1—35.3, 39.1—39.20 and Appendix A; by

2) Amending § 21.1; and by

3) Adding §§ 2.1, 2.2, 4.1—4.17, 5.1—5.16, 5.21—5.23, Appendix A, 6.1—6.7, 7.1—7.5, 8.1—8.5, 9.1—9.12, 9.21—9.29, 10.1—10.10 and 21.3 to read as set forth in Annex A.

(b) The current statement of policy of the Department of Agriculture, 70 Pa. Code Chapter 39 (relating to interim guidelines for the certification of inspectors of commercially used universal product code scanning systems and price look up devices—statement of policy) is hereby deleted.

(c) 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.

(d) The Secretary of Agriculture 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 upon publication in the *Pennsylvania Bulletin*.

SAMUEL E. HAYES, JR.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 2195 (April 29, 1999).)

Fiscal Note: 2-111. (1) General Fund; (2) Implementing Year 1998-99 is \$100,000; (3) 1st Succeeding Year 1999-00 is \$103,000; 2nd Succeeding Year 2000-01 is \$106,000; 3rd Succeeding Year 2001-02 is \$109,000; 4th Succeeding Year 2002-03 is \$113,000; 5th Succeeding Year 2003-04 is \$116,000; (4) Fiscal Year 1997-98 \$1,256,000; Fiscal Year 1996-97 \$1,196,000; Fiscal Year 1995-96 \$1,264,000; (7) General Government Operations; (8) recommends adoption.

Annex A

TITLE 70. WEIGHTS, MEASURES AND STANDARDS

PART I. GENERAL

CHAPTER 1. (Reserved)

§ 1.1. (Reserved).

§§ 1.11—1.14. (Reserved).

§ 1.21. (Reserved).

§§ 1.31—1.33. (Reserved).

§ 1.41. (Reserved).

CHAPTER 2. GENERAL PROVISIONS

- Sec. 2.1. Definitions.
- 2.2. Contacting the Department.

§ 2.1. Definitions.

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

Act—The Consolidated Weights and Measures Act, 3 Pa.C.S. §§ 4101—4194.

Bureau—The Bureau of Ride and Measurement Standards in the Department.

CEWM—*Certified Examiner of Weights and Measures*—An individual who has successfully completed the training courses prescribed by NIST and approved by the Department in accordance with § 4.6 (relating to training courses), and who holds a current certificate issued by the Department in accordance with the certification standards in this chapter.

CEWM certificate—A document issued by the Department to a particular person to evidence that the named individual is a CEWM.

Certified UPC/PLU inspector—An individual who is certified by the Department as meeting the training and application requirements of Chapter 5 (relating to UPC scanning systems and PLU devices) and who is lawfully qualified to inspect UPC scanning systems and PLU devices for purposes of the testing and inspections required under section 4112(c) of the act (relating to general testing and inspections).

Commodity—Anything such as goods, wares, merchandise, compound mixture or preparation, products of manufacture or tangible personal property which may be lawfully kept, sold or offered for sale or a product being transported by vehicle and sold or priced by weight, or a service priced by weight.

Commodity in package form—

(i) A commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale exclusive of auxiliary shipping container enclosing packages that individually conform to the requirements of the act.

(ii) An individual item or lot of any commodity not in package form but on which there is a marked selling price based on an established price per unit of weight or measure will be construed to be a commodity in package form.

Consumer package or package of consumer commodity—A commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions and which usually is consumed or expended in the course of consumption or use.

Commercial feed facility—Each separate mill or plant, whether fixed or mobile, or distributor of commercial feed or customer-formula feed, as those terms are defined in 3 Pa.C.S. §§ 5101—5115 (relating to the Commercial Feed Act).

Commercially used weighing and measuring devices—

(i) Weights and measures used in determining the weight, measurement or count of commodities or things sold, offered for sale or exposed for sale on the basis of weight, measure or count, or in computing the basic charge or payment for services rendered on the basis of weight, measure, count or time.

(ii) The term also includes UPC scanning systems and PLU devices used to determine the amount due with respect to commodities or things sold, offered for sale or exposed for sale.

Cord—The amount of wood that is contained in a space of 128 cubic feet when the wood is racked and well stowed when used in connection with wood intended for fuel purposes.

Department—The Department of Agriculture of the Commonwealth.

Director—The Director of the Bureau.

Domestic consumers—Consumers in residences, apartment houses, stores, churches, office buildings and similar edifices, as distinguished from industrial plants.

Field standards—A standard that is calibrated against a reference standard, and is routinely used to calibrate or check material measures, measuring instruments or reference materials.

Food Act—31 P. S. §§ 20.1—20.18.

Food establishment—

(i) A retail food store and a room, building or place or portion thereof or vehicle maintained, used or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, baking, canning, freezing, packing or otherwise preparing or transporting or handling food.

(ii) The term includes those portions of public eating and drinking licensees which offer food for sale for off-premises consumption, except those portions of establishments operating exclusively under milk or milk products permits.

Inspector or State inspector—A State inspector of weights and measures.

Intrastate commerce—Commerce or trade that is begun, carried on or completed wholly within the limits of this Commonwealth.

Introduced into intrastate commerce—The time and place at which the first sale or delivery, or both, of a commodity is made within this Commonwealth, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

Licensed public weighmaster—A person holding a valid weighmaster's license issued in accordance with section 4151 of the act (relating to licenses) and Chapter 8 (relating to training program for inspectors and sealers), and authorized to issue weighmaster's certificates.

Light fuel oils—Kerosene, number one fuel oil, number two fuel oil, number three fuel oil and any similar oil used for domestic heating as distinguished from heavy industrial oils.

Memorandum of understanding—A written agreement pursuant to which the Department delegates to a city or county all or a portion of the enforcement duties and responsibilities assigned the Department under section 4121(a) of the act (relating to powers and duties of director and inspector) and this chapter, and that is otherwise in conformance with section 4125 of the act (relating to division of responsibilities).

NCWM—The National Conference on Weights and Measures.

NIST—The National Institute of Standards and Technology.

Nonconsumer package or package of nonconsumer commodity—A commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

Office standards—A complete set of copies of the State primary standards of weight and measure kept by the State Metrology Laboratory.

PLU—Price look-up—A pricing system where numbers are assigned to items or commodities, and the price is stored in a database for recall when the numbers are manually entered. PLU codes are used with scales, cash registers and point-of-sale systems.

PLU device—Price look-up device—A device that can access a database price file. The term includes bar code

beam or contact scanners, Optical Character Recognition (OCR) scanners or readers, magnetic scanners or readers, alpha or numeric, or both, keyboards, voice response systems and computer-based retail price retrieval systems.

PLU system—Price look-up system—A computer-based retail price retrieval system.

Person—A corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Private certification program—A program under which a Certified UPC/PLU Inspector inspects a commercially used UPC scanning system or PLU device at least annually on an unannounced basis, and which otherwise conforms with section 4112(c) of the act and Chapter 5.

Public eating and drinking place—

(i) A place within this Commonwealth where food or drink is served to or provided for the public, with or without charge, or a place which otherwise conforms to the definition in section 1 of the Public Eating and Drinking Place Law (35 P. S. § 655.1).

(ii) The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

Public Eating and Drinking Place Law—The act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13).

Public weighing—The weighing of any commodity for any commercial purpose.

Scanning system—A general term for any of the several types of PLU technologies capable of communicating with a database price file or retail price retrieval system. The term includes hardware, software and supporting computer systems.

Sealer—A sealer or deputy sealer of weights and measures of a city, county or joint city-county jurisdiction.

Secretary—The Secretary of the Department.

Sell or sale—Barter and exchange.

Single service device—A device that is designed to be used commercially only once and then discarded.

Solid fuel—Anthracite, semianthracite, bituminous, semibituminous or lignite coal, briquettes, boulets, coke, gashouse coke, petroleum coke, carbon, charcoal or any other natural, manufactured or patented fuel not sold by liquid or metered measure.

State standards—Standards of weight and measure which conform with the standards of the United States, which have been certified as being satisfactory for use as the State standards by NIST, which are maintained at the State Metrology Laboratory and which otherwise conform with section 4106 of the act (relating to state standards of weight and measure).

Type—A class the individual objects of which are similar to another in design construction, size and material.

UPC scanning system—A scanning system capable of reading UPC symbology and reflecting the information represented by that symbology in the price a person pays for commodities or things sold, offered for sale or exposed for sale.

UPC/PLU inspector's certificate—A document issued by the Department to a particular person to evidence that the named individual has successfully completed the

training necessary for the person to be qualified to inspect UPC scanning systems and PLU devices for purposes of section 4112(c) of the act.

UPC—Universal product code—A general term for any of several types of bar code symbology. The term may refer to various versions of symbology developed by the Uniform Code Council, including UPC versions A or E of the Uniform Code Council: Codes 2 of 5, 3 of 9, 128 or any others available now or in the future.

Use in trade or commerce—Buying or selling goods, wares, merchandise or services.

Vehicle—A device in, upon or by which any property, produce, commodity or article is or may be transported or drawn.

Weights and measures—Weights and measures of every kind, instruments and devices for weighing and measuring and any appliances and accessories associated with any or all such instruments or devices.

(i) The term includes the following: parking meters, postal scales and other scales used to determine shipping charges, pill counters, grain moisture meters, coin-operated person weighers, coin-operated air dispensers and coin-operated axle and vehicle scales.

(ii) The term also includes PLU devices and UPC scanning systems in food establishments required to be licensed in accordance with the Food Act.

(iii) The term does not include portable scales used to determine compliance with 75 Pa.C.S. Chapter 49 (relating to size, weight and load), meters for the measurement of electricity, gas, natural or manufactured, steam, coolant or water or the counting or timing of telephone calls when the same are operated in a public utility system or taxi meters. These portable scales, electricity, gas, steam, coolant, water and telephone meters and taxi meters are specifically excluded from the purview of the act and none of the provisions of the act apply to these meters or to any appliances or accessories associated therewith.

§ 2.2. Contacting the Department.

For purposes of this title, a person may contact the Department at the following address:

Department of Agriculture
Bureau of Ride and Measurement Standards
2301 North Cameron Street
Harrisburg, Pennsylvania 17110-9408
Telephone Number: (717) 787-9089
FAX Number: (717) 783-4158

CHAPTER 3. (Reserved)

§ 3.1. (Reserved).

§ 3.2. (Reserved).

§§ 3.11—3.14. (Reserved).

CHAPTER 4. CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES

Sec.	Purpose.
4.1.	CEWM.
4.2.	Authority of a CEWM.
4.3.	Categories and types of weighing or measuring devices which a CEWM may inspect.
4.4.	Certification standards.
4.5.	Training courses.
4.6.	Audit by Department.
4.7.	Applying for certification.
4.8.	CEWM certificate.
4.9.	Expiration of CEWM certificate.
4.10.	Obtaining a new CEWM certificate.
4.11.	Testing and inspection performance standards.
4.12.	

- 4.13. Reporting procedures for CEWM.
- 4.14. Inspection and testing by the Department.
- 4.15. Suspension or revocation of certification.
- 4.16. CEWM list.
- 4.17. Civil penalties.

§ 4.1. Purpose.

This chapter sets forth the certification standards required under section 4110(a)(4) of the act (relating to specific powers and duties of the department; regulations), under which the Department may approve training courses and certify a person as a CEWM for purposes of the act.

§ 4.2. CEWM.

A person may apply to the Department for certification that the person is a CEWM for purposes of the act and this title, with respect to one or more of the categories or types of weighing or measuring devices in § 4.4 (relating to categories and types of weighing and measuring devices which a CEWM may inspect).

§ 4.3. Authority of a CEWM.

(a) *General.* A CEWM may perform the annual testing and inspection of any weighing or measuring device which the Department is required to perform under section 4112(b) of the act (relating to general testing and inspections), and is listed in § 4.4 (relating to categories and types of weighing and measuring devices which a CEWM may inspect), and with respect to which the CEWM is certified. A CEWM may inspect these weighing and measuring devices regardless of whether the CEWM is the owner or lessor of the devices or is an employe or agent of the owner or lessor of the devices. The Department may accept the report of a CEWM as sufficient to meet the statutory testing and inspection requirements in section 4112(b) of the act.

(b) *Fees.* A CEWM may charge a fee for inspection and testing services.

§ 4.4. Categories and types of weighing or measuring devices which a CEWM may inspect.

The categories and types of weighing or measuring devices with respect to which a person may be certified as a CEWM are as follows:

- (1) Small capacity retail computing scales.
- (2) Retail package shipping scales.
- (3) Vehicle scales.
- (4) Small platform scales which weigh items to 1,000 pounds.
- (5) Truck-mounted fuel oil meters.
- (6) Truck-mounted liquid petroleum gas meters.
- (7) Compressed natural gas meters.
- (8) Retail motor fuel dispensers.

§ 4.5. Certification standards.

A person seeking a CEWM certificate from the Department shall do the following:

- (1) Successfully complete a training course prescribed by NIST for the category or type of weighing or measuring device with respect to which the certificate is sought.
- (2) Comply with the application and other requirements of this chapter.

§ 4.6. Training courses.

(a) *NIST training courses.* Under section 4110(b) of the act (relating to specific powers and duties of department

regulations), a training course now or hereafter prescribed by NIST for a particular category or type of measuring or weighing device listed in § 4.4 (relating to categories and types of weighing and measuring devices which a CEWM may inspect) is an appropriate training course for the subject category or type of weighing or measuring device.

(b) *Obtaining a list of current NIST training courses.* The Department will provide a current list of NIST training courses and the category or type of weighing or measuring device with respect to which each course is applicable upon request.

(c) *Publication of list.* The Department will update or revise the list of NIST courses referenced in subsection (b) by publishing notice describing this update or revision in the *Pennsylvania Bulletin*. The notice will include the course name and the category or type of weighing or measuring device, and indicate whether the course is being added or deleted.

(d) *Effect of addition of a course to list of courses.* If a course is added to the list described in subsection (c), a person who has successfully completed that course within 2 years prior to its inclusion on the list will be deemed to have completed the course requirement of the certification standards in § 4.5(1) (relating to certification standards).

§ 4.7. Audit by Department.

The Department may attend and audit an approved training course to ascertain whether the course is conducted in accordance with the act and in conformity to NIST standards or applicable standards of the Department and the program syllabus. A person offering or conducting an approved training course shall, at least 7 days in advance of conducting an approved training course, mail or deliver to the Department written notification of the date, time and location of the training course. A person offering or conducting an approved training course shall allow the Department's auditors entry to the program and provide copies of course materials.

§ 4.8. Applying for certification.

(a) *Application required.* A person who is at least 18 years of age and has successfully completed a training course prescribed by NIST and described in § 4.6 (relating to training courses) may apply to the Department for a CEWM certificate. Certification is granted through issuance of the certificate described in § 4.9 (relating to CEWM certificate).

(b) *Form of application.* A person seeking certification under the act may obtain an application form from the Department at the address in § 2.2 (relating to contacting the Department). The applicant shall complete the form and return it to that same address. The application form shall require the following information:

- (1) The name, mailing address and birth date of the person seeking a certificate.
- (2) The name, location and date of completion of any approved training course completed by the person seeking a certificate.
- (3) A copy of any certificate of completion with respect to the approved training course.
- (4) The category or type of weighing or measuring device with respect to which the certificate is sought.
- (5) A detailed description of the equipment the person seeking the CEWM certificate will use in conducting inspections of the weighing or measuring devices of the

category or type with respect to which certification is sought, with copies of applicable verifications of accuracy, inspection records and other documentation demonstrating the equipment is adequate and meets the requirements of § 6.3 (relating to field standards).

(6) Two identical 1-inch square color photographs (front facial view) of the person seeking a certificate.

(7) The date of the application.

(8) Other information the Department might reasonably require.

(c) *Departmental action on application.* The Department will, within 30 days of receiving an application and the application fee, mail the applicant a certificate, a disapproval notice or a request for additional clarification or documentation. If the Department requests additional clarification or documentation, its review and consideration of the application will cease until the requested material is received, at which time the 30-day review period shall begin again.

§ 4.9. CEWM certificate.

(a) *Form of CEWM certificate.* The Department will format the CEWM certificate into an identification card sized document, so it may be carried conveniently on a CEWM's person while performing inspections or tests under authority of that certificate.

(b) *Contents of CEWM certificate.* A CEWM certificate will bear the following information:

(1) The name of the person to whom it is issued.

(2) The category or type of weighing or measuring device with respect to which the person is certified.

(3) The expiration date of the certificate, which, in accordance with § 4.10 (relating to expiration of certificate), shall be 3 years from the date of issuance.

(4) A unique identification number.

(5) A photograph of the person to whom it is issued.

(6) A statement that the Department has determined the person identified on the certificate to be a "Certified Examiner of Weights and Measures" with respect to the category or type of weighing or measuring device identified on the certificate.

(7) Other information the Department might reasonably include.

(c) *Ownership of CEWM certificate.* A CEWM certificate issued by the Department will remain the property of the Department. A CEWM or other person having physical possession of a CEWM certificate shall, upon written notice from the Department, surrender and return the certificate to the Department.

(d) *Obligation to produce CEWM certificate for inspection.* A CEWM shall have the CEWM certificate with him whenever performing inspections or tests under authority of that certificate, and shall produce the certificate for inspection upon demand by the Department or any person on whose behalf the CEWM is performing the inspection or test.

§ 4.10. Expiration of CEWM certificate.

A CEWM certificate will be valid for 3 years from the date it is issued, unless it is suspended or revoked earlier in accordance with the procedures in § 4.15 (relating to suspension or revocation of certification).

§ 4.11. Obtaining a new CEWM certificate.

(a) *No renewals: new certificate required.* The Department will not renew a CEWM certificate or extend the expiration date of a certificate. A person shall, instead, apply for and obtain a new CEWM certificate in accordance with § 4.8 (relating to applying for certification) to remain a CEWM.

(b) *Training course.* A person who is applying for certification applicable to a category or type of weighing or measuring device with respect to which the person is or has been a CEWM shall have successfully completed one of the following within 2 years of the date of the application form:

(1) A training course as described in § 4.6 (relating to training courses) applicable to that same category or type.

(2) A training course developed and approved by the Department applicable to that same category or type. The Department will publish a list of these approved training courses in the *Pennsylvania Bulletin*, and update this list to keep it current.

(c) *Timing of application.* A person may apply for a CEWM certificate at any time. A current CEWM who seeks to avoid any lapse in certification is encouraged to apply for certification at least 60 days in advance of the expiration date of his current certificate.

§ 4.12. Testing and inspection performance standards.

The Department will use applicable NIST standards as the testing and inspection performance standards of the Department.

§ 4.13. Reporting procedures for CEWM.

(a) *Inspection report form required.* A CEWM shall prepare and submit to the Bureau an inspection report form, describing all of the weighing or measuring devices inspected at a particular location on a particular date.

(b) *Preparation and expense of acquiring forms.* The Department will provide a sample inspection report form upon the request of a CEWM. This sample form may be copied at the CEWM's expense.

(c) *Contents of inspection report form.* A completed inspection report form shall contain the following information:

(1) The printed name of the CEWM.

(2) The identification number of the CEWM. This number appears on the CEWM certificate.

(3) The date of the inspection.

(4) The location of the inspection.

(5) The category or type of each weighing or measuring device inspected.

(6) The manufacturer, model and serial number of each device inspected.

(7) A description of any defects or deficiencies in the weighing or measuring device inspected, and whether they have been repaired or rectified.

(8) A statement of whether the weighing or measuring device is in compliance with applicable NIST performance standards.

(9) Comments or explanations the CEWM deems necessary for clarity.

(10) The signature of the CEWM.

(d) *Distribution of forms.* A completed inspection report form shall be distributed as follows:

(1) The CEWM shall distribute the original of this form to the owner of the weighing or measuring device inspected, or to a responsible person at the site where the inspection occurred.

(2) The CEWM shall forward a copy of this form to the Department by mailing or delivering it to the Department by the 10th day of the month immediately following the month the inspection was conducted. Delivery may be accomplished by electronic means such as modem transmission/e-mail or fax machine. If delivery is accomplished by FAX machine, the CEWM shall retain the transmittal receipt as proof of compliance with this requirement.

(3) The CEWM shall retain a copy of this form and any transmittal receipt evidencing delivery of the form to the Department for at least 3 years from the date the testing and inspection services are performed.

(e) *Prompt report of inaccurate devices.*

(1) In addition to the other reporting requirements of this section, a CEWM shall promptly report any commercially used weighing and measuring device that the CEWM finds, upon inspection, does not conform with applicable NIST performance standards or is otherwise unsuitable for commercial use.

(2) This report shall:

- (i) Provide the location of the device.
- (ii) Identify the device by name, model number and serial number.
- (iii) Describe the deficiency.
- (iv) State the date and time of the CEWM's inspection.

(3) This report shall be faxed or delivered to the Department at the address in § 2.2 (relating to contacting the Department) within 48 hours of the CEWM's inspection.

§ 4.14. Inspection and testing by the Department.

(a) *Random inspection and testing.* In accordance with section 4110 of the act (relating to specific powers and duties of the department; regulations), the Department will conduct random inspection and testing of a sample of devices that have been inspected and tested by a CEWM to determine whether the CEWM conducted the inspection and testing in accordance with the act and this chapter. This random inspection and testing will include a representative sample of each of the types of weighing and measuring devices in § 4.4 (relating to categories and types of weighing and measuring devices which a CEWM may inspect).

(b) *Inspections generally.* In addition to the random inspection and testing described in subsection (a), the Department may conduct inspection and testing of any device that has been inspected and tested by a CEWM.

(c) *Time lapse affecting results.* In evaluating the inspection and testing performed by the CEWM, the Department will take into account any lapse of time between an inspection performed by the Department and the inspection performed by the CEWM.

(d) *Reporting of results.* Within 30 days following a random inspection, the Department will mail the CEWM written notice of the inspection and the results of that inspection.

(e) *Use of results.* The Department may use the results of its inspection and testing to suspend or revoke the certificate of a CEWM in accordance with § 4.15 (relating to suspension or revocation of certification), or as the basis for a warning or instruction directed to the CEWM.

§ 4.15. Suspension or revocation of certification.

(a) *Basis for action.* The Department may suspend or revoke a CEWM certificate if the certificateholder does one or more of the following:

- (1) Violates a provision of this chapter.
- (2) Violates a provision of the act.
- (3) Violates an applicable NIST standard, unless that standard is inconsistent with the act or this chapter.
- (4) Intentionally or fraudulently reports inaccurate information on an inspection report form.
- (5) Is found, following inspection and testing by the Department in accordance with § 4.14 (relating to inspection and testing by the Department), to have inaccurately, improperly or incompetently performed testing and inspections of the category or type of weighing or measuring device with respect to which the certificate was issued.

(b) *Notice.* The Department will provide a CEWM with written notice of its intention to suspend or revoke certification, which will afford that person notice and opportunity for an administrative hearing before the Department prior to the effective date of the suspension or revocation.

(c) *Delivery of notice.* The Department will deliver the notice described in subsection (b) to the affected certificateholder by personal service or by regular mail to the address provided by the certificateholder on his application for certificate under § 4.8 (relating to applying for certification), or to the address most recently provided to the Department in writing by the CEWM as the address to which notices should be sent.

§ 4.16. CEWM list.

(a) *CEWM list to be maintained.* The Department will maintain a current CEWM list containing the following information with respect to each CEWM:

- (1) Name and address.
- (2) Telephone number.
- (3) Fax number (if available).
- (4) Each category or type of weighing or measuring device with respect to which the CEWM is certified.
- (5) The expiration date of certification.
- (6) The unique identification number of the CEWM's certificate.

(b) *Distribution of copies.* The Department will provide a copy of the current CEWM list upon request.

§ 4.17. Civil penalties.

(a) *General.* The Department may assess a civil penalty of up to \$10,000 against a person that violates the act or this chapter. In determining the amount of a civil penalty, the Department will consider the gravity of the violation.

(b) *Notice.* The Department will provide a person written notice of a violation of the act or this chapter and an opportunity for an administrative hearing on the violation prior to the imposition of a civil penalty.

(c) *Warning.* If the Department determines a violation did not cause harm to the public interest, the Department may issue a warning in lieu of assessing a civil penalty.

CHAPTER 5. UPC SCANNING SYSTEMS AND PLU DEVICES

GENERAL

Sec.

- 5.1. Purpose.
- 5.2. Requirement of annual testing and inspection.
- 5.3. Testing and inspection standards.
- 5.4. Certified UPC/PLU inspector.
- 5.5. Authority of certified UPC/PLU inspector
- 5.6. Certification requirements.
- 5.7. Training courses.
- 5.8. Applying for certification.
- 5.9. UPC/PLU inspector's certificate.
- 5.10. Expiration of UPC/PLU inspector's certificate.
- 5.11. Obtaining a new UPC/PLU inspector's certificate.
- 5.12. Inspections: reporting procedures.
- 5.13. Inspections: enforcement levels.
- 5.14. Inspection and testing by the Department.
- 5.15. Suspension or revocation of certification.
- 5.16. Certified UPC/PLU inspector list.

PRIVATE CERTIFICATION PROGRAMS

- 5.21. Registration.
- 5.22. Requirements and fees.
- 5.23. Program list.

GENERAL

§ 5.1. Purpose.

Section 4112(c) of the act (relating to general testing and inspections) requires the inspection of all commercially used UPC scanning systems and PLU devices within this Commonwealth by June 30, 1999, and thereafter at intervals of no greater than 12 months. It is the purpose of this chapter to accomplish the following:

- (1) Establish the Department's specifications, tolerances and procedures with respect to the inspection of UPC scanning systems and PLU devices, and supplant Chapter 39 (relating to interim guidelines for the certification of inspectors of commercially used universal product code scanning systems and price look up devices—statement of policy) as authorized in section 4112(d) of the act.
- (2) Identify the minimum level of training necessary for a person to be qualified to inspect UPC scanning systems and PLU devices.
- (3) Establish a procedure by which a person may apply to the Department to become a certified UPC/PLU inspector.
- (4) Prescribe a procedure under which the Department can review inspections performed by certain certified UPC/PLU inspectors and revoke or suspend certification.
- (5) Establish minimum requirements for the "private certification programs" referenced in section 4112(c) of the act.
- (6) Otherwise comply with section 4112(d) of the act.

§ 5.2. Requirement of annual testing and inspection.

(a) *General requirement.* The Department will, by June 30, 1999, and within every 12-month period thereafter, inspect and test each commercially used UPC scanning system and PLU device in this Commonwealth to ascertain if it is correct, unless the system or device is inspected by a city or county sealer, as described in subsection (b), or the system or device is exempt from inspection, as described in subsection (c).

(b) *Delegation of inspection responsibilities.* The Department may assign responsibility for conducting the testing and inspections described in subsection (a) to a city or county by a memorandum of understanding between the Department and the city or county entered into in accordance with section 4125 of the act (relating to division of responsibilities).

(c) *Exemption for UPC scanning systems and PLU devices inspected by a private certification program.* A commercially used UPC scanning system or PLU device shall be exempt from the annual testing and inspection described in subsection (a) if all of the following occur:

- (1) The system or device is inspected at intervals of no greater than 1 year.
- (2) The inspection is unannounced.
- (3) The inspection is conducted as part of a private certification program.
- (4) The private certification program has registered with the Department in accordance with § 5.21 (relating to registration).
- (5) The certified UPC/PLU inspector conducting the inspection on behalf of the private certification program files a price verification inspection report with the Department in accordance with the procedure described at § 5.12 (relating to inspections: reporting procedures).
- (6) The private certification program meets the requirements of this chapter.

§ 5.3. Testing and inspection standards.

(a) *Standards.* The "Examination Procedures for Price Verification" adopted by NCWM in Publication No. 19 (August 1995), or any subsequent amendment thereof, are hereby adopted as the specifications and tolerances of the Department with respect to commercially used UPC scanning systems and PLU devices.

Example: A certified UPC/PLU inspector shall evaluate "errors" and the "accuracy" of UPC scanning systems and PLU devices in accordance with the "Examination Procedure for Price Verification" in NCWM Publication No. 19 (August 1995), which requires that a UPC scanning system or PLU device have an accuracy rate of 98% or higher to "pass" an inspection.

Example: A certified UPC/PLU inspector shall verify the price of sale items by allowing the sales clerk to determine the price of the item using the store's customary procedures, including manually entering discounts, in accordance with Paragraph 7.3, Note 3, of the "Examination Procedure for Price Verification" in NCWM Publication No. 19 (August 1995).

(b) *Applicability.* The standards described in subsection (a) will be used by any person conducting testing and inspection of a commercially used UPC scanning system or PLU device in the capacity of a certified UPC/PLU inspector.

(c) *Obtaining Publication No. 19.* The Department will provide a copy of NCWM Publication No. 19 (August 1995), or any subsequent amendment thereof, at cost to any person requesting a copy.

§ 5.4. Certified UPC/PLU inspector.

A person shall be a certified PLU/UPC inspector to conduct an inspection of a commercially used UPC scanning system or PLU device described in section 4112(c) of the act (relating to general testing and inspections),

regardless of whether the inspection is performed by a State inspector of weights and measures, an employe of a city or county acting in accordance with a memorandum of understanding entered into with the Department, or a person acting as part of a private certification program. A person may apply to the Department to become a certified UPC/PLU inspector.

§ 5.5. Authority of a certified UPC/PLU inspector.

(a) *General.* A certified UPC/PLU inspector is qualified to perform the annual testing and inspection of a commercially used UPC scanning system or PLU device which is required under section 4112(c) of the act (relating to general testing and inspections). A certified UPC/PLU inspector—including a certified UPC/PLU inspector acting as part of a private certification program—may inspect UPC scanning systems or PLU devices owned, used or leased by a person with respect to which the certified UPC/PLU inspector is an employe or agent if the inspection is conducted on an unannounced basis under section 4112(c) of the act.

(b) *Limitation on authority.* A certified UPC/PLU inspector may exercise authority only in one of the following contexts:

(1) The certified UPC/PLU inspector is a State inspector of weights and measures.

(2) The certified UPC/PLU inspector is an employe of a city or county, and is acting in accordance with a memorandum of understanding entered into with the Department in accordance with section 4125 of the act (relating to division of responsibilities).

(3) The certified UPC/PLU inspector is acting as part of a private certification program.

(c) *Fees.* A certified UPC/PLU inspector may not charge a fee for inspection and testing services, unless that person is acting as part of a private certification program, or that person is an employe of a city or county and is acting in accordance with a memorandum of understanding entered into with the Department under section 4125 of the act.

§ 5.6. Certification requirements.

(a) *General.* A person seeking to become a certified UPC/PLU inspector shall do the following:

(1) Successfully complete a training course in examination procedures for price verification as adopted by NIST/NCWM, and as described in § 5.7 (relating to training courses).

(2) Comply with the application requirements and other requirements of this chapter.

(b) *Persons certified under interim guidelines.* A UPC/PLU inspector's certificate issued in accordance with Chapter 39 (relating to interim guidelines for the certification of inspectors of commercially used universal product code scanning systems and price look up devices—statement of policy) authorized by section 4112(d) of the act (relating to general testing and inspections) shall be considered a UPC/PLU inspector's certificate issued under this chapter.

§ 5.7. Training courses.

(a) *General approval of NIST/NCWM training courses.* The Department has approved any NIST/NCWM price verification training course utilizing the "Examination Procedure for Price Verification" set forth in NCWM Publication No. 19 (August, 1995), or a subsequent

successor publication thereto, as an approved training course for certified UPC/PLU inspector candidates.

(b) *Current approved NIST/NCWM training courses.* The current approved NIST/NCWM training courses are the "NIST/NCWM Price Verification Training" course and the "NIST/NCWM Price Verification Instructor's Training" course. An approved training course may be conducted by a person who has successfully completed the NIST/NCWM price verification instructor's training course.

(c) *New or additional training courses.* The Department will update or revise the list of approved NIST/NCWM training courses in subsection (b) by publishing notice describing this update or revision in the *Pennsylvania Bulletin*.

(d) *Effect of addition of a course to list of approved courses.* If the Department approves a new or additional training course for certified UPC/PLU inspector candidates, a person who has successfully completed that course within 2 years prior to its approval will be deemed to have completed an approved course.

§ 5.8. Applying for certification.

(a) *Application required.* A person who is at least 18 years of age and has successfully completed an approved training course (as described in § 5.7 (relating to training courses)) within 2 years of the date of application may apply to be certified as a UPC/PLU inspector. Certification is granted through issuance of the certificate described in § 5.9 (relating to UPC/PLU inspector's certificate).

(b) *Form of application.* A person seeking to become a certified UPC/PLU inspector may obtain an application form from the Department at the address in § 2.2 (relating to contacting the Department). The applicant shall complete the form and return it to that same address. The application form shall require the following information:

(1) The name, mailing address and birth date of the person seeking a UPC/PLU inspector's certificate.

(2) Whether the applicant seeks to conduct UPC/PLU inspections as a State inspector of weights and measures, an employe of a city or county acting in accordance with a memorandum of understanding with the Department or as part of a private certification program.

(3) The name, location and date of completion of any approved training course completed by the person seeking a UPC/PLU inspector's certificate.

(4) A copy of any certificate of completion with respect to the approved training course.

(5) Two identical 1-inch square color photographs (front facial view) of the person seeking a certificate.

(6) The date of the application.

(7) Other information the Department might reasonably require to determine eligibility for certification.

(c) *Departmental action on application.* The Department will, within 30 days of receiving an application, mail the applicant a UPC/PLU inspector's certificate, a disapproval notice or a request for additional clarification or documentation. If the Department requests additional clarification or documentation, its review and consideration of the application will cease until the requested material is received, at which time the 30-day review period will begin again.

§ 5.9. UPC/PLU inspector's certificate.

(a) *Form of certificate.* The Department will format the UPC/PLU inspector's certificate into an identification card sized document, so it may be carried conveniently on a certified UPC/PLU inspector's person while performing inspections or tests under authority of that certificate.

(b) *Contents of UPC/PLU inspector's certificate.* A UPC/PLU inspector's certificate will bear the following information:

- (1) The name of the person to whom it is issued.
- (2) The expiration date of the certificate, which, in accordance with § 5.10 (relating to expiration of UPC/PLU inspector's certificate), shall be 3 years from the date of issuance.
- (3) A unique identification number.
- (4) A photograph of the person to whom it is issued.
- (5) A statement that the Department has determined the person identified on the certificate to be a "certified UPC/PLU inspector" in accordance with section 4112 of the act (relating to general testing and inspections).
- (6) Other information the Department might reasonably include.

(c) *Ownership of UPC/PLU inspector's certificate.* A certificate issued by the Department will remain the property of the Department. A certified UPC/PLU inspector or other person having physical possession of a certificate shall, upon written notice from the Department, surrender and return the certificate to the Department.

(d) *Obligation to produce certificate for inspection.* A certified UPC/PLU inspector shall have his UPC/PLU inspector's certificate with him whenever performing inspections or tests under authority of that certificate, and shall produce the certificate for inspection upon demand by the Department or a person on whose behalf the certified UPC/PLU inspector is performing the inspection or test.

§ 5.10. Expiration of UPC/PLU inspector's certificate.

A UPC/PLU inspector's certificate is valid for 3 years from the date it is issued, unless it is suspended or revoked earlier in accordance with the procedures in § 5.15 (relating to suspension or revocation of certification).

§ 5.11. Obtaining a new UPC/PLU inspector's certificate.

(a) *No renewals: new certificate required.* The Department will not renew a UPC/PLU inspector's certificate or extend the expiration date of a certificate. A person shall, instead, apply for and obtain a new certificate in accordance with § 5.8 (relating to applying for certification) in order to remain a certified UPC/PLU inspector.

(b) *Training course.* A person who is applying for certification shall have successfully completed an approved training course as described in § 5.7 (relating to training courses) within 2 years of the date of the application form.

(c) *Timing of application.* A person may apply for certification at any time. A current certified UPC/PLU inspector who seeks to avoid a lapse in certification is encouraged to apply for a new UPC/PLU inspector's certificate at least 60 days in advance of the expiration date of the current certificate.

§ 5.12. Inspections: reporting procedures.

(a) *Inspection report form required.* A certified UPC/PLU inspector shall prepare and submit to the Bureau a price verification inspection report form with respect to any inspection the certified UPC/PLU inspector conducts. A copy of this price verification inspection form is set forth in Appendix A. The form is substantively identical to the "Appendix A Model Form—Price Verification Report" form in NCWM's Examination Procedure for Price Verification.

(b) *Acquiring forms.* The Department will provide a sample price verification inspection report form upon the request of a certified UPC/PLU inspector. This sample form may be copied at the certified UPC/PLU inspector's expense.

(c) *Distribution of forms.* A completed price verification inspection report form shall be distributed as follows:

(1) The certified UPC/PLU inspector shall distribute the original of this form to the owner of the systems and devices inspected, or to a responsible person at the site where the inspection occurred.

(2) The certified UPC/PLU inspector shall forward a copy of this form to the Department by mailing or delivering it to the Department by the 10th day of the month immediately following the month the inspection was conducted. Delivery may be accomplished by electronic means such as modem transmission/e-mail or fax machine. If delivery is accomplished by fax machine, the certified UPC/PLU inspector shall retain the transmittal receipt as proof of compliance with this requirement.

(3) The certified UPC/PLU inspector shall retain a copy of this form and any transmittal receipt evidencing delivery of the form to the Department for at least 3 years from the date the testing and inspection services are performed.

§ 5.13. Inspections: enforcement levels.

The "Model Enforcement Levels" in Section 11, Paragraph 11.2 of NCWM's Examination Procedure for Price Verification, or any subsequent revision thereto, are adopted as the enforcement levels to be applied by the Department and certified UPC/PLU inspectors.

§ 5.14. Inspection and testing by the Department.

(a) *Inspections generally.* The Department may evaluate the performance of a certified UPC/PLU inspector who conducts inspections for a private certification program by conducting a follow-up inspection of any UPC scanning system or PLU device that has been inspected and tested by the certified UPC/PLU inspector.

(b) *Time lapse and other factors effecting results.* In evaluating the inspection and testing performed by a certified UPC/PLU inspector as described in subsection (a), the Department will consider any factor that might reasonably account for a variance between the Department's inspection results and those of the certified UPC/PLU inspector, including a lapse of time between an inspection performed by the Department and the inspection performed by the certified UPC/PLU inspector.

(c) *Reporting of results.* Within 30 days following a follow-up inspection, the Department will mail the certified UPC/PLU inspector written notice of the Department's inspection and the results of that inspection.

(d) *Use of results.* The Department may use the results of its follow-up inspection to suspend or revoke a UPC/PLU inspector's certificate, as described in subsection (a), in accordance with § 5.15 (relating to suspension or

revocation of certification), or as the basis for a warning or instruction directed to the certified UPC/PLU inspector.

§ 5.15. Suspension or revocation of certification.

(a) *Basis for action.* The Department may suspend or revoke a UPC/PLU inspector's certificate if the certificate holder conducts inspections for a private certification program and does one or more of the following:

- (1) Violates a provision of this chapter.
- (2) Violates a provision of the act.
- (3) Violates an applicable standard prescribed by NCWM's Examination Procedure for Price Verification, unless that standard is inconsistent with the act or this chapter.
- (4) Intentionally or fraudulently reports inaccurate information on a price verification inspection report form.
- (5) Is found, following inspection and testing by the Department in accordance with § 5.14 (relating to inspection and testing by the Department), to have inaccurately, improperly or incompetently performed an inspection of a UPC scanning system or PLU device.

(b) *Notice.* The Department will provide a certified UPC/PLU inspector with written notice of its intention to suspend or revoke certification, which will afford that person notice and opportunity for an administrative hearing before the Department prior to the effective date of the suspension or revocation.

(c) *Delivery of notice.* The Department will deliver the notice described in subsection (b) to the affected certified UPC/PLU inspector by personal service or by regular mail to the address provided by the certified UPC/PLU inspector on the most recent application for a certificate, or to the address most recently provided to the Department in writing by the certified UPC/PLU inspector as the address to which notices should be sent.

§ 5.16. Certified UPC/PLU inspector list.

(a) *List to be maintained.* The Department will maintain a current list containing the following information with respect to each certified UPC/PLU inspector:

- (1) The name and address.
- (2) The telephone number.
- (3) The fax number, if available.
- (4) The expiration date of certification.
- (5) The unique identification number of the UPC/PLU inspector's certificate.

(b) *Distribution of copies.* The Department will provide a copy of the current certified UPC/PLU inspector list upon request.

PRIVATE CERTIFICATION PROGRAMS

§ 5.21. Registration.

(a) *General requirement.* A person who owns or operates a commercially used UPC scanning system or PLU

device may avoid the requirement of annual State or local inspection described in section 4112(c) of the act (relating to general testing and inspections) by having the inspection performed by a private certification program. A private certification program shall meet the requirements of this chapter and shall, prior to commencing testing and inspection of commercially used UPC scanning systems or PLU devices, file a written statement with the Department, at the address in § 2.2 (relating to contacting the Department).

(b) *Contents of written statement.* The written statement referenced in subsection (a) shall contain the following:

- (1) The name, business address and telephone number of the private certification program.
- (2) The name of the certified UPC/PLU inspector who will be conducting UPC scanning system or PLU device inspections on behalf of the private certification program, together with the unique identification number appearing on that person's UPC/PLU inspector's certificate.
- (3) The signature, printed name and title of the person making the statement.

(c) *Action by Department.* Within 30 days of receiving a written statement as described in subsection (b), the Department will mail the applicant a copy of the written statement bearing a legible stamp or seal indicating the original document has been filed with the Department.

(d) *Updating the written statement.* A private certification program shall, within 30 days of a change affecting the accuracy of a written statement it has filed with the Department, provide the Department an update of its written statement.

§ 5.22. Requirements and fees.

(a) *Unannounced inspections required.* A certified UPC/PLU inspector conducting an inspection on behalf of a private certification program shall conduct that inspection on an unannounced basis.

(b) *Fees permitted.* A private certification program may charge a fee for its services—whether a per-inspection fee, a flat annual fee, a membership fee in an organization that conducts a private certification program for its members, or some other fee arrangement.

§ 5.23. Program list.

(a) *List to be maintained.* The Department will maintain a current list of private certification programs. The list will contain the name, business address, telephone number and fax number (if available) of each private certification program.

(b) *Distribution of copies.* The Department will provide a copy of the current private certification program list upon request.

Appendix A

COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF AGRICULTURE
 BUREAU OF RIDE & MEASUREMENT STANDARDS
 2301 NORTH CAMERON STREET
 HARRISBURG, PA 17110-9408

PRICE VERIFICATION REPORT

Page ___ of ___

Inspection: 1st 2nd 3rd Complaint: Frequency: Normal Increased Type: Stratified Automated Randomized

Location of Test (Store Name, Address, County, Zip Code)	Date:	Telephone:
	Manager:	Type of Store:

Identity, Brand Name, Item or Style Number	Number of Items, Size, Location in Store, or U.P.C. Code	Offered Price	Price Charged	Price Error in Cents ±
1.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
2.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
3.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
4.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
5.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
6.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
7.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			
8.				
<input type="checkbox"/> Stop Sale Issued <input type="checkbox"/> Corrected	Comments:			

Comments/Remarks:

Evaluation of Results:

Report Acknowledgement

___ Sample- ___ Not on File= ___ Adjusted Sample
 ___ Errors+ ___ Adjusted Sample= ___ Error in %
 Accuracy ___ % Ratio: ___ Overcharges ___ Undercharges

Name/Title _____
 Inspector _____ Time In: _____
 Time Out: _____

Reinspection will be made within 30 days.

Original white - Bureau copy

Pink - Inspector's copy

Yellow - Company copy

**CHAPTER 6. REGISTRATION OF SELLERS,
INSTALLERS AND REPAIRERS OF WEIGHING
AND
MEASURING DEVICES**

Sec.	
6.1.	Purpose.
6.2.	Registration requirement.
6.3.	Field standards.
6.4.	Registration procedure.
6.5.	Registration card.
6.6.	Newly-installed or repaired commercial weighing and measuring devices.
6.7.	Expiration/renewal of registration.

§ 6.1. Purpose.

This chapter establishes the program referenced in section 4113 of the act (relating to registration of sellers, installers and repairers of weighing and measuring devices), under which individual persons engaged in the business of selling, installing, servicing and repairing various types of commercial weighing and measuring devices shall register with the Department, maintain field standards that adequately test weighing and measuring devices being placed into commercial service and provide the Department notice of newly-installed commercial weighing and measuring devices. For purposes of this chapter, "individual persons" are natural persons and not corporations, partnerships or other business entities.

§ 6.2. Registration requirement.

(a) *General registration requirement.* An individual person may not act as a seller, installer, servicer or repairer of commercially used weighing and measuring devices in this Commonwealth unless the person first registers with the Department in accordance with this chapter and obtains the registration card described in § 6.5 (relating to registration card).

(b) *Exception.* The registration requirement established in subsection (a) is not applicable in instances when the commercially used weighing and measuring device being sold, installed, serviced or repaired is a UPC scanning system, a PLU device or a component of either system or device.

§ 6.3. Field standards.

(a) *General requirement.* An individual person who is employed or engaged in the business of installing, servicing or repairing commercially used weighing and measuring devices shall have, maintain and use field standards that are adequate to test and place weighing and measuring devices into commercial service, and otherwise meet the requirements of NIST Handbook 44, or a subsequent amendment thereof.

(b) *Adequate field standards.* For purposes of this chapter, field standards will not be considered adequate for use in placing commercially used weighing and measuring devices into service unless there exists a verification of accuracy issued by the State Metrology Laboratory with respect to those field standards, and the verification of accuracy was issued within 1 year preceding use of the field standards. This verification of accuracy may take the form of a "Report of Test for Weights and Measures Standards" or a similar document.

§ 6.4. Registration procedure.

(a) *Filing of registration form required.* An individual person who is employed or engaged in the business of selling, installing, servicing or repairing commercially used weighing or measuring devices shall submit a complete registration form to the Department, unless the commercially used weighing and measuring device being

sold, installed, serviced or repaired is a UPC scanning system, a PLU device or a component of either system or device.

(b) *Registration form.* An individual person seeking to register with the Department under this chapter may obtain a registration form from the Department at the address in § 2.2 (relating to contacting the Department). The prospective registrant shall complete the form and return it to that same address. The registration form shall require the following information:

(1) The name and mailing address of the person seeking to register with the Department.

(2) A designation of whether the person seeking to register with the Department is a seller, installer, servicer or repairer of commercially used weighing and measuring devices.

(3) The name and address of any business through which the person seeking to register with the Department is employed as a seller, installer, servicer or repairer of commercially used weighing or measuring devices.

(4) A designation of the category or type of weighing or measuring device sold, installed, serviced or repaired by the person seeking to register with the Department.

(5) If the person seeking to register with the Department is an installer, servicer or repairer of commercially used weighing or measuring devices, a copy of the current verification from the State Metrology Laboratory that the field standards used by that person are accurate.

(6) Two identical 1-inch square color photographs (front facial view) of the person seeking a certificate.

(7) The date of the application.

(8) The signature of the person seeking to register with the Department.

(9) Other information the Department might reasonably require for registration.

(c) *Departmental action on registration form.* The Department will, within 30 days of receiving a complete registration form, mail the person who filed the registration form a registration card. If the registration form is incomplete, illegible or otherwise deficient, the Department will notify the person who filed the registration form, in writing, of the problem and the action required to resolve it. If the Department notifies a person who filed a registration form of some deficiency, its review and consideration of the registration form will cease until the deficiency is corrected, at which time the 30-day review period shall begin again.

§ 6.5. Registration card.

(a) *Form of registration card.* The Department will provide a registrant under this chapter a registration card that may be carried conveniently on a registrant's person.

(b) *Contents of registration card.* A registration card will bear the following information:

(1) The name of the person to whom it is issued.

(2) The category or type of weighing or measuring device with respect to which the person is registered.

(3) The effective date of registration.

(4) The maximum expiration date of the registration, which, in accordance with § 6.6 (relating to expiration/renewal of registration), is 3 years from the date of registration.

- (5) A unique identification number.
- (6) A photograph of the person to whom it is issued.
- (7) A statement that the person identified on the registration card has registered with the Department in accordance with section 4113 of the act (relating to registration of sellers, installers and repairers of weighing and measuring devices).
- (8) Other information the Department might reasonably include on the registration card.

(c) *Ownership of registration card.* A registration card issued by the Department will remain the property of the Department. A registrant or other person having physical possession of the registration card shall, upon written notice from the Department, surrender and return the registration card to the Department.

(d) *Obligation to produce registration card for inspection.* A registrant under this chapter shall possess the registration card whenever selling, installing, servicing or repairing a commercially used weighing or measuring device.

§ 6.6. Newly-installed or repaired commercial weighing and measuring devices.

(a) *Inspection required.* A newly-installed or repaired commercial weighing or measuring device, other than a UPC scanning system or PLU device, may not be used in commerce unless it has been inspected and sealed in accordance with the act and this part, or unless use in commerce occurs during a period of conditional short-term use as described in subsection (d).

(b) *Responsibilities of installer or repairer.* A registrant under this chapter shall promptly notify the Department of a commercial weighing or measuring device it installs or repairs. Although the initial notification may be made by telephone, written notice shall be mailed, faxed or delivered to the Department within 48 hours of the installation or repair. The written notice shall provide the following with respect to the device:

- (1) The location of the newly-installed or repaired device, the date of the installation or repair and a statement of whether the device is a newly-installed device or a repaired device.
- (2) The manufacturer's name or brand name.
- (3) The model number listed on the device.
- (4) The capacity of the device, if applicable.
- (5) The serial number of the device.
- (6) The category or type of weighing or measuring device to which the newly-installed or repaired device belongs.
- (7) The name and telephone number of a contact person through which the Department, a county sealer or a city sealer may arrange an inspection of the device.

(c) *Responsibilities of inspector.*

(1) *State inspectors.* If the Department has not delegated inspection responsibility to a county sealer or city sealer, it will inspect the newly-installed or repaired weighing or measuring device at the earliest date practicable, but within 15 days of the installation or repair, and affix a seal (as required) if the device meets the requirements of the act and this part.

(2) *County sealers and city sealers.* If the Department has delegated this inspection responsibility to a county sealer or city sealer, it will promptly notify the sealer of

the installation or repair and the sealer shall inspect the newly-installed or repaired weighing or measuring device at the earliest date practicable, but within 15 days of the installation or repair, and affix a seal (as required) if the device meets the requirements of the act and this part.

(d) *Conditional short-term use.* If the installer has fulfilled the responsibilities described in subsection (b), an uninspected, newly-installed or repaired commercial weighing or measuring device may be used in commerce for no more than 15 days from the date of installation or repair. If, for any reason, the inspection referenced in subsection (c) is not accomplished during this 15-day period of conditional short-term use, the device will be removed from commercial use until the inspection is completed and the Department is notified of the completed inspection.

§ 6.7. Expiration/renewal of registration.

If a person is registered under this chapter, registration shall expire 3 years from the date the registration card is issued. If, as a condition of registration in accordance with § 6.4(b)(5) (relating to registration procedure), the registrant was required to submit a copy of the current verification from the State Metrology Laboratory that the field standards used by that person are accurate, registration shall expire as of the expiration of that verification. Registration may be renewed by following the registration procedure in § 6.4 (relating to registration procedure).

CHAPTER 7. REGISTRATION AND REPORT OF INSPECTION OF COMMERCIAL WEIGHING AND MEASURING DEVICES

Sec.	
7.1.	Purpose.
7.2.	Weighing and measuring devices affected.
7.3.	Requirement: registration of devices by owners.
7.4.	Report by inspectors.
7.5.	Registration process.

§ 7.1. Purpose.

This chapter is intended to establish the program described in section 4114 of the act (relating to registration and report of inspection and testing of weighing and measuring devices used for commercial purposes), requiring the registration and reporting of inspection and testing of those commercially used weighing and measuring devices required to be tested and inspected in accordance with section 4112 of the act (relating to general testing and inspections).

§ 7.2. Weighing and measuring devices affected.

This chapter applies to the following:

- (1) Weights and measures used in determining the weight, measurement or count of commodities or things sold, offered or exposed for sale on the basis of weight, measure or count.
- (2) Weights and measures used in computing the basic charge for services rendered on the basis of weight, measure or count or of devices used to dispense services on time.
- (3) Commercially used small capacity retail computing scales, retail package shipping scales, vehicle scales, small platform scales which weigh items to 1,000 pounds, truck-mounted fuel oil meters, truck-mounted liquid petroleum gas meters, compressed natural gas meters and retail motor fuel dispensers.
- (4) Commercially used UPC scanning systems and PLU devices.

§ 7.3. Requirement: registration of devices by owners.

(a) *Owners required to register.* The owner of any weighing or measuring device described in § 7.2 (relating to weighing and measuring devices affected) shall register the device with the Department in accordance with the procedure in § 7.5 (relating to registration process).

(b) *Exception: certain establishments engaged in the retail sale of gasoline.* Subsection (a) notwithstanding, an establishment involved in the retail sale of gasoline for use in the fuel supply tanks of motor vehicles, which is required to obtain an annual liquid fuels permit from the Department of Revenue in accordance with 75 Pa.C.S. Chapter 90 (relating to Liquid Fuels and Fuels Tax Act), shall be exempt from the registration requirement.

(c) *Owners required to report registered devices that are subsequently removed from commercial use: exception.* The owner of a weighing and measuring device registered with the Department in accordance with this chapter shall report the removal of that device from commercial use within 30 days of the removal.

(1) The report shall be in writing, and shall clearly identify the device and the location with respect to which it was registered.

(2) The report shall be directed to the Department, at the address in § 2.2 (relating to contacting the Department).

§ 7.4. Report by inspectors.

(a) *City or county sealer.* A city or county sealer who tests or inspects a weight or measure described in § 7.2(1) or (2) (relating to weighing and measuring devices affected), in accordance with section 4112 of the act (relating to general testing and inspections), and under a memorandum of understanding with the Department, shall submit a monthly written report to the Department. This written report shall be submitted to the Department by the 15th day of each month, and shall describe the following with respect to work performed in the preceding month:

- (1) A summary of the work performed.
- (2) A description of the weights, measures and weighing and measuring devices inspected or tested, the date of the inspection or test and the results of the inspection or test.
- (3) A description of the nature and result of all criminal prosecutions of violations of the act or this chapter.

(b) *CEWM.* A CEWM who tests and inspects a weighing or measuring device described in § 7.2(3) in accordance with section 4112(b) of the act shall report the inspection to the Department set forth in § 4.13 (relating to reporting procedures for certified examiners of weights and measures).

(c) *Certified UPC/PLU inspector.* A certified UPC/PLU inspector who tests and inspects a UPC scanning system or PLU device described in § 7.2(4) in accordance with section 4112(c) of the act shall report the inspection to the Department in the manner in § 5.12 (relating to inspections: reporting procedures).

§ 7.5. Registration process.

(a) *Persons required to register commercially used weighing and measuring devices.* The owner of a weighing or measuring device described in § 7.2 (relating to weigh-

ing and measuring devices effected) shall register the device with the Department in accordance with the procedure in this section.

(b) *Obtaining a registration form.* The Department will provide an approved weighing or measuring device registration form upon request. The form will be formatted so that multiple devices can be registered using a single form. In lieu of the form provided by the Department, a person may use a form of his own construction, as long as the information in subsection (c) appears in a legible and understandable fashion on the document.

(c) *Required information.*

(1) *Information to be included.* A weighing or measuring device registration form shall require the following information:

- (i) The name and address of the person registering the device.
- (ii) The location of the device.
- (iii) The manufacturer's name or brand name.
- (iv) The model number listed on the device.
- (v) The capacity of the device, if applicable.
- (vi) The serial number of the device.
- (vii) The category or type of weighing or measuring device to which the newly-installed device belongs.

(2) *Exception.* If the weighing or measuring device being registered is a UPC scanning system or PLU device, the registrant may provide the information required under paragraph (1)(i) and (ii), and provide a general description of the various components of the system or device rather than the information required under paragraph (1)(iii)—(vii).

(d) *Time for filing the form.*

(1) *General.* A person required to file a registration form shall do so within 30 days of the installation of a weighing or measuring device with respect to which registration is required, unless the registrant belongs within one of the categories of registrant described in paragraph (2), (3) or (4).

(2) *Food establishments.* A food establishment shall register its weighing and measuring devices at the same time it submits its annual registration to the Department under the Food Act.

(3) *Public eating and drinking places.* A public eating and drinking place shall register its weighing and measuring devices at the time it submits its annual license fee under the Public Eating and Drinking Place Law.

(4) *Commercial feed facilities.* A commercial feed facility shall register its weighing and measuring devices at the time it submits its annual license fee under 3 Pa.C.S. § 5103 (relating to licensing).

(e) *Action by Department.* The Department will review each registration form it receives under this chapter and, within 30 days of receiving the form, mail the registrant a registration document or a written request for clarification of inaccurate or illegible material on the form. If the Department requests additional clarification, its review and consideration of the registration form will cease until the requested clarification is received, at which time the 30-day review period shall begin again.

(f) *Registration document.* The registration document shall be in the form of a letter from the Director

appended to a copy of the registration form. Registration shall remain valid until the registered device is moved to a new location.

CHAPTER 8. TRAINING PROGRAM FOR INSPECTORS AND SEALERS

- Sec.
- 8.1. Purpose.
- 8.2. General adoption of NIST training program.
- 8.3. Training and certification with respect to individual types of weighing and measuring devices.
- 8.4. Prior training.
- 8.5. Supplemental or refresher training.

§ 8.1. Purpose.

This chapter is intended to establish the minimum training requirements for State inspectors, county sealers and city sealers, under section 4115 of the act (relating to training program).

§ 8.2. General adoption of NIST training program.

(a) *General.* The training program prescribed by NIST for inspectors and sealers of weights and measures is adopted as the minimum training requirement for State inspectors, county sealers and city sealers under the act and this title.

(b) *NIST training course 102.* As of January 1, 2000, a State inspector, county sealer or city sealer shall successfully complete NIST training course 102, entitled "Introduction to Handbook 44," or a successor course thereto, to meet the minimum training requirements of the act and this chapter.

§ 8.3. Training and certification with respect to individual types of weighing and measuring devices.

An inspector or sealer shall successfully complete applicable NIST training with respect to each type of weighing or measuring device he seeks to test or inspect under authority of the act. In addition to the general training described in § 8.2 (relating to general adoption of NIST training program), the following training or certification, or both, is required of persons who inspect or test particular types of weighing or measuring devices:

(1) *UPC scanning systems and PLU devices.* A State inspector, county sealer or city sealer shall be a certified UPC/PLU inspector, as described in Chapter 5 (relating to UPC scanning systems and PLU devices), as a prerequisite to inspecting UPC scanning systems or PLU devices for purposes of the act.

(2) *Types of weights and measures referenced in § 4.4.* A State inspector, county sealer or city sealer shall successfully complete the applicable training course indicated on the current list of NIST training courses in § 4.6 (relating to training courses) as a prerequisite to inspecting or testing any of the categories and types of weighing and measuring devices in § 4.4 (relating to categories and types of weighing and measuring devices) for purposes of the act.

(3) *Other weights and measures with respect to which NIST training courses exist.* If there exists a NIST training course applicable to a specific category or type of weighing and measuring device not described in paragraph (1) or (2), a State inspector, county sealer or city sealer shall successfully complete that training course as a prerequisite to inspecting or testing that category or type of device for purposes of the act.

§ 8.4. Prior training.

A State inspector, county sealer or city sealer who has successfully completed a NIST training course prior to

May 8, 1999, and who has continued to work as a State inspector, county sealer or city sealer since completing the course, and who provides the Department a copy of the applicable course completion certificate or other documentation evidencing completion of the course, shall be deemed to have met the minimum training requirements of this chapter with respect to any category or type of weighing and measuring device addressed in that NIST training course. The Department will mail the inspector or sealer written confirmation that the sealer or inspector is deemed to have met these requirements within 10 days of receiving the referenced certificate or documentation.

§ 8.5. Supplemental or refresher training.

The Department may develop supplemental training courses or refresher courses for State inspectors, county sealers or city sealers. The Department may require the successful completion of a course by a State inspector, county sealer or city sealer by providing the inspector or sealer written notice of this requirement. The Department will afford an inspector or sealer at least 6 months within which to complete the training course or refresher course, and will schedule a sufficient number of course sessions to allow all inspectors and sealers to attend.

CHAPTER 9. WEIGHMASTERS

GENERAL

- Sec.
- 9.1. Purpose.
- 9.2. Definitions.
- 9.3. License required.
- 9.4. Qualifications.
- 9.5. Application for a public weighmaster's license.
- 9.6. Term of license; subsequent licenses.
- 9.7. Format of a public weighmaster's license.
- 9.8. Display of license required.
- 9.9. Commodities sold by weight.
- 9.10. Weighmaster's certificate.
- 9.11. Issuing a public weighmaster's certificate.
- 9.12. Retention and inspection of certificates.

SOLID FUEL

- 9.21. Weighmaster's certificate required.
- 9.22. Sales by employer-producer to employes.
- 9.23. Certificate affecting weighing requirements.
- 9.24. Limitations of certificate for anthracite.
- 9.25. Responsibilities of weighmasters.
- 9.26. Certificate of special transportation.
- 9.27. Issuance of weighmaster certificates with respect to mine track scales and tipple scales.
- 9.28. Reweighing and issuance of certificates.
- 9.29. Reciprocity with New York.

GENERAL

§ 9.1. Purpose.

This chapter is intended to establish terms, conditions and procedures applicable to the licensure and performance of licensed public weighmasters in accordance with Subchapter C of the act (relating to public weighmasters).

§ 9.2. Definitions.

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

Gross weight—Total weight of vehicle and load.

Net weight—Gross weight less tare weight.

Public weighing—The weighing of a commodity for a commercial purpose.

Tare weight—The actual weight of only the vehicle.

Weighmaster's certificate—A document in the format in § 9.11 (relating to weighmaster's certificate), evidencing that the issuer is licensed by the Department in accordance with section 4151 of the act (relating to licenses),

has weighed the material described in that document on an approved scale which has been tested for accuracy, and has complied with relevant provisions of this chapter.

§ 9.3. License required.

A person may not assume the title "licensed public weighmaster" or any title of similar import, perform the duties or acts to be performed by a licensed public weighmaster under the act or this chapter, hold himself out as a licensed public weighmaster, issue a weighmaster's certificate, ticket memorandum or statement or engage in the full-time or part-time business of public weighing unless the person holds a valid license as a licensed public weighmaster.

§ 9.4. Qualifications.

A person shall meet the following requirements to be qualified to apply for a public weighmaster's license:

(1) The prospective applicant shall be at least 18 years of age as of the date of application.

(2) The prospective applicant shall own or have use of a type of weighing device approved by the Bureau in accordance with Subchapter D of the act (relating to device type approval) and with Chapter 10 (relating to device type approval) and approved by a weights and measures officer of the Commonwealth for use as of the date of application.

§ 9.5. Application for public weighmaster's license.

(a) *Obtaining an application form.* The Department will provide a person an application form for a public weighmaster's license upon request. Requests should be directed to the Department at the address in § 2.2 (relating to contacting the Department).

(b) *Requirements of the form.* The application form for a public weighmaster's license shall require the following information of the applicant:

(1) The name and address of the business for which the licensed public weighmaster would be conducting weighing.

(2) The name, address and age of the applicant.

(3) The location of the scales where weighing would be conducted by the licensed public weighmaster.

(4) Verification that the scales referenced in paragraph (3) have been inspected and approved by a State inspector, county sealer or city sealer in accordance with the act and this part.

(c) *License fee.* The fee for a public weighmaster's license is \$60. This fee shall be by check or money order made payable to the "Commonwealth of Pa."

(d) *Submitting the application and fee.* An applicant for a public weighmaster's license shall submit a completed application form and the license fee to the Department at the address in § 2.2 (relating to contacting the Department).

(e) *Departmental action on application.* The Department will, within 30 days of receiving a completed application form and the correct license fee, do one of the following:

(1) Mail the applicant a public weighmaster's license.

(2) If the application form is incomplete, illegible or otherwise deficient, the Department will mail the applicant written notice of the problem and the action required to resolve it. If the Department notifies an applicant of a deficiency, its review and consideration of the application

will cease until the deficiency is corrected, at which time the 30-day review period will begin again.

(3) Refer the application to a county or city inspector of weights and measures for a report to be delivered to the Department within 30 days of receipt of the referral as to the accuracy of the statements made on the application, the suitability of the scales to be used by the applicant and other information the Department might reasonably require, mail the applicant written notice of this referral and advise the applicant that the Department will complete its review of the application within 30 days of receiving the report from the entity to whom the application was referred.

§ 9.6. Term of license; subsequent licenses.

(a) *Term.* A public weighmaster's license is valid for 2 years from the date it is issued.

(b) *Subsequent licenses.* A licensed public weighmaster shall follow the application process described in § 9.5 (relating to application for public weighmaster's license) to acquire a new license. To avoid a lapse in licensure, a licensed public weighmaster is encouraged to apply for a new license at least 60 days in advance of the expiration of the current license.

(c) *Change of status.* If there is a change to a name or address provided the Department on the public weighmaster's license application, the licensed public weighmaster shall notify the Department of this change within 48 hours of its occurrence. Although this notification may be made by a telephone to meet this 48 hour deadline, the licensed public weighmaster shall subsequently mail or deliver written notice of this change to the Department within 7 days of its occurrence.

§ 9.7. Format of a public weighmaster's license.

A public weighmaster's license issued by the Department under this subchapter will contain the following:

(1) The name of the person to whom it is issued.

(2) A unique license number assigned to the public weighmaster.

(3) The name and address of the business for which the licensed public weighmaster conducts public weighing.

(4) The location of the scales where the licensed public weighmaster conducts public weighing.

(5) The date the license was issued.

(6) The date the license will expire.

(7) Other information the Department deems reasonable for a public weighmaster's license.

§ 9.8. Display of license required.

A licensed public weighmaster shall conspicuously display the license, or a photocopy of the license, at the place where the licensed public weighmaster is engaged in weighing.

§ 9.9. Commodities sold by weight.

A commodity to be sold by weight in this Commonwealth shall be weighed by a licensed public weighmaster at the time of sale or delivery on scales which meet the following requirements:

(1) The scales are suitable for weighing the tare and gross weight of the vehicle or vehicle and trailer transporting the commodity.

(2) The scales are located within this Commonwealth.

(3) The scales are of a type approved by the Department in accordance with Subchapter D of the act (relating to device type approval) and Chapter 10 (relating to device type approval).

(4) The scales measure weights of greater than 1,000 pounds.

§ 9.10. Weighmaster's certificate.

(a) *Certificates required.* A licensed public weighmaster shall, at the licensed public weighmaster's own expense, have a supply of weighmaster's certificates formatted in accordance with subsection (b). The Bureau will provide a sample weighmaster's certificate upon request.

(b) *Contents.* A weighmaster's certificate shall contain the following information:

- (1) The kind and size of the commodity.
- (2) The name and address of the seller.
- (3) The name and address of the purchaser.
- (4) The license number of the vehicle and trailer, or other means of ITS permanent identification.
- (5) The signature and license number of the licensed public weighmaster who weighed the commodity and who issued the weighmaster's certificate.
- (6) The date and hour when weighed.
- (7) The gross weight in avoirdupois pounds of the vehicle and the load, the tare weight and net weight of the commodity, and, if the load is divided into lots, the net weight of each lot.
- (8) A sequential serial number.
- (9) Other relevant information the licensed public weighmaster deems necessary.

(c) *Triplicate form.* A weighmaster's certificate shall be prepared in triplicate.

(d) *Distinguishing original from copies.* The original weighmaster's certificate shall bear the words "Customer's Copy," and the two copies shall bear the words "Void—Customer Do Not Accept."

(e) *Variations in format and size.* The form and size of a weighmaster's certificate may be such as to suit any system or accounting device, as long as the certificate otherwise meets the requirements of this chapter.

§ 9.11. Issuing a public weighmaster's certificate.

(a) *General requirement.* A licensed public weighmaster shall issue a weighmaster's certificate with respect to any public weighing the licensed public weighmaster conducts.

(b) *Required weighing device.* A licensed public weighmaster shall, when making a public weighing, use a weighing device which is of a type approved by the Department in accordance with Subchapter D of the act (relating to device type approval) and Chapter 10 (relating to device type approval), suitable for the weighing of the amount and kind of commodity to be weighed and which has been tested and approved for use by a weights and measures officer of this Commonwealth preceding the date of the weighing.

(c) *Order of issuance.* A licensed public weighmaster shall issue weighmaster's certificates in consecutive order of the serial numbers affixed thereon.

(d) *Computer generated, typewritten or indelible pencil.* The original weighmaster's certificate shall be computer generated, typewritten or completed with indelible pencil.

(e) *One licensed public weighmaster per certificate.* A public weighmaster's certificate shall be entirely the product of a single licensed public weighmaster. A licensed public weighmaster may not enter a weight value on a weighmaster's certificate unless the public weighmaster has personally determined that weight, and may not make any entry on a weighmaster's certificate of another licensed public weighmaster.

(f) *Clarity required.* A licensed public weighmaster shall issue a complete and accurate weighmaster's certificate that legibly shows what weights were actually determined. If the certificate form provides for the entry of gross, tare and net weights, and the licensed public weighmaster determines fewer than these three weights, the weighmaster shall strike through or otherwise cancel these undetermined weights on the certificate. If weights recorded on a certificate were determined on different dates, the certificate shall clearly report these dates. If the weights recorded on the certificate were determined using different scales, the certificate shall clearly identify these scales.

(g) *Reweighing solid fuel.* A licensed public weighmaster may not reweigh or issue a weighmaster's certificate for solid fuel unless the motor vehicle operator has surrendered the original and all duplicate weighmaster's certificates in his possession pertaining to the solid fuel. The licensed public weighmaster shall attach these certificates to the scale copy of the new weighmaster's certificate. The new certificate shall be retained in a manner that they may be easily reconciled. These provisions notwithstanding, a duplicate copy of the original weighmaster's certificate may be returned to the operator of the vehicle if it is obliterated with a rubber stamp using the following legend:

This solid fuel has been reweighed and this certificate should not be accepted. Any attempt to use this certificate to deliver solid fuel should be reported to your local or State inspector of weights and measures at once.

(h) *Distribution of original and copies.*

(1) The original of a weighmaster's certificate shall be delivered to the purchaser of the commodity specified in the certificate at the time of delivery.

(2) One copy of a weighmaster's certificate shall be maintained at the place of weighing for a period of at least 2 years. A copy of a weighmaster's certificate may be retained by the business selling or delivering the commodity.

§ 9.12. Retention and inspection of certificates.

A licensed public weighmaster is responsible to retain a copy of each weighmaster's certificate the public weighmaster issues for at least 2 years. These records shall be subject to inspection or subpoena for use as evidence by any State, county or city inspector of weights and measures.

SOLID FUEL

§ 9.21. Weighmaster's certificate required.

(a) *Rule for lots exceeding 100 pounds.* A person may not sell, transport over a public highway, deliver or cause to be delivered or start out to deliver a solid fuel in a lot or lots in amounts exceeding 100 pounds unless each lot is in a separate compartment of the vehicle or vehicle and trailer and each lot is accompanied by a weighmaster's certificate.

(b) *Exceptions.* The rule in subsection (a) does not apply to solid fuel when any of the following occur:

(1) The weighing takes place at the point of delivery or sale.

(2) The producer of the solid fuel furnishes proof, satisfactory to the Department or to an inspector of weights and measures, that the solid fuel being transported comes from the producer's own mine, is the producer's own property and is being transported for purposes other than sale.

(3) The sale transaction entails the sale of a boatload or railroad carload of solid fuel delivered directly from the boat or car to a purchaser and accepted as to weight by the purchaser on the bill of lading or other voucher issued by the carrier.

(c) *Rule for lots of 100 pounds or less.* A person may not sell, transport over a public highway, deliver or cause to be delivered or start out to deliver a solid fuel in a lot or lots in amounts of 100 pounds or less unless each lot is in a separate compartment of the vehicle or vehicle and trailer and each lot is accompanied by a weighmaster's certificate. These requirements need not be met if the solid fuel is in closed containers or closed bags and the following information is plainly printed on the container or bag or on a tag securely attached to the container or bag:

(1) The net contents of the container or bag (expressed in avoirdupois pounds).

(2) The type of solid fuel.

(3) The name, address, city, state and zip code of the seller.

§ 9.22. Sales by employer-producer to employees.

(a) *Sales generally.* If it is specified under a contract, an employer-producer of solid fuel may sell solid fuel at cost, by cubic contents instead of weight, to its employees for their own use and consumption. No solid fuel sold in this way may be transported over a public highway unless the operator of the vehicle possesses a certificate of origin.

(b) *Obtaining a certificate of origin.* The Department will provide a sample copy of a certificate of origin upon request. A sample certificate may be photocopied for use by a producer-employer.

(c) *Content of certificate of origin.* A certificate of origin shall require the following:

(1) The name and address of the producer-employer.

(2) A description of the type and approximate cubic volume of the solid fuel being transported.

(3) The destination of the solid fuel.

(4) A statement that the certificate of origin is issued in accordance with section 4168 of the act (relating to sales by employer-producer to employees).

(5) The signature of the employer-producer or its agent.

(d) *Record retention.* A copy of a certificate of origin issued under section 4168 of the act shall be retained at the place of production for at least 2 years, and shall, during business hours, be subject to inspection or subpoena for use as evidence by any State, county or city inspector of weights and measures.

§ 9.23. Certificate affecting weighing requirements.

(a) *Authorization to haul without weighmaster's certificate.*

(1) The Department will issue an authorization allowing a person to haul solid fuel on the public highways for a distance of up to 10 miles from the point of origin of the solid fuel without a weighmaster's certificate if all of the following occur:

(i) There are no scales at the point of origin of the solid fuel, or the scales are inadequate, inaccurate or otherwise incapable of providing the accurate readings necessary for the production of a weighmaster's certificate.

(ii) The solid fuel has been loaded into a vehicle by the producer of the solid fuel.

(iii) The sale of the solid fuel has not been consummated and the delivery of the solid fuel to the consumer has not yet begun.

(iv) There are adequate scales to weigh the solid fuel within 10 miles of the point of origin of the solid fuel.

(2) If the Department issues the authorization described in this subsection, the person to whom it is issued shall haul the solid fuel to the nearest available scale of a licensed public weighmaster, but no more than 10 miles from the point of origin of the solid fuel. At this scale, the weight of the solid fuel shall be determined so that the producer of the solid fuel is able to consummate its sale. The trucker will be furnished with a weighmaster's certificate for the solid fuel before departure of the solid fuel from the scale for delivery to the consumer.

(b) *Certificate of transport.* A conveyor of solid fuel operating under this section shall have in his possession at all times during the period of transport from point of origin to place of weighing and departure for delivery a certificate of transport containing the following information:

(1) The date on which the certificate is issued.

(2) The time of leaving the mine or breaker.

(3) The name of the driver of the transporting vehicle.

(4) The license number of the transporting vehicle and trailer.

(5) The name of the owner or lessor of the mine or breaker.

(6) The location of the mine or breaker.

(7) The location of the scale to which solid fuel is being conveyed.

(c) *Source and disposition of certificate of transport.* The certificate of transport shall be furnished by the owner or lessor of the mine or breaker and surrendered to the weighmaster upon issuance of the weighmaster's certificate.

(d) *Registration.* An owner or lessor of mines or breakers operating under this section shall register with the Department by letter to the address in § 2.2 (relating to contacting the Department), and provide a copy of this registration letter to any county sealer or city sealer having enforcement authority with respect to the area from which the solid fuel originates or the scales to which it is to be transported. The registration shall include the name and location of the mines or breakers and the names and locations of the scales to which the owner or lessor proposes to transport solid fuel for the purpose of weighing before starting it out for delivery.

§ 9.24. Limitations of certificate for anthracite.

(a) *Certificate of quality required.* If solid fuel is transported to a licensed public weighmaster under authority of a certificate of transport as described in § 9.23 (relat-

ing to certificate affecting weighing requirements), and the solid fuel is anthracite (excluding barley and smaller sizes), the weighmaster may not weigh the anthracite unless the certificate of transport is accompanied by a certificate of quality. A certificate of quality shall be made out in ink or indelible pencil, in triplicate, with the original bearing the legend "original" and the copies bearing the legend "copy" in 1 inch letters diagonally across the face. A certificate of quality shall be sufficiently mutilated at the left end to permit it to be securely attached to the corresponding copies of the certificate of the weighmaster as provided in subsection (b). The format of the certificate of quality shall be as follows:

CERTIFICATE OF QUALITY
PENNSYLVANIA ANTHRACITE STANDARDS LAW

Name of Producer _____

ADDRESS OF PREPARATION PLANT OR BREAKER _____

Weighmaster's Certificate Serial No. _____

Quality Certificate Serial No. _____

Date _____

Name and Address of Purchaser or Consignee: _____

Size of Anthracite _____

Model and Registration Number of Transporting Vehicle _____

ATTESTED: "STANDARD ANTHRACITE" or "SUB-STANDARD ANTHRACITE"
(State which kind)

(Name of Shipper)

By: _____
(Signature or facsimile signature)
(Authorized officer, partner or owner)

(b) *Requirements.* The weighmaster may not deliver the weighmaster's certificate to the transporter until the weighmaster has first inserted the serial number of the weighmaster's certificate on copies of the certificate of quality and securely attached the certificate of quality to the appropriately corresponding copies of the weighmaster's certificate, including the scale copy.

§ 9.25. Responsibilities of weighmasters.

Weighmasters will be held responsible and their licenses will be subject to revocation for negligence, failure to abide by the requirements of this chapter or failure to reconcile their records.

§ 9.26. Certificate of special transportation.

(a) *Requirement.* If coal is not offered for sale and it is necessary to transport the coal over the public highway from the point of mining, stripping operation or culm bank to railroad cars, coke ovens, breakers, washery or other form of preparation plants, the operator of the vehicle transporting the coal shall possess a certificate of special transportation, containing the following information, written in ink or indelible pencil:

- (1) The date and time on which the certificate was issued.
- (2) The license number of the truck (if a truck is the transport vehicle).
- (3) The name of the owner or lessor of the mine, stripping operation or culm bank.
- (4) The destination of the transport vehicle.

(5) The purpose for which the coal is being transported: that is, coking, preparation for sale or preparation for transport in railroad cars.

(b) *Issuance and surrender.* The driver of each truck shall possess a new certificate of special transportation each day the driver hauls the coal described in subsection (a).

(1) The certificate of special transportation shall be issued to the driver at or before the driver starts out for that day's deliveries.

(2) The certificate shall be issued by a responsible employe of the operator of the mine, stripping operation, culm bank from which the coal is to be transported, or by a responsible employe of the preparation plant to which the coal is to be delivered.

(3) The driver shall surrender the certificate of special transportation to a responsible person at the point of delivery of the last load of the day.

(4) The recipient of the certificate of special transportation shall retain the certificate for at least 90 days.

(c) *Other requirements.* Certificates of special transportation shall be consecutively numbered, made in duplicate and shall be furnished by and at the expense of the operator. The duplicate shall be retained at the point of issuance for 90 days.

§ 9.27. Issuance of weighmaster certificates with respect to mine track scales and tippie scales.

Weighmaster certificates, as prescribed by the act, may be issued by licensed weighmasters of mine track scales or tippie scales if there is compliance with the following:

(1) The operator of the vehicle shall present to the weighmaster a weighmaster's certificate showing the tare weight prior to loading.

(2) The net weight of the solid fuel being loaded in the vehicle shall be determined at the time of loading by determining the gross weight of the loaded mine cars or buggies and deducting the tare weight of the mine cars or buggies.

(3) The gross weight shall be determined by adding the tare weight and the net weight.

§ 9.28. Reweighing and issuance of certificates.

(a) *Conditions of reweighing.* A licensed weighmaster may not reweigh or issue a weighmaster's certificate for solid fuel unless the motor vehicle operator has surrendered the original and duplicate weighmaster's certificates in his possession pertaining to the solid fuel. These certificates shall be attached by the weighmaster to the scale copy of the new weighmaster's certificate. The new weighmaster's certificate shall be issued and maintained in a manner that the new certificate and any prior certificates may be easily reconciled. A duplicate copy may be returned to the operator of vehicle if the duplicate copy of the weighmaster's certificate is obliterated with a rubber stamp using the following legend:

This solid fuel has been reweighed and this certificate should not be accepted. Any attempt to use this certificate to deliver solid fuel should be reported to your local or State inspector of weights and measures at once.

(b) *Certain anthracite.* In the case of anthracite, except barley and the smaller sizes, before issuing the new certificates, the weighmaster shall accurately and legibly imprint on the original and each copy the complete

certificate of quality required by the Anthracite Standards Law (73 P. S. §§ 261—269), as it appears on the surrendered certificates.

(c) *Consequence of failure to surrender weighmaster certificate.* If the operator refuses or fails to surrender the weighmaster certificate, the weighmaster shall refuse to weigh the vehicle.

§ 9.29. Reciprocity with New York.

State inspectors, county sealers and city sealers shall accept weight certificates issued by a weighmaster licensed by the State of New York if the following occur:

- (1) The commodity weighed is solid fuel.
- (2) The scales upon which the public weighing was performed are located in New York, within 5 miles of the Pennsylvania/New York border.

CHAPTER 10. DEVICE TYPE APPROVAL

Sec.	Purpose.
10.1.	Prohibition with respect to unapproved devices.
10.3.	General standard for approval by Department.
10.4.	Basic procedure.
10.5.	Meeting the general standard for approval.
10.6.	Application and review.
10.7.	Certificate of approval.
10.8.	Marking of approved devices.
10.9.	Specifications, variations and tolerances with respect to device type approval.
10.10.	Fees.

§ 10.1. Purpose.

This chapter is intended to establish the procedures by which the Department will review and approve or disapprove each type of weighing and measuring device intended for commercial use or in commercial use within this Commonwealth, in accordance with Subchapter D of the act (relating to device type approval) and this chapter.

§ 10.2. Prohibition with respect to unapproved devices.

A person may not manufacture, offer or expose for sale or sell or give away for use in trade or commerce any weighing and measuring device of a type not approved in accordance with Subchapter D of the act (relating to device type approval) and this chapter.

§ 10.3. General standard for approval by the Department.

The Department will approve a type of weighing and measuring device if the type is so designed and constructed that it conforms to or gives correct results in terms of values derived therefrom, is reasonably permanent in its indication and adjustment and does not facilitate the perpetration of fraud.

§ 10.4. Basic procedure.

A person seeking approval of a type of weighing and measuring device shall follow the application procedure in § 10.6 (relating to application and review).

§ 10.5. Meeting the general standard for approval.

(a) *Certificate of conformance from NCWM.* The Department will approve a type of weighing and measuring device if a certificate of conformance has been issued by the National Type Evaluation Program administered by NCWM with respect to that particular type of weighing and measuring device.

(b) *Certificate of conformance from NIST.* The Department will approve a type of weighing and measuring

device if a certificate of conformance has been issued by NIST with respect to that particular type of weighing and measuring device.

(c) *UPC scanning systems and PLU devices.* The Department will approve a type of UPC scanning system or PLU device if the person seeking approval can document to the Department's satisfaction that the type of weighing and measuring device meets the standard in § 10.3 (relating to general standard for approval by the Department).

§ 10.6. Application and review.

(a) *Obtaining an application.* A person seeking the Department's approval of a particular type of weighing and measuring device shall request an approved application form from the Department. The prospective applicant may contact the Department at the address in § 2.2 (relating to contacting the Department).

(b) *Contents of application form.* The application form shall require the following information:

- (1) The name and address of the applicant.
- (2) A detailed description of the type of weighing and measuring device with respect to which approval is sought.
- (3) A copy of any certificate of conformance issued by the National Type Evaluation Program administered by NCWM with respect to that type.
- (4) A copy of any certificate of conformance issued by NIST with respect to that type.
- (5) Other documentation necessary to a reasoned determination by the Department as to whether the type meets the general standard in §§ 10.3 and 10.5 (relating to general standard for approval by the Department; and meeting the general standard for approval). If a certificate of conformance as described in paragraph (3) or (4) is not submitted, a sample of the type—or specifications with respect to the type—shall be submitted as part of the application.

(6) Either a precise description of the manner in which devices of the type with respect to which approval is sought are clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device, or an explanation of the reason it is impracticable to mark the devices as required by this section and a request for a waiver of some or all of these marking requirements under section 4174 of the act (relating to marking of approved weights and measures).

(7) Other information the Department might reasonably require in considering approval.

(c) *Submitting the application.* The applicant shall forward the completed application form to the address in § 2.2.

(d) *Review by Department.* The Department will complete its review of an application within 30 days of receiving a complete application form. If the Department requests additional information from an applicant, this 30-day period does not commence until the requested information is received. The Department will approve a type of weighing and measuring device if it meets the standards for approval in §§ 10.3 and 10.5. The Department will mail the applicant either a certificate of approval or a notice of disapproval within that 30-day period. A notice of disapproval will contain an explanation of the basis upon which the decision to disapprove was

made, and otherwise meet the requirements of section 4172 of the act (relating to certificates of approval; notice of disapproval; appeals).

(e) *Review of decision to disapprove a device type.* An applicant shall follow the procedure in section 4172 of the act to obtain review of a decision by the Department to disapprove a device type.

§ 10.7. Certificate of approval.

(a) *Content of certificate.* A certificate of approval issued by the Department under this chapter will contain the following:

- (1) The name and address of the person to whom it is issued.
- (2) A description of the type of approved weighing and measuring device.
- (3) A reference to the requirement that approved weighing and measuring devices be clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device. This provision does not apply when a waiver is obtained from the Department in accordance with section 4174 of the act (relating to marking of approved weights and measures).
- (4) The date of issuance of the certificate.
- (5) Other information deemed relevant by the Department for inclusion in the certificate.

(b) *Effect of issuance of certificate.* The issuance of a certificate of approval by the Department with respect to a type of weighing and measuring device confirms that the type meets the standards for device type approval in Subchapter D of the act (relating to device type approval) and this chapter, and is not a guarantee or verification of the correctness of any individual weight or measure belonging to that type.

§ 10.8. Marking of approved devices.

(a) *General.* A weighing and measuring device that is of a type approved under Subchapter D of the act (relating to device type approval) and this chapter shall be conspicuously, clearly and permanently marked in accordance with the representations made on the approval application, unless the Department grants an exception in accordance with section 4174 of the act (relating to marking of approved weights and measures).

(b) *UPC scanning systems and PLU devices.* The Department is satisfied it is generally impracticable to mark a UPC scanning system or PLU device as required under section 4174 of the act. The Department will issue a certificate to that effect to any manufacturer applying for the same. A certificate issued under this subsection exempts the system or device described therein from having to be marked as otherwise required under section 4174 of the act.

§ 10.9. Specifications, variations and tolerances with respect to device type approval.

(a) *General.* The specifications, variations and tolerances recommended by NIST and published in the NIST Handbook 44, and supplements thereto, or in a publication revising or superseding Handbook 44, shall be the specifications, variations and tolerances of the Department with respect to the approval of types of weighing and measuring devices under this chapter.

(b) *Meeting the standards.*

(1) If either NIST or NCWM has issued a certificate of conformance with respect to a type of weighing and measuring device, that type shall be deemed to be in compliance with the specifications, variations and tolerances of the Department for device type approval.

(2) In determining whether to issue a certificate of approval with respect to a type of UPC scanning system or PLU device, the Department will apply the general standard for approval in §§ 10.3 and 10.5 (relating to general standard for approval by the department; and meeting the general standard for approval).

§ 10.10. Fees.

(a) *Fees.* The State Metrology Laboratory may charge an applicant a fee for conducting tests that may be required for device type approval under this chapter.

(b) *Exemption.* A city or county which is required to procure standards of weights and measures and additional equipment in accordance with section 4123 of the act (relating to city and county standards and equipment) to enforce the act is exempt from having to pay fees with respect to the calibration, evaluation or other testing of those standards and that equipment.

PART II. PACKAGING AND LABELING

CHAPTER 21. GENERAL PROVISIONS

PRELIMINARY PROVISIONS

§ 21.1. Definitions.

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

Commodity in package form or package—A commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of any auxiliary shipping container containing packages that individually conform to the requirements of the act. An individual item or lot of a commodity not in package form, or which does not meet this definition, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be a commodity in package form.

Consumer package or package of consumer commodity—A commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household in connection with personal possessions and which is usually consumed or expended in the course of the consumption or use.

Label—

(i) A written, printed or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on or appearing upon or adjacent to a consumer commodity or a package containing a consumer commodity, for purposes of branding, identifying or giving information with respect to a commodity or to the contents of a package.

(ii) The term does not include a tag of an inspector or other nonpromotional matter affixed to or appearing upon a consumer commodity.

Multiunit package—A package containing two or more individual packages of the same commodity, in the same quantity, with the individual packages intended to be sold as part of the multiunit package but capable of being individually sold in full compliance with this part.

Nonconsumer package or package of nonconsumer commodity—A commodity in package form other than a consumer package, and particularly a package intended solely for industrial or institutional use or for wholesale distribution only.

Person—A corporation, partnership and association as well as a natural person.

Polyethylene sheeting—Rolls, sheets, tarps, drop cloths and other items made from polyethylene, such as an ethylene copolymer consisting of a major proportion of ethylene in combination with a minor proportion of some other monomer or a mixture of polyethylene with a lesser amount of polymers. The sheeting may contain additives or modifiers such as pigments and stabilizers.

Principal display panel—The part of a label designed to most likely be displayed, presented, shown or examined under normal and customary conditions of display and purchase. Wherever a principal display panel appears more than once on a package, the requirements pertaining to the principal display panel pertain to all the panels.

Random package—A package that is one of a lot, shipment or delivery of packages of the same consumer commodity with varying weights; that is, packages of the same consumer commodity with no fixed pattern of weight.

§ 21.3. Adoption of “Uniform Regulation for the Method of Sale of Commodities.”

(a) *General.* The Department adopts the “Uniform Regulation for the Method of Sale of Commodities,” as adopted by NIST in its Handbook 130, and supplements thereto and revisions thereof, as the method of sale of commodities in this Commonwealth.

(b) *Exception.* If any provision of the “Uniform Regulation for the Method of Sale of Commodities” contradicts any provision of the act or this title, the provision of the “Uniform Regulation for the Method of Sale of Commodities” may not be applied, and the relevant provision of the act or this title shall be applied.

CHAPTER 35. (Reserved)

§ 35.1. (Reserved).

§ 35.2. (Reserved).

§ 35.3. (Reserved).

CHAPTER 39. (Reserved)

§§ 39.1—39.20. (Reserved).

[Pa.B. Doc. No. 99-752. Filed for public inspection May 7, 1999, 9:00 a.m.]

STATEMENTS OF POLICY

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-991232]

Customer Assistance Program

The Pennsylvania Public Utility Commission (Commission) on March 31, 1999, adopted a final policy statement intended to encourage the major gas and electric utilities in this Commonwealth to implement pilot customer assistance programs (CAPs) and to provide guidelines for those utilities who voluntarily implement CAPs. The contact persons are Janice Hummel, Bureau of Consumer Services, (717) 783-9088, and Rhonda Daviston, Law Bureau, (717) 787-6166.

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

Public Meeting held
March 31, 1999

Order

By the Commission:

On July 2, 1992, the Commission adopted a policy statement that established guidelines for CAPs. On July 25, 1992, the CAP Policy Statement became final upon publication in the *Pennsylvania Bulletin*. CAPs provide an alternative to traditional collection methods for low income, payment troubled customers. Generally, customers enrolled in a CAP agree to make monthly payments based on household family size and gross income.

The purpose of the policy statement is to encourage the major gas and electric utilities in this Commonwealth to implement pilot CAPs and to provide guidelines for those utilities who voluntarily implement CAPs. The guidelines prescribe a model CAP that is designed to be a more cost-effective approach for dealing with issues of customer inability to pay than are traditional collection methods. In these guidelines, the Commission encourages CAP funding that makes maximum use of existing low-income energy assistance programs, most notably LIHEAP. The guidelines also recommend that utilities incorporate a series of control features into their CAPs to limit program costs.

On December 3, 1996, Governor Tom Ridge signed into law, 66 Pa.C.S. §§ 2801—2812 (relating to the Electricity Generation Customer Choice and Competition Act) (act). The act revised 66 Pa.C.S. (relating to the Public Utility Code) by adding Chapter 28 (relating to restructuring of the electric utility industry). The Commission is the agency charged with implementing the act. The act is clear in its intent that utilities are to continue, at a minimum, the protections, policies and services that now assist customers who are low-income to afford electric service. Section 2803 of the act (relating to definitions) defines universal service and energy conservation policies, as including customer assistance programs. Section 2804(9) (relating to standards for restructuring of electric industry) requires the Commission to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory.

In keeping with these provisions, on July 10, 1997, the Commission established guidelines for universal service and energy conservation programs. These guidelines give direction to electric distribution companies (EDCs) to follow when establishing, expanding or maintaining universal service and energy conservation programs. The universal service and conservation guidelines incorporate sections of the CAP Policy Statement.

Because of the experiences learned from the CAP pilots and the results of evaluations, we are revising the CAP Policy Statement. Also, in order for the Universal Service and Conservation Guidelines and the CAP Policy Statement to be consistent, we are revising 52 Chapter 69.

The intent of this order is to revise the CAP Policy Statement and to publish those revisions in the *Pennsylvania Bulletin*.

I. Background

Since the Commission approved the CAP Policy Statement in July 1992, 12 of 15 utilities have voluntarily implemented CAPs. Approximately 50,000 customers are enrolled in CAPs.

The results of CAP impact evaluations show that participants enrolled in a CAP increase the number of payments they make while maintaining the same level of energy usage. Utilities also submit quarterly reports to the Commission that support the finding that CAP participants make regular payments. Reports from 1995, 1996 and 1997 show that on a quarterly average, 80% of CAP participants made their monthly payments.

More importantly, the results of two impact evaluations show that CAPs support the principles found in the CAP Policy Statement, namely that an appropriately designed and well-implemented CAP, as an integrated part of a company's rate structure, is in the public interest. Further, the results show that CAPs can be a more cost effective approach for dealing with issues of customer inability to pay than traditional collection methods.

II. Revisions to the Design of the CAP Policy Statement

Definitions. The Commission is amending this section to delete definitions that are no longer relevant and to add two definitions as a result of the act. Specifically, we are adding definitions of "alternative program designs" and "low-income payment troubled customers."

Development and scope of CAPs. The Commission is amending the scope of CAPs based on three factors: 1) the need exists to expand CAPs to serve the low-income population; 2) the act requires that universal service programs are appropriately funded and available in each EDC's service territory; and 3) evaluations show that CAPs are a cost-effective alternative to traditional collection policies.

The Commission is amending the development of CAP section to provide for Commission review and approval of revisions to a CAP program design.

EDCs are expanding their CAP programs to ensure that CAPs are available in each service territory. Several gas CAP programs are pilots with limited enrollment. The pilot CAPs currently target CAP enrollment to low-income negative ability to pay customers. At a minimum, the gas pilot CAPs enroll 1,000 participants or 2% of low income negative ability to pay customers. Approximately 50,000 participants are currently enrolled in CAPs.

For the following reasons, the Commission believes that the upper limits of households Statewide who may be eligible to enroll in CAP to be around 338,000. The 1990 Census Data shows that 2,170,979 persons in this Commonwealth have incomes below 150% of the poverty level. Assuming a 2.57 average size household, we can estimate that 844,739 households are below 150% of the poverty level. The Commission's Investigation of Uncollectible Balances, at Docket No. I-900002, found that 40% (338,000) of the Commonwealth's low-income households are payment troubled. However, current participation rates for government programs such as food stamps and LIHEAP are around 50%. We would not expect every payment troubled household who is eligible for CAP to apply for enrollment. Using the 50% participation rate, we can estimate that 169,000 households may apply for CAP.

Section 2802(9) of the act (relating to declaration of policy) requires that electric service is essential to the health and well-being of residents, to public safety and to orderly economic development; and electric service should be available to all customers on reasonable terms and conditions. Section 2804(9) of the act also requires the Commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution territory. Further, the act defines CAPs as a component of universal service.

CAP program funding. The Commission is amending program funding to include a universal service funding mechanism for EDCs. This revision is consistent with section 2804(8) of the act that requires the Commission establish for each electric utility an appropriate cost recovery mechanism which is designed to fully recover the EDC's universal service and energy conservation costs over the life of these programs.

Payment plan proposal. Because utilities implemented pilots rather than full-scale programs, the Commission allowed utilities to test various design elements to determine the most efficient and cost-effective design for a CAP. Generally, these payment plan experiments have been successful. The Commission is amending payment plans to include plans that utilities have implemented successfully. The revisions also allow utilities to implement an alternative payment formula with Commission approval.

The Commission is also amending the payment plans to allow for an increase in the CAP payment amount. These changes allow for flexible payments that are affordable; but in most cases, CAP payments are not less than these customers have paid historically. As utilities and the Commission have gained experience from the CAP pilots, it seems that some CAP participants' payments have been set too low and could be raised without negatively influencing affordability. The Commission does not believe it is appropriate for customers, as participants of CAP, to make payments that are significantly less than what they have historically been paying. One independent evaluation found that CAP participants could afford to pay 8% of their income for gas energy. The evaluation also recommended that CAP participants whose incomes were between 51%—150% of the Federal poverty guidelines could afford to pay 10% of their income for gas energy. These amounts are considerably higher than the current CAP Policy Statement guidelines. Our goal in establishing payment ranges is to maximize customer payments, maintain affordable payments and limit the CAP credits as much as possible.

Control features. The Commission is amending this section to eliminate conservation incentives. The Commission included conservation incentives to limit program costs due to increases in consumption. While evaluators to date indicate that CAP participants do not abuse energy usage, we will retain usage limits to ensure that these results are maintained. The conservation incentive has been complex and burdensome to administer. Evaluators also had difficulty quantifying benefits directly related to conservation incentives. The conservation credits, when applied properly to a participant's bill, have been small. If eligible, participants received conservation credits yearly. However, participants had difficulty understanding the purpose and timing of the credits. The incentive is confusing to CAP participants who see a reduction in 1 month's bill. Because many utilities' payment plans are tied to usage, participants who conserve see a reduction in their bill.

The Commission is also increasing the minimum payments to reflect the changes in payment plans.

The Commission has added a control feature that disallows a CAP participant from subscribing to nonbasic services that would cause an increase in monthly billing and would not contribute to bill reduction. This addition is consistent with the provisions for participants of telephone universal service programs. Telephone universal service participants may not subscribe to telephone nonbasic services such as call waiting and call forwarding. Nonbasic services that help to reduce bills may be allowable. CAP credits should not be used to pay for nonbasic services.

The Commission is changing the term "billing deficiency limit" to "maximum CAP credits." The term "billing deficiency" suggests that customers are not making their agreed upon payments. Participation in CAP requires that a customer make regular, monthly payments for the full CAP amount billed. The term "CAP credits" is more accurate in describing the difference between the amount that would have been billed at the standard residential rate and the amount billed at the CAP rate.

Eligibility criteria. The Commission is changing eligibility criteria from a negative ability to pay customer to a payment troubled customer. We found that determining negative ability to pay is complex, inefficient and excessively subjective to administer. A utility may choose one of four eligibility priorities for payment troubled.

Administration. The Commission is adding language to the outreach and intake sections that provides additional options for utilities to include in their programs. We have found that automatic referrals to CAP when a customer calls to make a payment arrangement and intake certification by government agencies are simple to administer and cost-effective.

Default provision. The Commission believes that the consequences for nonpayment should be loss of service; therefore, we recommended that utilities return participants who do not make payments to the regular collection cycle. Prior to this revision, a utility would default a customer from the program and issue the next bill at the normal tariffed rate. The utility would not take action until that bill became past due. The changes to this section will allow a utility to immediately start the termination process. The utility will not issue a new bill. We are also adding the steps a utility should follow before defaulting a CAP participant.

We are deleting the provision that failure to apply for LIHEAP should result in dismissal. Because of the

changes to LIHEAP eligibility and funding, CAP participants have difficulty meeting this provision.

Reinstatement. The Commission is amending this section to allow the utility the discretion to reinstate a CAP participant. Prior to this change, a utility required that a customer could not reinstate into CAP until 1 year after the dismissal date. The utility may now reinstate the customer at any time. The reinstatement should normally occur when a customer has made its missed CAP payments. If the utility has terminated the customer's service for nonpayment, the utility can reinstate the customer into CAP at the time that the customer makes payment to have service restored. Again, we believe the consequence for failing to comply with CAP payment terms should be loss of service not loss of enrollment in CAP.

Coordination of LIHEAP benefits. The Commission is adding a section to allow the utility flexibility to deal with a participant who fails to apply for a LIHEAP grant. Changes to the LIHEAP eligibility criteria make the provision increasingly difficult to administer. When the Commission approved the CAP Policy Statement, a CAP participant was eligible to receive two LIHEAP benefits in the form of cash and crisis grants. Changes to LIHEAP eligibility restrict CAP participants from receiving LIHEAP crisis benefits. Because of the difficulty a CAP participant has in obtaining LIHEAP benefits, we do not believe that utilities should automatically impose penalties on a CAP participant who does not designate a LIHEAP grant to the CAP sponsoring-utility. However, we do believe that utilities should strongly encourage participants to apply for LIHEAP benefits. This change allows utilities the option of imposing a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits.

Evaluations. The Commission is amending this section to allow for routine evaluations of expanded and ongoing CAPs.

Alternative program designs. We are changing this section to include revisions to CAP so that utilities should receive Commission approval before implementing any design changes.

The Commission reviewed and addressed comments relating to the revisions to the CAP Policy Statement as part of its order that issued guidelines for universal service and energy conservation programs. Because many interested parties have been given an opportunity to comment on the substantive revisions in the Commission order at Docket No. M-00960890F0010, we are directing that the revisions to the CAP Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*. Therefore,

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 69, are amended by amending §§ 69.261—69.265 and 69.267 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Governor's Budget Office for fiscal impact analysis.

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Secretary shall serve a copy of this order, and Annex A upon all Class A electric utilities and natural gas utilities with gross intrastate annual operation revenue in excess of \$40 million, and the Office of Consumer Advocate, and the Office of Small Businesses Advocate.

5. This Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-206. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

CUSTOMER ASSISTANCE PROGRAMS

§ 69.261. General.

CAPs are designed as alternatives to traditional collection methods for low income, payment troubled customers. Customers participating in CAPs agree to make monthly payments based on household family size and gross income. Customers make regular monthly payments, which may be for an amount that is less than the current bill for utility service, in exchange for continued provision of the service. Class A electric utilities and natural gas utilities with gross intrastate annual operating revenue in excess of \$40 million should adopt the guidelines in §§ 69.263—69.265 (relating to CAP development; scope of CAPs; and CAP design elements) implementing residential CAPs.

§ 69.262. Definitions.

The following words and terms, when used in §§ 69.261, 69.263—69.267 and this section, have the following meanings, unless the context clearly indicates otherwise;

Alternative program designs—Program designs which include traditional utility collection methods, alternative collection approaches that do not include a CAP and CAP designs which substantially deviate from this chapter.

CAP—Customer Assistance Program.

EDC—*Electric distribution company*—The electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

LIHEAP—*Low Income Home Energy Assistance Program*—A Federally funded program which provides financial assistance grants to needy households for home energy bills.

Low income customers—A residential utility customer whose annual household gross income is at or below 150% of the Federal poverty income guidelines.

Low-income payment troubled customers—Low-income customers who have failed to maintain one or more payment arrangements.

§ 69.263. CAP development.

(a) A utility should develop a CAP consistent with the guidelines provided in §§ 69.261, 69.262, 69.264—69.267 and this section.

(b) The Bureau of Consumer Services will work with the utility in CAP development.

(c) Before implementing, revising or expanding a CAP, a utility should submit its CAP proposal to the Bureau of Consumer Services for review and Commission approval

of design elements. This review is not for ratemaking purposes, and the rate consequences of any CAP will be addressed within the context of subsequent Commission rate proceedings as described in § 69.266 (relating to cost recovery).

§ 69.264. Scope of CAPs.

CAPs should be targeted to low-income, payment troubled customers. The participation limit for CAP should reflect a needs assessment, consideration of the estimated number of low-income households in the utility's service territory, the number of participants currently enrolled in the pilot CAP, participation rates for assistance programs and the resources available to meet the needs of the targeted population.

§ 69.265. CAP design elements.

The following design elements should be included in a CAP:

(1) *Program funding.* Program funding should be derived from the following sources:

- (i) Payments from CAP participants.
- (ii) LIHEAP grants.
- (iii) Operations and maintenance expense reductions.
- (iv) Universal service funding mechanism for EDCs.

(2) *Payment plan proposal.* Generally, CAP payments for total electric and natural gas home energy should not exceed 17% of the CAP participant's annual income. The minimum payment should not be less than the guidelines in paragraph (3)(v)(A) and (B). Payment plans should be based on one or a combination of the following:

(i) *Percentage of income plan.* Total payment for total electric and natural gas home energy under a percentage of income plan is determined based upon a scheduled percentage of the participant's annual gross income. The participating household's gross income and family size place the family at a particular poverty level based on Federal poverty income guidelines.

(A) Generally, maximum payments for electric nonheating service should be within the following ranges:

- (I) Household income between 0—50% of poverty at 2%—5% of income.
- (II) Household income between 51—100% of poverty at 4%—6% of income.
- (III) Household income between 101—150% of poverty at 6%—7% of income.

(B) Generally, maximum payments for gas heating should be within the following ranges:

- (I) Household income between 0—50% of poverty at 5%—8% of income.
- (II) Household income between 51—100% of poverty at 7%—10% of income.
- (III) Household income between 101—150% of poverty at 9%—10% of income.

(C) Generally, maximum payments for electric heating or gas heating and electric nonheating combined should not exceed the following guidelines:

- (I) Household income between 0—50% of poverty at 7%—13% of income.
- (II) Household income between 51—100% of poverty at 11%—16% of income.

(III) Household income between 101—150% of poverty at 15%—17% of income.

(ii) *Percentage of bill plan.* The participant's household payment contribution for total electric and natural gas home energy under a percentage of bill plan is determined using variables based on family size and income and the household's energy usage level. A participant's annual payment is calculated as a percentage of income payment and converted to a percentage of the annual bill. When a utility determines subsequent CAP payment amounts, a participant will continue to pay the same percentage of the total bill even if annual usage has changed.

(iii) *Rate discount.* The participant's energy usage is billed at a reduced rate.

(iv) *Minimum monthly payment.* The participant's payment contribution is calculated by taking the participant's estimated monthly budget billing amount and subtracting the maximum, monthly CAP credit (previously called billing deficiency).

(v) *Annualized, average payment.* The participant's payment contribution is calculated by determining the total amount the participant paid over the last 12 months and dividing by 12 months to determine a monthly budget.

(vi) *An alternative payment formula.* An alternative payment formula must be reviewed by the Bureau of Consumer Services and approved by the Commission.

(3) *Control features.* The utility should include the following control features to limit program costs:

(i) *Minimum payment terms.*

(A) A CAP participant payment for a gas heating account should be at least \$18—\$25 a month.

(B) A CAP participant payment for a nonheating account should be at least \$12—\$15 a month.

(C) A CAP participant payment for an electric heating account should be at least \$30—\$40 a month.

(ii) *Nonbasic services.* A CAP participant may not subscribe to nonbasic services that would cause an increase in monthly billing and would not contribute to bill reduction. Nonbasic services that help to reduce bills may be allowable. CAP credits should not be used to pay for nonbasic services.

(iii) *Consumption limits.* Limits on consumption should be set at a percentage of a participant's historical average usage. A level of 110% is recommended. Adjustments in consumption should be made for extreme weather conditions through the use of weather normalization techniques.

(iv) *High usage treatment.* Utilities should target for special treatment those participants who historically use high amounts of energy.

(v) *Maximum CAP credits.* The annual maximum CAP credits should not exceed a total of \$1,400 per participant.

(A) The annual maximum CAP credits per gas heating participant should not exceed \$840.

(B) The annual maximum CAP credits per nonheating customer should not exceed \$560.

(C) The annual maximum CAP credits per electric heating participant should not exceed \$1,400.

(vi) *Exemptions.* A utility may exempt a household from a CAP control feature if one or more of the following conditions exist:

(A) The household experienced the addition of a family member.

(B) A member of the household experienced a serious illness.

(C) Energy consumption was beyond the household's ability to control.

(D) The household is located in housing that is or has been condemned or has housing code violations that negatively affect energy consumption.

(E) Energy consumption estimates have been based on consumption of a previous occupant.

(4) *Eligibility criteria.* The CAP applicant should meet the following criteria for eligibility:

(i) Status as a utility ratepayer or new applicant for service is verified.

(ii) Household income is verified at or below 150% of the Federal poverty income guidelines.

(iii) The applicant is a low income, payment troubled customer. When determining if a CAP applicant is payment troubled, a utility should select one of the following four options to prioritize the enrollment of eligible, payment troubled customers:

(A) A household whose housing and utility costs exceed 45% of the household's total income. Housing and utility costs are defined as rent or mortgage/taxes and gas, electric, water, oil, telephone and sewage.

(B) A household who has \$100 or less disposable income after subtracting all household expenses from all household income.

(C) A household who has an arrearage. The utility may define the amount of the arrearage.

(D) A household who has received a termination notice or who has failed to maintain one payment arrangement.

(5) *Appeal process.* The utility should establish the following appeal process for program denial:

(i) If the CAP applicant is not satisfied with the utility's initial eligibility determination, the utility should use utility company dispute procedures in §§ 56.151 and 56.152 (relating to general rule; and contents of the utility company report).

(ii) The CAP applicant may appeal the denial of eligibility to the Bureau of Consumer Services in accordance with §§ 56.161—56.165 (relating to informal complaint procedures).

(6) *Administration.* If feasible, the utility should include nonprofit community based organizations in the operation of the CAP. The utility should incorporate the following components into the CAP administration:

(i) *Outreach.* Outreach may be conducted by nonprofit, community-based organizations and should be targeted to low income payment troubled customers. The utility should make automatic referrals to CAP when a low-income customer calls to make payment arrangements.

(ii) *Intake and verification.* Income verification may be completed through a certification process that is satisfactory to the utility or certification through a government agency. Intake may also be conducted by those organizations and should include verification of the following:

(A) Identification of the CAP applicant.

(B) The annual household income.

(C) The family size.

(D) The ratepayer status.

(E) The class of service—heating or nonheating.

(iii) *Calculation of payment.* Calculation of the monthly CAP payment should be the responsibility of the utility. The utility may develop a payment chart so that the assisting community-based organizations may determine payment amounts during the intake interview.

(iv) *Explanation of CAP.* A complete and thorough explanation of the CAP components should be provided to participants.

(v) *Application for LIHEAP grants.* An application for LIHEAP grants, to the extent that is available, should be completed during the intake interview.

(vi) *Consumer education and referral.* CAP consumer education programs should include information on benefits and responsibilities of CAP participation and the importance of energy conservation. Referrals to other appropriate support services should also be a part of consumer education.

(vii) *Account monitoring.* Account monitoring should include both payment and energy consumption monitoring.

(viii) *Annual reapplication.* An annual process that reestablishes a participant's eligibility for CAP benefits should be required.

(ix) *Arrearage forgiveness.* Arrearage forgiveness should occur over a 2- to 3-year period contingent upon receipt of regular monthly payments by the CAP participant.

(x) *Routine management program progress reports.* Progress reports that may be used to monitor CAP administration should be prepared at regular intervals. These reports should include basic information related to the number of participants, payments and account status.

(7) *Default provisions.* The failure of a participant to comply with one of the following should result in dismissal from CAP participation:

(i) Failure to make payments will result in the utility returning the participant to the regular collection cycle and may lead to termination of service. By returning the customer to the regular collection cycle, the utility does not need to enter into a new payment arrangement but may begin the termination process. At a minimum, the utility should inform the participant of the consequences of defaulting from the CAP. To avoid termination of service, the CAP participant must pay the amount set forth in the termination notice prior to the scheduled termination date. This amount should generally be no more than two CAP bills.

(ii) Failure to abide by established consumption limits.

(iii) Failure to allow access or to provide customer meter readings in 4 consecutive months.

(iv) Failure to report changes in income or family size.

(v) Failure to accept budget counseling, weatherization/usage reduction or consumer education services.

(vi) Failure to annually verify eligibility.

(8) *Reinstatement policy.* A customer may be reinstated into CAP at the utility's discretion.

(9) *Coordination of energy assistance benefits.* In a CAP, the utility should include the following to coordinate a participant's energy assistance benefits between it and other utilities:

(i) A LIHEAP grant should be designated by the participant to the utility sponsoring the CAP.

(ii) A LIHEAP or other energy assistance grant may not be substituted for a participant's monthly payment. If the utility determines that a participant's minimum payment exceeds 17% of the household's income, additional energy assistance grants may be used to reduce the amount of the participant's monthly payment. The participant is still responsible for making the remainder of the regular monthly payment.

(iii) The LIHEAP grant should be applied to reduce the amount of CAP credits.

(iv) A utility may impose a penalty on a CAP participant who is eligible for LIHEAP benefits but who fails to apply for those benefits. A utility should use this option carefully and the penalty should not exceed the amount of an average LIHEAP cash benefit. If a customer applies for a LIHEAP benefit but directs it to another utility or energy provider, the CAP provider should not assess a penalty.

(10) *Evaluation.* The utility should thoroughly and objectively evaluate its CAP in accordance with the following unless otherwise modified in § 54.76 (relating to evaluation reporting requirements).

(i) *Content.* The evaluation should include both process and impact components. The process evaluation should focus on whether CAP implementation conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to CAP participants at reasonable cost levels. The impact evaluation should include an analysis of the following:

- (A) Customer payment behavior.
- (B) Energy assistance participation.
- (C) Energy consumption.
- (D) Administrative costs.
- (E) Program costs.

(ii) *Time frame.* Unless otherwise modified by § 54.76, the time frame for evaluations should be as follows:

(A) Following the expansion of a CAP or subsequent to substantial revision of an existing CAP or alternate program design, a one-time process evaluation completed by an independent third-party should be undertaken during the middle of the second year.

(B) Program impacts should be evaluated by an independent third-party at no more than 6 year intervals and submitted to the Commission.

(iii) *Evaluation plan approval.* The utility should submit the impact evaluation plan to the Bureau of Consumer Services for review and approval.

§ 69.267. Alternative program designs.

Alternative program designs that differ from §§ 69.261—69.266 and this section may reduce uncollectible balances and may provide low income, payment troubled customers with needed assistance. These programs may be acceptable if the utility can provide support for design deviations. Before implementing an alternative program design, the utility should submit its proposal including an evaluation plan as described in § 69.265(10) (relating to CAP design elements) to the Bureau of Consumer Services for review and Commission approval.

[Pa.B. Doc. No. 99-753. Filed for public inspection May 7, 1999, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending April 27, 1999.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-23-99	Northwest Savings Bank Warren Warren County Purchase of assets/assumption of liabilities of three branch offices of Mellon Bank, N.A., Pittsburgh, located at: 4 Perry Street Union City Erie County 815 Westminster Drive Loyalsock Lycoming County	Warren Ridge Road and Pennsylvania Avenue Smithfield Huntingdon County	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-20-99	Main Street Bank Reading Berks County	2493 Route 183 Bernville Road Bern Township Berks County	Opened
4-12-99	BankPhiladelphia Norristown Montgomery County	18 E. Wynnewood Ave. Wynnewood Montgomery County	Opened
4-22-99	FirstService Bank Lansdale Montgomery County	301 Oxford Valley Rd. Yardley Bucks County	Filed
4-22-99	Somerset Trust Company Somerset Somerset County	234 Main Street Meysersdale Somerset County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-21-99	First Commonwealth Bank Indiana Indiana County	<i>Into:</i> 709 Hannah Street Houtzdale Clearfield County <i>From:</i> Woodward Plaza Route 53 Houtzdale Clearfield County	Approved
4-26-99	Laurel Bank Johnstown Cambria County	<i>To:</i> Route 30 East Latrobe Westmoreland County <i>From:</i> 400 Latrobe Thirty Shopping Center Latrobe Westmoreland County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
4-26-99	Northwest Savings Bank Warren Warren County	To amend Article Third of the Articles of Incorporation to provide for the acquisition of fiduciary powers.	Approved and Effective

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-21-99	Philadelphia Telco Credit Union, Trevose, and Air-Shields Employees Credit Union, Hatboro Surviving Institution—Philadelphia Telco Credit Union, Trevose	Trevose	Approved

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 99-754. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Proposed Exchange of Lands between DCNR, Bureau of Forestry and Walter I. Dunkle

The Department of Conservation and Natural Resources, acting through the Bureau of Forestry, and Walter L. Dunkle are proposing to negotiate an exchange of lands in McHenry and Watson Townships, Lycoming County, PA.

The Bureau of Forestry is proposing to acquire from Walter Dunkle a parcel of 3.90 acres along the Trout Run Road near the Village of Cammal in McHenry Township.

In return, the Bureau of Forestry proposes to convey to Walter Dunkle a parcel of 0.50 acre near the junction of T-631 and Pa. Rt. 44 at Torbert, in Watson Township.

As is the policy of the Department of Conservation and Natural Resources, the public is hereby notified of this exchange. A 30-day period for public inquiry and/or comment will be in effect commencing May 10, 1999 and ending June 8, 1999. Oral or written comments or questions concerning this proposed exchange may be addressed to: Dr. James R. Grace, State Forester, Pennsylvania Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552; telephone (717) 787-2703. These oral and/or written comments will become part of the official document used in the final decision process.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department of Conservation and Natural Resources may schedule a public informational meeting.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 99-755. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

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

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

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

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

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

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

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

PA 0050075. Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489.

This application is for issuance of an NPDES permit to discharge treated sewage from the Chesterdale Wastewater Treatment Plant in Willistown Township, **Chester County**. This is an existing discharge to an unnamed tributary to Hunters Run.

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

The proposed effluent limits for Outfall 001, based on an average flow of 0.120 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	15	30
Ammonia (as N)		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Phosphorus (as P)	monitor/report	
Total Residual Chlorine	0.07	0.16
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The proposed effluent limits for Outfall 001, based on an average flow of 0.175 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	8.5	17
(11-1 to 4-30)	12	24
Suspended Solids	17	34
Ammonia (as N)		
(5-1 to 10-31)	0.9	1.8
(11-1 to 4-30)	2.5	5.0
Phosphorus (as P)	1.0	2.0
Total Residual Chlorine	0.05	0.12
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

PA 0051071. Industrial waste, **Schramm, Inc.**, 800 Lincoln Avenue, West Chester, PA 19380-4206.

This application is for renewal of an NPDES permit to discharge treated process wastewater from drill-rig manufacturing and maintenance operations located in West Goshen Township, **Chester County**. This is an existing discharge to Goose Creek.

The receiving stream is classified for the following uses: warm water fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 5,000 gallons per day of rigs washwater during dry weather conditions to a maximum of 1.7 million gallons per day during wet weather conditions commingled with stormwater, are as follows:

<i>Parameter</i>	<i>Average Quarterly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	monitor	monitor
Suspended Solids	monitor	monitor
Oil and Grease	15	30
Chemical Oxygen Demand	monitor	monitor
Total Kjeldahl Nitrogen	monitor	monitor
Total Phosphorus	monitor	monitor
Dissolved Iron	monitor	monitor
Total Iron	monitor	monitor
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0020460, Amendment No. 1. Sewage, **Pennridge Wastewater Treatment Authority**, 180 Maple Avenue, P. O. Box 31, Sellersville, PA 18960.

This application is for amendment of an NPDES permit to discharge treated sewage from Pennridge Wastewater Treatment Plant in West Rockhill Township, **Bucks County**. This is an existing discharge to East Branch Perkiomen Creek.

The receiving stream is classified for the following uses: trout stocking fishery.

Based on the site-specific discharge mixing characteristics, the proposed effluent limits for total residual chlorine for a flow of 4 mgd at Outfall 001 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine (1st—3rd year)	monitor	monitor
Total Residual Chlorine	0.25	0.83

The EPA waiver is not in effect.

PA 0040576. Sewage, **Valleybrook Homeowner's Association, Inc.**, P. O. Box 394, Chester Heights, PA 19017.

This application is for renewal of an NPDES permit to discharge treated sewage from a sewage treatment plant serving Valleybrook Homeowner's development in Chester Heights Borough, **Delaware County**. This is an existing discharge to West Branch Chester Creek.

The receiving stream is classified for the following uses: trout stocking fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 72,000 gallons per day are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	15	30
(11-1 to 4-30)	20	40
Total Residual Chlorine (1st year and 2nd year)	0.9	2.0
(3rd year—5th year)	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 2 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PA 0086509. Industrial waste, SIC: 3241, **Allentown Cement Co., Inc.**, P. O. Box 619, Blandon, PA 19510-0619.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Maiden Creek, in Maiden Creek Township, **Berks County**.

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

The proposed effluent limits for Outfall 001 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids		50	50
pH	—	6.0—9.0 at all times	
CBOD ₅	XXX	monitor and report	XXX
COD	XXX	monitor and report	XXX
Oil and Grease	XXX	monitor and report	XXX
Total Kjeldahl Nitrogen	XXX	monitor and report	XXX
Total Phosphorus	XXX	monitor and report	XXX
Dissolved Iron	XXX	monitor and report	XXX
Total Copper	XXX	monitor and report	XXX
Total Nickel	XXX	monitor and report	XXX
Total Zinc	XXX	monitor and report	XXX

The proposed effluent limits for Outfall 101, 201 and 301 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	XXX	monitor and report	XXX
COD	XXX	monitor and report	XXX
Oil and Grease	XXX	monitor and report	XXX
pH	XXX	monitor and report	XXX
Total Suspended Solids	XXX	monitor and report	XXX
Total Kjeldahl Nitrogen	XXX	monitor and report	XXX
Total Phosphorus	XXX	monitor and report	XXX
Dissolved Iron	XXX	monitor and report	XXX

The proposed effluent limits for Outfall 401 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	XXX	monitor and report	XXX
COD	XXX	monitor and report	XXX
Oil and Grease	XXX	monitor and report	XXX
pH	XXX	monitor and report	XXX
Total Suspended Solids	XXX	monitor and report	XXX
Total Kjeldahl Nitrogen	XXX	monitor and report	XXX
Total Phosphorus	XXX	monitor and report	XXX
Dissolved Iron	XXX	monitor and report	XXX
Total Copper	XXX	monitor and report	XXX
Total Nickel	XXX	monitor and report	XXX
Total Zinc	XXX	monitor and report	XXX

The proposed effluent limits for Outfall 501 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Dissolved Solids	XXX	monitor and report	XXX
Total Suspended Solids	XXX	monitor and report	XXX
pH		6.0—9.0 at all times	
Total Cadmium	XXX	monitor and report	XXX
Chromium VI	XXX	monitor and report	XXX
Total Lead	XXX	monitor and report	XXX
Oil and Grease	XXX	monitor and report	XXX

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA 0026646. Sewage, SIC: 4952, **Antietam Valley Municipal Authority**, 502 Butter Lane, Reading, PA 19606.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Antietam Creek, in St. Lawrence Borough, **Berks County**.

The receiving stream is classified for cold water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Pottstown Borough located on the Schuylkill River. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.225 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	2.5	XXX	5.0
(11-1 to 4-30)	7.5	XXX	15
Total Residual Chlorine			
(Interim)	monitor and report	XXX	XXX
(Final)	0.36	XXX	1.19
Total Mercury	0.00003	XXX	0.00006
Chromium, VI	monitor and report	XXX	XXX
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0—9.0 inclusive	
Fecal Coliforms			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		4,100/100 ml as a geometric average	

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is not in effect.

PA 0009741. Industrial waste, SIC: 4911, **PECO Energy Company (Muddy Run Pumped Storage Plant)**, 2301 Market Street, Philadelphia, PA 19101.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to the Susquehanna River, in Drumore Township, **Lancaster County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Chester Water Authority located in Fulton Township, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow			
pH		monitor	
Total Suspended Solids	monitor	6.0—9.0 inclusive	
Temperature		110°F as daily average	
Total Residual Chlorine	0.5		1.6

The proposed effluent limits for Outfall 101 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow			
Total Suspended Solids	30	monitor	60
CBOD ₅	25		50
Fecal Coliforms			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		100,000/100 ml as a geometric average	

The proposed effluent limits for Outfall 102 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow			
Oil and Grease		monitor	30

The proposed effluent limits for Outfall 002 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow			
Total Suspended Solids		monitor	monitor

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management, 208 W. Third Street, Suite 101, Williamsport, PA 17701-6510, (717) 327-3666.

PA 0045993. SIC: 4952, **Ulysses Municipal Authority**, P. O. Box 392, Ulysses, PA 16948-0392.

This proposed action is to renew the NPDES permit and to include a sewage treatment plant expansion. The discharge of treated sewage is at the existing location on the unnamed tributary of Genesee Creek in Ulysses Borough, **Potter County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the assumed downstream potable water supply (PWS) considered during the evaluation is 3.5 river miles downstream, and sufficient dilution is provided by the Genesee River and tributaries so that no limits are necessary.

Outfall 001:

The proposed effluent limits, based on the existing design flow of 0.05 mgd are:

Discharge Parameter	Concentrations (mg/l)		
	Average Monthly	Average Weekly	Instantaneous Maximum
pH (std units)	within the range 6.0—9.0		
Total Cl ₂ Residual	monitor		monitor
CBOD ₅	25	40	50
TSS	30	45	60
NH ₃ -N			
(6-1 to 10-31)	7	10	14
(11-1 to 5-31)	21	31	42
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	

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

Discharge Parameter	Concentrations (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH (std units)	within the range 6.0—9.0		
Total Cl ₂ Residual*	0.23		0.8
CBOD ₅	25	40	50
TSS	30	45	60
NH ₃ -N			
(6-1 to 10-31)	3	4.5	6.0
(11-1 to 5-31)	9	6.8	18
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

*Total Residual Chlorine limit not valid if ultraviolet disinfection is included in plant expansion.

Other Conditions: None.

The EPA waiver is in effect.

PA 0008419. Industrial waste, SIC: 2833, **Merck & Company, Inc.**, P. O. Box 600, Danville, PA 17821-0600.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater to Susquehanna River in Riverside Borough, **Northumberland County**.

The receiving stream is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Sunbury Municipal Authority located at Sunbury.

Outfall 001

The proposed effluent limits, based on a design flow of 11.9 mgd, are:

Parameter	Concentration (mg/l)			Mass (lb/day)	
	Average Monthly	Daily Maximum	Instantaneous Maximum	Average Monthly	Daily Maximum
pH	within the range of 6.0—9.0				
BOD ₅ Influent				report	report
TSS Influent				report	report
COD Influent				report	report

NOTICES

Parameter	Concentration (mg/l)			Mass (lb/day)	
	Average Monthly	Daily Maximum	Instantaneous Maximum	Average Monthly	Daily Maximum
TSS Supply Water	200 geometric mean			report	report
Fecal Coliforms	88	166	220	8,734	2,977
BOD ₅			349	16,838	33,676
TSS	15	30	30	1,489	2,977
Oil and Grease	shall not cause a change in stream temperature of more than 2°F in any 1-hour period				
Temperature					
Total Chlorine	0.5		1.6		

Outfall 001

The proposed effluent limits, based on a design flow of 2.1 mgd, are:

Parameter	Concentration (mg/l)			Mass (lb/day)	
	Average Monthly	Daily Maximum	Instantaneous Maximum	Average Monthly	Daily Maximum
COD				14,992	29,336
Ammonia (as N)				515	1,473
Acetone				3.5	8.76
4-Methyl-2-pentanone (MIBK)		report			
Isobutyraldehyde		report			
n-Amyl acetate		report			
n-Butyl acetate				8.76	22.77
Ethyl acetate				8.76	22.77
Isopropyl acetate				8.76	22.77
Methyl formate				8.76	22.77
Amyl alcohol		report			
Ethanol				72	175
Isopropanol				28.02	68
Methanol				72	175
Methyl Cellosolve		report			
Dimethyl Sulfoxide				657	1,603
Triethyl Amine				1,786	4,379
Phenol				0.35	0.88
Benzene				0.35	0.88
Toluene				0.35	0.53
Xylenes		report			
n-Hexane				0.35	0.53
n-Heptane		report			
Methylene chloride				5.25	15.76
Chloroform				0.18	0.35
1-2-Dichloroethane				1.75	7.01
Chlorobenzene		report			
o-Dichlorobenzene		report			
Tetrahydrofuran				46	147
Isopropyl ether		report			
Diethyl amine		report			
Acetonitrile				179	

The EPA waiver is not in effect.

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

PA 0030651. Sewage, **Canon-McMillan School District**, One North Jefferson Avenue, Canonsburg, PA 15317.

This application is for renewal of an NPDES permit to discharge treated sewage from the Wylandville Elementary School Sewage Treatment Plant in North Strabane Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Little Chartiers Creek, which are classified as a high quality 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 West View Municipal Authority located on the Ohio River.

Outfall 001: existing discharge, design flow of 0.0088 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	0.5			1.1
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0090638. Sewage, **White Township Supervisors**, 950 Indian Springs Road, Indiana, PA 15701.

This application is for renewal of an NPDES permit to discharge treated sewage from the Kittyhawk Sewage Treatment Plant in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Two Lick Creek, 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 Western Pennsylvania Water Company.

Outfall 001: existing discharge, design flow of 0.01715 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	4,500/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	0.5			1.2
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0093530. Sewage, **Dunbar Township Municipal Authority**, 1809 Evergreen Drive, Connellsville, PA 15425.

This application is for renewal of an NPDES permit to discharge treated sewage from Georgetown Manor STP in Dunbar Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Youghiogheny River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of 0.025 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31)	2.5	3.8		5.0
(11-1 to 4-30)	7.0	10.5		14.0

<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 Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	0.2			0.5
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0094935. Sewage, **The Pennsylvania State University**, Office of Physical Plant Building, University Park, PA 16802.

This application is for renewal of an NPDES permit to discharge treated sewage from The Pennsylvania State University, Fayette Campus Sewage Treatment Plant in North Union Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as dry stream tributary to Redstone 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 California Water Company located on the Monongahela River.

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

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	7.5			15.0
(11-1 to 4-30)	22.5			45.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA 0209961. Sewage, **Hill's Family Campground**, 6300 Sterrettania Road, Fairview, PA 16415.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary to Bear Run in Fairview Township, **Erie County**. This is an existing discharge.

The receiving water is classified for cold water and migratory fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply to consider during the evaluation.

The proposed effluent limits for Outfall 001, based on average design flow of 0.0070 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N (5-1 to 10-31)	2.5	5
(11-1 to 4-30)	7.5	15
Total Residual Chlorine	1.4	3.3
Phosphorus as P	1.0	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
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 0210153. Industrial waste, SIC: 3999, **Coinco Incorporated dba Morco Corporation**, 125 High Street, Cochranon, PA 16314.

This application is for renewal of an NPDES permit, to discharge noncontact cooling water and stormwater to an unnamed tributary to French Creek in Cochranon Borough, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Franklin General Authority on French Creek located at Franklin, approximately 16.81 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.005 mgd, are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
pH		6.0—9.0 at all times	

XX—monitor and report

The EPA waiver is in effect.

PA 0101737. Sewage. **Wilderness Mobile Home Park**, P. O. Box 924, Warren, PA 16365.

This application is for renewal of an NPDES permit, to discharge treated sewage to Unnamed Tributary to Morrison Run in Pleasant Township, **Warren County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Municipal Water Authority on the Allegheny River located at Emlenton, approximately 103 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.02 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.7	4.3
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0210412. Industrial waste, SIC: 3674 and 3676, **Keystone Thermometrics, Inc.**, 967 Windfall Road, St. Marys, PA 15857-3397.

This application is for renewal of an NPDES permit, to discharge noncontact cooling water and Group 2 stormwater to an unnamed tributary to Elk Creek in the City of St. Mary, **Elk County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Western PA Water Company on the Clarion River located at Clarion, approximately 54 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.036 mgd, are:

Outfall No. 101

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Temperature (°F)			
May 1—15	73.4		
June 1—15	70.5		
July	71.5		
August 1—15	77.9		
August 16—31	70.9		
September 1—15	70.4		
September 16—30	71.9		
October 1—15	64.9		

NOTICES

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
October 16—31	58.8		
November 1—15	67.0		
November 16—30	51.3		
pH		6.0—9.0 at all times	

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

Outfall No. 001

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This outfall shall consist of stormwater runoff only.			

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

Outfall No. 002

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This outfall shall consist of stormwater runoff only.			

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

Outfall No. 003

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This outfall shall consist of stormwater runoff only.			

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

Outfall No. 004

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This outfall shall consist of stormwater runoff only.			

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

Outfall No. 005

<i>Parameter</i>	<i>Daily Average</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This outfall shall consist of stormwater runoff only.			

The EPA waiver is in effect.

PA 0222836. Sewage. Harvey Byler and Tracy Deems, 106 Bend Road, New Wilmington, PA 16142.

This application is for a new NPDES permit to discharge treated sewage to the Unnamed Tributary to the West Branch of Little Neshannock Creek in Wilmington Township, **Mercer County**. This is a new discharge.

The receiving water is classified for the following uses: trout stocked fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Beaver Falls Municipal Authority Eastvale plant on Beaver River located at Eastvale, approximately 38 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .0004 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Fecal Coliform	200/100 ml as a geometric average	
Total Residual Chlorine	XX	XX
pH	6.0—9.0 at all times	

XX = monitor and report on Annual Maintenance Report Form.

The EPA waiver is in effect.

**Proposed NPDES Permit Renewal Actions
for Minor Sewage Discharges**

The following parties have applied to renew their current NPDES permits to allow the continued discharge

of controlled wastewaters into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and

monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management and total residual chlorine control (TRC). Major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

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

Persons wishing to comment on the proposed permits are invited to submit a statement to the Field Operations indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a

brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

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

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

Southcentral Regional Office: Water Management Program, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0085502	DeAnn Corp. Manada Creek MHP 1000 N. Front St., Wormleysburg, PA 17043	Dauphin E. Hanover Twp.	UNT of Manada Creek	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should

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

Applications received for industrial waste and sewage under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review any of these applications, should contact Mary DiSanto at (717) 705-4732.

A. 2180402, amendment no. 99-1. Sewage, submitted by **Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17055-3097, in Hampden Township, **Cumberland County** to construct a plant outfall at the Conodoguinet Creek was received in the Southcentral Region on April 15, 1999.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

A. 4899401. Sewerage. **David Bohning**, 102 W. Main Street, Bath, PA 18014. Application for construction and operation of a single family sewage treatment plant, located in Lower Saucon Township, **Northampton County**. Application received in the Regional Office—April 19, 1999.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

WQM Permit No. 4999401. Sewerage. Submitted by **Shamokin Coal Township Joint Sewer Authority**, R. D. 2, Box 35, Shamokin, PA 17872. This application is to construct and operate improvements to their wastewa-

ter treatment facility in Ralpho Township, **Northumberland County**. The application was received by the Northcentral Regional Office on March 26, 1999.

WQM Permit No. 4999402. Sewage. Submitted by **Delaware Township Municipal Authority**, P. O. Box 80, Dewart, PA 17730. This application is to update their wastewater treatment system and will expand their gallon per day. The facility is located at Delaware Township, **Northumberland County**. The application was received by the Northcentral Regional Office on March 3, 1999.

WQM Permit No. 1799401. Sewerage. Submitted by **Pennsylvania Department of Corrections**, Bureau of Operations, Quehanna Motivational Boot Camp, Jacob Bliek, 2520 Lisburn Road, P. O. Box 598, Camp Hill, PA 17001-0598. This application will provide and install a sequencing batch reactor treatment facility to be located at Karthaus Township, **Clearfield County**. The existing facility will be demolished. The application was received April 2, 1999 by the Northcentral Regional Office.

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

WQM Permit No. 1099405. Sewage, **W. Larry Rodgers, SRSTP**, 106 South Main St., Butler, PA 16003. This project is for the construction of a single residence sewage treatment plant in Penn Township, **Butler County**.

WQM Permit No. 2099405. Sewage, **William E. and Barbara J. DeRoss SRSTP**, 16405 Lynn Rd., Saegertown, PA 16433. This project is for the construction of a single residence sewage treatment plant in Hayfield Township, **Crawford County**.

WQM Permit No. 2099406. Sewage, **Robert J. Tanner SRSTP**, 68 Canal St., Albion, PA 16401. This project is for the construction of a single residence sewage treatment plant in Spring Township, **Crawford County**.

WQM Permit No. 4399408. Sewage, **Daryl R. Gruver SRSTP**, 3 Werner Rd., Greenville, PA 16125. This project is for the construction of a single residence sewage treatment plant in Hempfield Township, **Mercer County**.

INDIVIDUAL PERMITS

(PAS)

NPDES Individual

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this

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

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

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

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

Northcentral Regional Office: Regional Water Management Program Manager, 208 W. 3rd St., Suite 101, Williamsport, PA 17701, (717) 327-3574.

Centre County Conservation District, 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit PAS10F076. Stormwater. **Meadows Estates**, Rob Veronesi, 1111 W. College Ave., State College, PA 16801, has applied to discharge stormwater from a construction activity located in Marion Township, **Centre County** to Lick Run/Bald Eagle Creek.

Clinton County Conservation District, 36 Spring Run Rd., Rm. 104, Mill Hall, PA 17751, (570) 726-3798.

NPDES Permit PAS101913. Stormwater. **PA Dept. of Transportation**, 1924—30 Daisy, Clearfield, PA 16830, has applied to discharge stormwater from a construction activity located in Porter Township, **Clinton County** to Fishing Creek.

NPDES Permit PAS101914. Stormwater. **Transco**, P. O. Box 1396, Houston, TX 77251-1396, has applied to discharge stormwater from a construction activity located in Gallagher and Chapman Townships, **Clinton County** to Lower Pine Bottom Run, Hdw. Lower Pine Bottom Run, Unts. to Staver Run, Staver Run, Unts. to Lick Run, Lick Run, Rattlesnake Run, Little Johnson Run, Johnson Run, Cleveland Hollow, Unt. to Hyner Run, Hyner Run, Unts. to Dry Run, East Branch Dry Run, West Branch Dry Run, Young Womans Creek.

SAFE DRINKING WATER

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

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

4099501. Public water supply. **Monroe Bottling Company, Inc.**, 522 North Main Street, P. O. Box 865, Pittston, PA 18640. This proposal involves the addition of

bulk water hauling. It is located in Pittston City, **Luzerne County**. *Engineer*: Frederick C. Spott P.E.

4899501. Public water supply. Tuscarora Village Property Owners Association, Inc., George Estevez, Assn. President, P. O. Box 190, Mt. Bethel, PA 18343. This proposal involves a proposed upgrade to the water system including the installation of a new hydro-pneumatic storage tank, new booster pumps, new piping and valves at the treatment building. *Engineer*: Spotts, Steves and McCoy, Inc.

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

6399503. Pennsylvania American Water Company, P. O. Box 1290, 300 Galley Road, McMurray, PA 15317. Installation of the Christy Ridge Booster Station serving North Strabane Township, **Washington County**.

6399504. Pennsylvania American Water Company, P. O. Box 1290, 300 Galley Road, McMurray, PA 15317. Installation of the Franklin Manor Utilities Booster Station serving South Franklin Township, **Washington County**.

Bureau of Water Supply Management: Division of Drinking Water Management, 400 Market Street, Harrisburg, PA 17105. Contact: Godfrey C. Maduka, (717) 787-9037.

A. 9996475. Bleu Water Co., 794 North Main Street, Harrisonburg, VA 22802-4623, William Maurer, Division Manager. Applicant requests Department approval to sell bottled water in Pennsylvania under the brand name Le Bleu Ultra Pure Drinking Water.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

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

Sections 302, 303, 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected 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, or who receives approval of a special industrial area remediation 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. Furthermore, the person shall not be subject to citizen suits or other

contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified as proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site.

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

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

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

Textile Chemical Company Huller Lane Facility, Ontelaunee Township, **Berks County**. Textile Chemical Company, P. O. Box 13788, Reading, PA 19601, has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the site-specific standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle* on April 15, 1999.

Textile Chemical Company Snyder Road Facility, Ontelaunee Township, **Berks County**. Textile Chemical Company, P. O. Box 13788, Reading, PA 19601, has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the site-specific standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle* on April 15, 1999.

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

Redevelopment Authority of the City of McKeesport (Fifth and Hartman Streets), City of McKeesport, **Allegheny County**. Redevelopment Authority of the City of McKeesport, 201 Lysle Boulevard, McKeesport, PA 15132 and Von E. Fisher, KU Resources, Inc., 1 Library Place, Dusquesne, PA 15110, have submitted a Notice of Intent to Remediate soil contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *McKeesport Daily News* on March 26, 1999.

Redevelopment Authority of the City of McKeesport (Walnut Street), City of McKeesport, **Allegheny County**. Redevelopment Authority of the City of McKeesport, 201 Lysle Boulevard, McKeesport, PA 15132 and Von E. Fisher, KU Resources, Inc., 1 Library Place, Duquesne, PA 15110 have submitted a Notice of Intent to Remediate soil contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *McKeesport Daily News* on March 26, 1999.

The Buncher Company, City of Pittsburgh, **Allegheny County**. The Buncher Company, Joseph Jackovic, 5600 Forward Avenue, Pittsburgh, PA 15217-0930, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet the special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post-Gazette* on April 1, 1999.

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

Wolff's Hardware, 33 Mead Avenue, City of Meadville, **County of Crawford**, has submitted a Notice of Intent to Remediate soil. The site has been found to be contaminated with lead. The applicant proposes to remediate the site to meet the Statewide health standard. The Notice of Intent to Remediate was published in the *Meadville Tribune* on March 24, 1999.

SOLID AND HAZARDOUS WASTE

BENEFICIAL USE DETERMINATIONS

Beneficial use determinations received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the regulations for municipal and residual waste.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

Notice received from **Scrubgrass Generating Plant**, P. O. Box 39, R. R. 1, Lisbon Road, Kennerdell, PA 16374, to beneficially use coal ash as a structural fill. The coal ash will be used to construct a pad to store limestone adjacent to the limestone preparation building, located in Scrubgrass Township, **Venango County**.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

A. 101541. Delaware Valley Recycling, Inc., 3107 S. 61st Street, Philadelphia, PA 19153. Application was received for the renewal of their municipal waste permit for a construction and demolition waste processing facil-

ity, which is located in the **City of Philadelphia**. Application was received in the Southeast Regional Office on April 13, 1999.

Regional Office: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

A. 301280 and PAD 067098822. Cycle Chem, Inc. (217 South First Street, Elizabeth, NJ 07206). Applications for change of ownership for a residual waste transfer/processing facility and change of ownership for a hazardous waste storage/treatment facility for a site in Fairview Township, **York County**. Application determined to be administratively complete in the Regional Office April 8, 1999.

AIR QUALITY

Notice of Plan Approval and Operating Permit Applications

Nonmajor Sources and Modifications

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

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

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

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

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

OPERATING PERMITS

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

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

35-303-011A: Haines & Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474), for operation of a batch asphalt plant at Dunmore Materials in Dunmore Borough, **Lackawanna County**.

39-301-068A: Greenwood Cemetery Assoc. (2010 Chew Street, Allentown, PA 18104), for operation of two crematory incinerators in Allentown, **Lehigh County**.

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

OP-30-00067: Jefferson-Morgan School District (Box 158, Greene Street, Jefferson, PA 15344) for operation of Jr./Sr. High School facility in Jefferson Borough, **Greene County**.

OP-11-00306: Penn Cambria School District (201 6th Street, Cresson, PA 16630), for operation of high school facility in Cresson Township, **Cambria County**.

OP-11-00345: Allegheny Mfg. & Electrical Service (107 Station Street, Johnstown, PA 15905), for operation of 7694 armature winding at Ferndale Plant in Ferndale Borough, **Cambria County**.

Notice of Intent to Issue Title V Operating Permits Including Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators

The Department of Environmental Protection (Department) intends to issue Title V operating permits under the Air Pollution Control Act and the section 111(d)/129 Emission Guidelines (EG) specified in 40 CFR Part 60, Subpart Ce. These Emission Guidelines, incorporated by reference in 25 Pa. Code § 122.3, apply to all existing hospital/medical/infectious waste incinerators (HMIWIs) that commenced construction on or before June 20, 1996. The following Title V facilities are subject to the operating permit requirements of Title V of the Federal Clean Air Act and 25 Pa. Code Article III including Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V operating permit requirements).

TVOP 53-00011. Charles Cole Memorial Hospital. Coudersport, **Potter County**. *Primary Emissions:* Sulfur oxides (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), hazardous air pollutants (HAPS) and particulate matter. *Affected HMIWI Unit:* Source ID. 001, Spronz (Pennram), hospital/medical/infectious waste incinerator, 100 pounds/hour. *Other Sources:* 3 boilers, 2 emergency generators and 1 sterilizer.

TVOP 08-00008. Robert Packer Hospital. Sayre Borough, **Bradford County**. *Primary Emissions:* Sulfur oxides (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), hazardous air pollutants (HAPS) and particulate matter. *Affected HMIWI Unit:* Source ID. 001, Econo-Therm, hospital/medical/infectious waste incinerator, 700 pounds/hour. *Other Sources:* 3 boilers, 4 generators and 1 sterilizer.

Copies of the Title V applications, proposed permits and other relevant information are available for public inspection at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. An appointment to review the documents must be made by calling (570) 327-3693, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V operating permit 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, (570) 327-0512, within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the person submitting the comments, along with the corresponding permit number of the proposed Title V operating permit. The commentator should include a concise statement of objections to the issuance of the permit and the relevant facts upon which the objections are based.

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

The final Title V operating permits will contain all of the applicable requirements that apply to stationary air contamination sources at each facility. The applicable requirements include the section 111(d)/129 requirements for HMIWI facilities.

Notice of Intent to Issue Title V Operating Permits

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

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

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

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

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

05-05002: Hedstrom Corp. (P. O. Box 432, Bedford, PA 15522), located in Bedford Township, **Bedford**

County. The facility manufactures children's recreational equipment. The operation primarily emits volatile organic compounds.

07-05003: Consolidated Rail Corp. (Conrail, 200 4th Avenue, Juniata, Altoona, PA 16603), Juniata Diesel Locomotive Shop located in Logan Township, **Blair County.** The facility repairs and builds railroad locomotives. The facility is a primary emitter of sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and volatile organic compounds (VOC).

38-05022: Weaber, Inc. (1231 Mt. Wilson Road, Lebanon, PA 17042-9498), located in South Annville Township, **Lebanon County.** The facility processes hardwood lumber. The operation primarily emits carbon monoxide.

PLAN APPROVALS

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

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

PA-15-0004: Reynolds Metals Co. (520 Lincoln Avenue, Downingtown, PA 19335), for construction of a rotogravure printing and coating mach in Downingtown Borough, **Chester County.**

23-312-214GP: Tosco Refining Co. (4101 Post Road, Trainer, PA 19061), for installation of an internal floating storage tank in Trainer Borough, **Delaware County.**

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

54-318-016B: Air Products & Chemicals, Inc. (P. O. Box 351, Tamaqua, PA 18252), for modification of a fluorine production operation in Rush Township, **Schuylkill County.**

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

36-03094: Snavely's Mill Inc. (333 Snavely Mill Road, Lititz, PA 17543), for installation of two baghouses to control emissions from grain unloading and cleaning operations in Warwick Township, **Lancaster County.**

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

59-304-002J: Ward Mfg., Inc. (IRS No. 25-0466130) (P. O. Box 9, Blossburg, PA 16912-0009), for installation of air cleaning devices (three fabric collectors) on various pieces of iron foundry castings shakeout, sand handling, and the like equipment previously proposed by Ward Mfg., Inc. (IRS No. 13-3544500) at Plant No. 1 in Blossburg Borough, **Tioga County.**

OP-55-0001C: PP&L, Inc. (Two North Ninth Street, Allentown, PA 18101-1179), for reactivation of two 24 megawatt no. 2 fuel oil-fired combustion turbines at the Sunbury SES in Monroe Township, **Snyder County.**

Southwest Regional Office: Air Quality Program, 400

Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

PA-65-793A: Wilsons' Scrap & Metals, Inc. (R. D. 2, Box 374A, Route 286, Saltsburg, PA 15681), for installation of aluminum melting furnace at Coreco Metal Separator System in Bell Township, **Westmoreland County.**

PA-04-446B: AES Beaver Valley, Inc. (394 Frankfort Road, Monaca, PA 15061), for installation of three cogeneration units at Beaver Valley Cogeneration in Potter Township, **Beaver County.**

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

PA 25-025A: General Electric Transportation System (2901 East Lake Road, Erie, PA 16531), for modification to paint spray booths in Erie, **Erie County.**

PA 25-983A: Rupp Auto Livery (303 East 32nd Street, Erie, PA 16504-0729), for construction of a crematory incinerator (100 lbs/hour remains capacity) in Erie, **Erie County.**

PA 33-155A: Trail King Industries, Inc. (Industrial Park Road, P. O. Box 300, Brookville, PA 15825), for construction of a paint booth (20 truck trailers per day) in Brookville, **Jefferson County.**

PA-10-028G: Armstrong Cement & Supply Corp. (100 Clearfield Road, Cabot, PA 16023), for operation of a reconstructed stone and shale elevator (150 tons/hour) and installation of a control device (two DCE Type H fabric filters) in Cabot, **Butler County.**

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)

Notice of Proposed Revision to the State Implementation Plan for Oxides of Nitrogen (NO_x) and Volatile Organic Compounds (VOC)

Public Hearing

Approval of Reasonably Available Control Technology (RACT) Plans for: Brown Printing Company (Upper Hanover Township, Montgomery County) Sunoco, Inc. (R & M) (Marcus Hook Borough, Delaware County)

The Department of Environmental Protection (Department) has made a preliminary determination to approve RACT plans as amendments to the State Implementation Plan (SIP) for the above facilities. The proposed SIP revisions do not adopt new regulations. They incorporate the provisions and requirements contained in RACT approvals for these facilities to comply with current regulations.

These preliminary determinations, if finally approved, will be incorporated into Plan Approvals and/or Operating Permits for the facilities and will be submitted to the United States Environmental Protection Agency (EPA) as revisions to Pennsylvania's SIP.

The following is a summary of the preliminary RACT determinations for these facilities:

Brown Printing Company (Operating Permit OP-46-0018A)

Source	VOC Emission Limit (tons/year)	Control Technique	Implementation Schedule
8 Ink Jet Printers	12.4	Recordkeeping	Immediate

Sunoco, Inc. (R & M) (Plan Approval PA-23-0001C)

<i>Source</i>	<i>NOx Emission Limit (tons/year)</i>	<i>Control Technique</i>	<i>Implementation Schedule</i>
51.77 MW Combustion Turbine	463	Steam Injection	Immediate

One public hearing will be held for the purpose of receiving comments on the proposed SIP revisions. The hearing will be held at 2 p.m. on June 24, 1999, at the Department's Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA. The hearing will represent the opportunity for oral comment to the Department on the proposed SIP revisions and will not be a question and answer session. Persons wishing to present testimony at the hearing are encouraged to contact Lynda Rebarchak, the Department's Community Relations Coordinator, at (610) 832-6219 to register prior to the hearing, but may also register at the hearing. Those unable to attend the hearing but who wish to comment should send their written comments to Francine Carlini, Air Quality Program Manager, Department of Environmental Protection, Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428, on or before June 24, 1999.

Individuals in need of accommodations as provided for in the Americans With Disabilities Act who would like to attend the hearing should contact Lynda Rebarchak at (610) 832-6219 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

Copies of the pertinent documents are available for review at the Department's Southeast Regional Office. Appointments for scheduling a review may be made by calling (610) 832-6268.

MINING**APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES**

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

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

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or

within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

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

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

Coal Applications Received

65980103. Amerikohl Mining Inc. (202 Sunset Drive, Butler, PA 16001). Application received for commencement, operation and reclamation of a bituminous surface mine located in Ligonier Township, **Westmoreland County** proposed to affect 101 acres. Receiving streams: unnamed tributaries to Loyalhanna Creek to Loyalhanna Creek to Kiskiminetas River. Application received April 19, 1999.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

17990901. Moravian Run Reclamation Co., Inc. (605 Sheridan Drive, Clearfield, PA 16830), commencement, operation and restoration of an incidental coal extraction surface mine permit in Morris Township, **Clearfield County** affecting 22.6 acres. Receiving streams: unnamed tributaries to Moshannon Creek. Application received April 12, 1999.

17990107. River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847), commencement, operation and

restoration of bituminous surface mine, water obstruction (stream enclosure—2) permit in Bigler Township, **Clearfield County** affecting 234.5 acres. Receiving streams: Pine Run, unnamed tributary to Pine Run. Application received April 19, 1999.

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

61990102. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Commencement, operation and restoration of a bituminous surface strip operation in Clinton and Venango Townships, **Venango and Butler Counties**, affecting 40.7 acres. Receiving streams: Unnamed tributary to Scrubgrass Creek (CWF) to Scrubgrass Creek (CWF) to the Allegheny River. Application received April 14, 1999.

3930107. Leonard Yenzi (P. O. Box 62, Anita, PA 15711). Renewal of an existing bituminous surface strip operation in Pinecreek and Warsaw Townships, **Jefferson County**, affecting 383.3 acres. Receiving streams: Unnamed tributary of Laurel Run to Little Mill Creek and unnamed tributaries to Little Mill Creek, all to Mill Creek; three unnamed tributaries of Mill Creek to Mill Creek to Sandy Lick Creek to Redbank Creek to the Allegheny River. Application received April 21, 1999.

61990103. Ancient Sun, Inc. (P. O. Box 129, Main Street, Shipperville, PA 16254). Commencement, operation and restoration of a bituminous surface strip operation in Clinton Township, **Venango County**, affecting 18.5 acres. Receiving streams: Unnamed tributary to Bullion Run (CWF) to Bullion Run (CWF) to the Allegheny River. Application received April 16, 1999.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

03871302. DLR Mining, Inc. (R. D. 3, Box 115-A, Indiana, PA 15701), to transfer the permit for the Triple K No. 1 Mine in Burrell Township, **Armstrong County** to add the No. 2 portal surface site and transfer from Triple K Coal Co., unnamed tributary to Crooked Creek. Application received March 22, 1999.

03871302. DLR Mining, Inc. (R. D. 3, Box 115-A, Indiana, PA 15701), to revise the permit for the Triple K Mine No. 1 in Burrell Township, **Armstrong County** to add 57 permit and subsidence control plan acres, no additional discharges. Application received March 30, 1999.

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

40940203C3. Northampton Fuel Supply Co., Inc. (7500 Old Georgetown Road, 13th Floor, Bethesda, MD 20814-6161), correction to an existing coal refuse reprocessing operation to add a mobile wet processing facility in Hanover Township, **Luzerne County** affecting 179.0 acres. Receiving stream Sugar Notch Run. Application received April 19, 1999.

Knox District Office, P. O. Box 669, Knox, PA 16232.
Noncoal Applications Received

302732-25820301-E-1. Frank Tucci (2500 PA Route 99, Cambridge Springs, PA 16403). Application for a stream encroachment to construct a temporary stream crossing across an unnamed tributary to Elk Creek in McKean, **Erie County**. Receiving streams: Unnamed tributary to Elk Creek. Application received April 21, 1999.

37990301. G. L. McKnight, Inc. (P. O. Box 773, Slippery Rock, PA 16057-8316). Commencement, operation and restoration of a sand and gravel operation in Plain Grove

Township, **Lawrence County**, affecting 31.0 acres. Receiving streams: Unnamed tributary to Taylor Run and Taylor Run. Application to include a land use change from cropland to an unmanaged water impoundment with discharge to an unnamed tributary on a portion of lands of Kenneth E. and Lois K. Meals and a land use change from forestland to cropland on a portion of lands of the Cunningham Heirs. Application received April 19, 1999.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

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

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

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

E46-842. Encroachment. **Allebach Family LP**, 2151 Koffel Road, Hatfield, PA 19440. To modify, operate and maintain an existing farm pond to be used for aesthetic purposes with the proposed Heather Meadows residential development and Town Park. The proposed activities include reshaping the pond and the removal of accumulated sediment in the pond. The project is located approximately 1,000 feet northeast from the intersection of West Broad Street (S. R. 463) and Koffell Road (Telford, PA Quadrangle N: 4.25 inches; W: 7.25 inches) in Hatfield Borough, **Montgomery County**.

Northwest Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E35-311. Encroachment. **Scranton School District**, 425 North Washington Avenue, Scranton, PA 18503. To excavate and place fill in the floodplain of the Lackawanna River (WWF) for the construction of athletic fields, parking lots and stormwater management facilities associated with the new Scranton High School. The

project is located northeast of the intersection of S. R. 3027 (North Scranton Expressway) and S. R. 3029 (7th Street) (Scranton, PA Quadrangle N: 7.8 inches; W: 6.2 inches), City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

E35-312. Encroachment. **Pennsylvania Department of Transportation**, District 4-0, P. O. Box 111, Scranton, PA 18501. To fill in a de minimis area of PEM/SS wetlands equal to 0.04 acre and to construct and maintain a 220 foot long, 8-foot × 16-foot precast concrete box stream enclosure in Hull Creek (CWF). The project is associated with S. R. 0006, Section 272 widening and S. R. 0347 intersection reconstruction and is located at the intersection of S. R. 0006 and S. R. 0347 (Olyphant, PA Quadrangle N: 19.7 inches; W: 15.7 inches), Blakely Borough, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

E35-313. Encroachment. **Karl J. Kincel III**, 431 Thomas Drive, Dunmore, PA 18512. To construct and maintain a steel I-beam bridge, having a span of 25 feet and an underclearance of 6-feet or an alternate design consisting of a 20-foot × 8.25-foot CMP arch culvert across a tributary to Gardner Creek (CWF) to provide access for a proposed dwelling. The project is located on the southside of T-383, approximately 0.2 mile each of the intersection of T-382 and T-383 (Ransom, PA Quadrangle N: 14.6 inches; W: 1.9 inches), Newton Township, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

E39-365. Encroachment. **Wedgewood Golf Course, Inc.**, 1753 Panther Valley Road, Pine Grove, PA 17963. To fill in a de minimis area of PEM wetlands, less than 0.01 acre, to construct and maintain two low flow stream crossings, each consisting of 4 15-inch R.C.P. across a tributary to Saucon Creek (CWF). The project is associated with the Wedgewood Golf Course extension project and is located approximately 0.4 mile south of the intersection of S. R. 2044 and S. R. 2039 (Allentown East, PA Quadrangle N: 7.5 inches; W: 7.8 inches), Upper Saucon Township, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

E40-521. Encroachment. **Transcontinental Gas Pipe Line Corporation**, 2800 Post Oak Boulevard (77056), P. O. Box 1396, Houston, TX 77251-1396. To construct and maintain 65 stream crossings, including 29 crossings of watercourses and 36 crossings of wetlands for the purpose of constructing a 17.72 mile section of 42 inch natural gas pipeline (known as the Benton Loop). The project will temporarily impact 15.54 acres of forested/scrub-shrub and emergent wetlands; of this, approximately 0.92 acre of forested wetlands will be permanently impacted. The project extends from Transco's Leidy Line/Wilkes-Barre block valve yard at Mile Post (MP) 28.56 in Salem Township, **Luzerne County** (Berwick, PA Quadrangle N: 20.8 inches; W: 8.3 inches), northwestward parallel to the existing Leidy Line and Leidy Line "A" to compressor station 517 in Jackson Township, **Columbia County** (Elk Grove, PA Quadrangle N: 3.8 inches; W: 7.6 inches) (Baltimore District, U. S. Army Corps of Engineers).

E48-280. Encroachment. **Nancy Run Estates, Ltd.**, 6065 William Penn Highway, Easton, PA 18042. To realign and maintain 850 feet of channel, to construct and maintain a 3-span R. C. box culvert (two spans at 11 feet × 4 feet and 1 span at 10 feet × 5 feet) and to place and

maintain fill along Nancy Run located at a point approximately 1,500 feet south of William Penn Highway at Nancy Run Estates (Nazareth, PA Quadrangle N: 6.1 inches; W: 10.1 inches), Bethlehem Township, **Northampton County** (Philadelphia District, U. S. Army Corps of Engineers).

E52-160. Encroachment. **Charles Prohaska**, R. R. 2, Box 470, Dingmans Ferry, PA 18328. To repair and maintain an existing road crossing of Hornbecks Creek (HQ-CWF), with work consisting of replacing the deteriorated 6-foot-diameter CMP culvert with a culvert of equal or greater waterway opening. The road serves as a driveway to a single family residence. The project is located on the east side of T-314 (known as Log-N-Twig Road), approximately 2,000 feet southwest of the intersection of T-314 and S. R. 2001 (Lake Maskenozha, PA-NJ Quadrangle N: 13.6 inches; W: 6.75 inches), Delaware Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E14-342. Encroachment. **Larry Day and Troy Day**, R. R. 2, Box 84A, Spring Mills, PA 16875. The applicant proposes to repair, operate and maintain a single span bridge across Penns Creek (cold water fishery) to provide access to private property. The repair work shall consist of the (1) placement of riprap for abutment scour protection, (2) construction of abutment extensions, and (3) construction of a new superstructure. The repair work shall be completed to maintain a clear opening of 25.95-feet, average underclearance of 6.4-feet and a skew of 82 degrees. The project will not impact wetlands while impacting 30-feet of waterway that is located along the northern right-of-way of SR 0045 approximately 925-feet east of SR 2012 and Swamp Church Road intersection (Spring Mills, PA Quadrangle N: 22.4 inches; W: 14.7 inches) in Gregg Township, **Centre County**.

E19-191. Encroachment. **John D. Klingerman**, R. R. 5, Box 290, Bloomsburg, PA 17815. The applicant proposes to (1) excavate and remove fill from the floodway of the Susquehanna River (warm water fishery); and (2) place and maintain fill in 0.756-acre of wetland associated to the Susquehanna River for the development of multi-family dwellings. The floodway work shall consist of excavating and removing a maximum of 2,700-cubic yards of material within a 1.12-acre parcel delineated as 100-year floodway. The fill work shall consist of placing fill in 0.756-acre of wetlands. The project will temporarily impact 25-feet of waterway while permanently impacting 0.756-acre of wetland that is located along the eastern right-of-way of S. R. 0011 approximately 1.5-miles north of S. R. 1004 and S. R. 0011 intersection (Bloomsburg, PA Quadrangle N: 0.01 inch; W: 6.7 inches) in Scott Township, **Columbia County**. The 0.756-acre of permanently impacted wetlands shall be mitigated with onsite replacement.

E49-224. Encroachment. **H. H. Knoebel and Son**, P. O. Box 317, Elysburg, PA 17824. To construct, operate and maintain a single span foot bridge across South Branch Roaring Creek (high quality cold water fishery); and to construct, operate and maintain an elevated footway in the floodway of the South Branch, Roaring Creek to provide pedestrian access to a commercial facility. The bridge shall be constructed with a span of

40-feet, an average underclearance of 8.6-feet and a skew of 90 degrees. The elevated walkway shall be constructed with a span of 100-feet and a minimum underclearance of 3-feet that will not impact wetlands while impacting 15-feet of waterway that is located along the eastern right-of-way of SR 0487 approximately 3,000-feet north-east of T-804 and SR 0487 intersection (Danville, PA Quadrangle N: 0.5 inch; W: 0.6 inch) in Cleveland Township, **Columbia County** and Ralph Township, **Northumberland County**.

E53-326. Encroachment. **William C. Haldaman, Jr.**, 2218 Big Moores Run Road, Coudersport, PA 16915. To construct and maintain an 87 inch by 63 inch arch pipe with preformed concrete headwall and tail wall in Big Moores Run to access private property. The project is located off Big Moores Run Road, approximately 3 miles north of the intersection of Big Moores Run Road with SR 3003 (Ayers Hill, PA Quadrangle N: 6.75 inches; W: 15.8 inches) in Homer Township, **Potter County**. The project will not impact on wetlands while impacting approximately 40 feet of waterway. Big Moores Run is a high quality cold water fisheries stream.

E57-083. Encroachment. **Pennsylvania Department of Transportation**, P. O. Box 218, Montoursville, PA 17754. To remove the existing structure and to construct and maintain a single span concrete beam bridge with a clear span of 91 feet and underclearance of 6.5 feet across Big Run located on S. R. 2002 approximately 1,600 feet upstream of Muncy Creek (Sonestown, PA Quadrangle N: 19.5 inches; W: 7.5 inches) in Davidson Township, **Sullivan County**. Estimated stream disturbance is 200 feet; stream classification: HQ-CWF.

E59-385. Encroachment. **Mansfield University**, Mansfield University, PA 16933-1607. To construct and maintain a storm sewer pipe arch outfall 44 inches by 72 inches by 50 feet in length to Corey Creek. The project is located approximately 150 feet north of Rt. 6 and 600 feet east of the Eastern Mansfield Borough boundary line (Mansfield, PA Quadrangle N: 10.6 inches; W: 9.1 inches) in Richmond Township, **Tioga County**. The project will not impact on wetlands while impacting approximately 20 feet of waterway. Corey Creek is a cold water fisheries stream.

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

E32-402. Encroachment. **Green Township**, R. D. 1, Box 204A, Commodore, PA 15729. To remove the existing structure and to construct and maintain a 14.24-M long, 7.2-M by 3.3-M box culvert (invert depressed 0.485 M) in Cush Cushion Creek (HQ-CWF-TS) located on T-928 at a point approximately 1.5 miles north of intersection of T-928 and S. R. 240; and to place and maintain fill in .02 acre of a de minimis area of wetlands (PFO) (Barnesboro, PA Quadrangle N: 17.5 inches; W: 15.8 inches) in Green Township, **Indiana County**.

E32-403. Encroachment. **Leonard D. Isenberg**, R. R. 6, Box 176, Indiana, PA 15701. To relocate, stabilize and maintain 380.0 feet of Crooked Creek (CWF) for the purpose of allowing for the construction of an agricultural crossing located off of Tanoma Road north of its intersection with Route 286 (Clymer, PA Quadrangle N: 7.2 inches; W: 7.9 inches) in Rayne 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

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Permit No. 4598406. LTS Development, Inc., P. O. Box 160, Shawnee-on-Delaware, PA 18356. Permit to construct and operate a sanitary sewer collection and conveyance system for the Godfrey's Ridge residential development in Stroud Township and Stroudsburg Borough, **Monroe County**.

NPDES Permit No. PA-0012149. Industrial waste. **Dixon Ticonderoga Company**, Route 61, Deer Lake, PA 17961, is authorized to discharge from a facility located in West Brunswick Township, **Schuylkill County**, to Pine Creek.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

NPDES Permit No. PA0053708. Sewerage. **James Gaffney, Hawk Mountain Bed & Breakfast**, 223 Stony Run Valley Road, Kempton, PA 19529, is authorized to discharge from a facility located in Albany Township, **Berks County**.

NPDES Permit No. PA0087963. Nancy R. Miller, R. D. 1, Box 98, Manns Choice, PA 15550, is authorized to discharge from a facility located in Napier Township,

Bedford County to the receiving waters of an unnamed tributary to the Raystown Branch of the Juniata River.

NPDES Permit No. PAG043507. Sewerage. **John R. Longanecker**, 10 Windbriar Lane, Gettysburg, PA 17325, is authorized to discharge from a facility located in Butler Township, **Adams County** to the receiving waters named Opossum Creek.

NPDES Permit No. PA0087947. Sewerage. **Columbia Gas Transmission**, 525 Highlands Boulevard, Coatesville, PA 19320, is authorized to discharge from a facility located in Straban Township, **Adams County** to the receiving waters named Beaverdam Creek.

NPDES Permit No. PA0081574. Sewerage. **Salisbury Township**, 5581 Old Philadelphia Pike, Gap, PA 17527, is authorized to discharge from a facility located in Salisbury Township, **Lancaster County** to an unnamed tributary of Pequea Creek.

NPDES Permit No. PA0031810. Sewerage. **Eastern Lebanon County School District**, 180 Elco Drive, Myerstown, PA 17067-2697, is authorized to discharge from a facility located in Jackson Township, **Lebanon County** to the receiving waters of an unnamed tributary to the Tulpehocken Creek.

NPDES Permit No. PA0085375. Sewerage. **Newport Borough Water Authority**, 19 South Third Street, Newport, PA 17074, is authorized to discharge from a facility located in Oliver Township, **Perry County** to the receiving waters named Little Buffalo Creek.

Permit No. 0598405. Sewerage. **Nancy R. Miller**, R. D. 1, Box 98, Manns Choice, PA 15550. This permit approves the construction of sewage treatment facilities and sewer and appurtenances in Napier Township, **Bedford County**.

Permit No. 0199401. Sewerage. **Columbia Gas Transmission**, 525 Highlands Boulevard, Coatesville, PA 19320. This permit approves the construction of sewage treatment facilities in Straban Township, **Adams County**.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0113263. Sewerage. **Liberty Joint School Authority, c/o Southern Tioga School District**, 241 Main Street, Blossburg, PA 16912. Renewal granted to applicant to discharge from facility located at Liberty Borough, **Tioga County**.

WQM Permit No. 6098401. Sewerage. **Gregg Township Municipal Authority**, P. O. Box 192, Allenwood, PA 17810. Union County Industrial Development Corporation submitted a sewer extension application to permit for Great Stream Commons. The permit is being issued to Gregg Township Municipal Authority. The Great Stream Commons will be served by a new partly gravity, partly pumped wastewater collection system located at Gregg Township, **Union County**.

WQM Permit No. 1795408-A34. Sewerage. **Bradford Township**, P. O. Box 79, Woodland, PA 16881. The Township submitted an amendment application for the Cartwright Residence treatment system. The design was previously approved on October 19, 1999 as a pilot program. The facility is located at Bradford Township, **Clearfield County**.

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

NPDES Permit No. PA0001571, Amendment No. 1. Industrial waste, **Duquesne Light Company**, 411 Seventh Avenue, P. O. Box 1930, Pittsburgh, PA 15230-1930, is authorized to discharge from a facility located at Elrama Power Station, Union Township, **Washington County**.

Permit No. PA0216895-A1. Industrial waste. **Highridge Water Authority—Tubmill Water Plant**, 17 Maple Avenue, Blairsville, PA 15717.

This notice reflects changes from the notice published in the February 6, 1999 *Pennsylvania Bulletin*.

Outfalls 002 and 003

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Aluminum	4.0					8.0
Antimony	deleted					
Lead	deleted					
Selenium	deleted					
Mercury	0.0001	0.0002	(002 only)			0.0003

Outfall 004

BOD₅, Chemical Oxygen Demand, Total Suspended Solids, Total Kjeldahl Nitrogen, Nitrate plus Nitrite Nitrogen, Total Phosphorus, Aluminum, Manganese, Antimony, Lead and Selenium are all deleted for this outfall.

Also, Outfall 005 is deleted and replaced by a prohibition against overflow from the recycle water system.

NPDES Permit No. PA0216895, Amendment No. 1. Industrial waste, **Highridge Water**, 17 Maple Avenue,

Blairsville, PA 15717, is authorized to discharge from a facility located at Highridge Water Authority—Tubmill Water Plant, Fairfield Township, **Westmoreland County**.

Permit No. PA0217948. Industrial waste. **Highridge Water Authority—Sugar Run Water Plant**, 17 Maple Avenue, Blairsville, PA 15717.

This notice reflects changes from the notice published in the February 6, 1999 *Pennsylvania Bulletin*.

Parameter	mg/l		Avg. Mon.	Avg. Weekly	Max. Daily	Instant. Max
	Avg. Mon.	Max. Daily				
<i>Outfalls 001 and 004</i>						
Aluminum	1.5	3.0 (001 only)				3.8
Total Residual Chlorine	0.5					1.0
Mercury	0.000034	0.00007 (001 only)				0.00009
Antimony, Chromium (Hexavalent), Lead, Selenium, Cobalt—All deleted						

Outfalls 002 and 003

BOD5, Chemical Oxygen Demand, Total Suspended Solids, Total Kjeldahl Nitrogen, Nitrate Plus Nitrite Nitrogen, Total Phosphorus, Aluminum, Manganese, Antimony, Chromium (Hexavalent), Lead, Selenium and Cobalt are all deleted for this outfall.

Also, Outfall 005 is deleted and replaced by a prohibition against overflow from the recycle system.

NPDES Permit No. PA0217948. Industrial waste, **Highridge Water**, 17 Maple Avenue, Blairsville, PA 15717, is authorized to discharge from a facility located at Highridge Water Authority—Sugar Run Water Plant, St. Clair Township, **Westmoreland County** to receiving water named Unnamed Tributary 44984 to Conemaugh River.

NPDES Permit No. PA0020681. Sewage, **Borough of Sewickley**, 601 Thorn Street, Sewickley, PA 15143-0428, is authorized to discharge from a facility located at Sewickley Wastewater Treatment Plant, Borough of Sewickley, **Allegheny County** to receiving waters named Ohio River.

NPDES Permit No. PA0029785. Sewage, **Redbank Valley School District**, 920 Broad Street, New Bethlehem, PA 16242, is authorized to discharge from a facility located at Mahoning Elementary, Mahoning Township, **Armstrong County** to receiving waters named Tributary of Mahoning Creek.

NPDES Permit No. PA0091936. Sewage, **Indiana County Municipal Services Authority**, P. O. Box 351, Indiana, PA 15701, is authorized to discharge from a facility located at Aultman Sewage Treatment Plant, Center Township, **Indiana County** to receiving waters named Tributary of Aultman Run.

NPDES Permit No. PA0093556. Sewage, **North Union Township Municipal Services Authority**, R.R.1, Box 135A, Lemont Furnace, PA 15456, is authorized to discharge from a facility located at Bethel Court Plan Sewage Treatment Plant, North Union Township, **Fayette County** to receiving waters named Unnamed Tributary of Redstone Creek.

NPDES Permit No. PA0096784. Sewage, **Green Township Municipal Authority**, P. O. Box 129, Commodore, PA 15729, is authorized to discharge from a facility located at Commodore STP, Green Township, **Indiana County** to receiving waters named North Branch Two Lick Creek.

NPDES Permit No. PA0098582. Sewage, **Ronald W. Shearer**, P. O. Box 141, Indiana, PA 15701-0141, is authorized to discharge from a facility located at Shearer Single Residence Sewage Treatment Plant, R.R.6, Box 74B, Rayne Township, **Indiana County** to receiving waters named McKee Run.

NPDES Permit No. PA0203700. Sewage, **Hutterian Brethren, Inc.**, Route 40, P. O. Box 240, Farmington, PA 15437, is authorized to discharge from a facility located at

Hutterian Brethren Spring Valley Sewage Treatment Plant, Wharton Township, **Fayette County** to receiving waters named Deadman Run.

NPDES Permit No. PA0216437. Sewage, **Duquesne Light Company**, Box 457, Greensboro, PA 15338, is authorized to discharge from a facility located at Warwick Mine No. 3, 3 Northern Shaft STP, Dunkard Township, **Greene County** to receiving waters named Meadow Run.

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

NPDES Permit No. PA0000736. Industrial waste, **Keystone Powdered Metal Co.**, 1935 State Street, St. Marys, PA 15857, is authorized to discharge from a facility located in the City of St. Marys, **Elk County** to Iron Run and Elk Creek.

NPDES Permit No. PA0032042. Sewage, **Elk Lick Scout Reserve, Allegheny Highlands Council, Inc., Boy Scouts of America**, 50 Hough Hill Road, P. O. Box 0261, Falconer, NY 14733-0261, is authorized to discharge from a facility located in Keating Township, **McKean County** to an unnamed tributary to the South Branch of Cole Creek.

NPDES Permit No. PA0222810. Sewage, **C. Thomas Cumberledge, Sr.**, 707 Little Creed Rd., Evans City, PA 16033, is authorized to discharge from a facility located in Connoquenessing Township, **Butler County** to Little Connoquenessing Creek.

WQM Permit No. 6299201. Industrial waste, **Loranger Manufacturing Corporation, Starbrick Facility**, P. O. Box 948, Warren, PA 16365. This project is for the installation of a cooling tower and filtration system in Connewango Township, **Warren County**.

WQM Permit No. 6299202. Industrial waste, **Loranger Manufacturing Corporation, Clark Street Facility**, P. O. Box 948, Warren, PA 16365. This project is for the installation of a cooling tower and filtration system in the City of Warren, **Warren County**.

WQM Permit No. 3799402. Taylor Township Sewer Authority, P. O. Box 489, West Pittsburg, PA 16160-0489. This project is for the modification of disinfection facilities in Taylor Township, **Lawrence County**.

WQM Permit No. 6299403. Sewerage, **Joseph J. Shaw, SRSTP**, 707 Cobham Park Rd., Warren, PA 16365. Construction of Joseph J. Shaw SRSTP located in Glade Township, **Warren County**.

WQM Permit No. 6299404. Sewerage, **Leonard A. and Florette K. Marg**, 221 Mill St., Sugar Grove, PA 16350. Construction of Leonard A. and Florette K. Marg SRSTP located in Sugar Grove Borough, **Warren County**.

WQM Permit No. 1099404. Sewerage, **James B. Lawrence**, 103 Hillside Dr., Harmony, PA 16037. Construction of James R. Lawrence SRSTP located in Lancaster Township, **Butler County**.

WQM Permit No. 2599408. Sewerage, **Frank A. and Shirley E. Concoby**, 1501 Lewis Rd., Waterford, PA 16441-8904. Construction of Frank A. and Shirley E. Concoby SRSTP located in Washington Township, **Erie County**.

WQM Permit No. 1098410. Sewerage, **C. Thomas Cumberledge, Sr.**, 707 Little Creek Rd., Evans City, PA 16033. Construction of C. Thomas Cumberledge, Sr. SRSTP located in Connoquenessing Township, **Butler County**.

**INDIVIDUAL PERMITS
(PAS)**

The following NPDES Individual Permits for discharges of stormwater from construction activities have been issued.

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10S013-R	LTS Development, Inc. P. O. Box 160 Shawnee-On-Delaware, PA 18356	Monroe Co. Stroud Twp. and Stroudsburg Bor.	Tribs. to Brodhead and Cherry Creeks

INDIVIDUAL PERMITS

(PAR)

Approvals to Use NPDES and/or Other General Permits

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

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

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

List of NPDES and/or other General Permit Type

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

*General Permit Type—PAG-2**Facility Location
County and
Municipality**Permit No.**Applicant Name
and Address**Receiving Stream
or Body of Water**Contact Office and
Telephone No.*Mercer County
Pine Township

PAR104339

Montgomery Truss &
Panel, Inc.
P. O. Box 866, 803 Main St.
Grove City, PA 16127Unnamed
Tributary of
Wolf CreekMercer Conservation
Dist.
R. R. 2, Box 2055
747 Greenville Road
Mercer, PA 16137Venango County
Rockland Township

PAR107012

PA Dept. of Transportation
1140 Liberty St.
Franklin, PA 16323Unnamed
Tributary to
Little East Sandy
CreekVenango Conservation
District
R. R. 2, Box 108
Franklin, PA 16323
(814) 676-2832Indiana County
Center Township

PAR103146

Edison Mission Energy
18101 Von Karman Ave.
Irvin, CA 92612-1046

Two Lick Creek

Indiana County
Conservation District
(724) 463-8547Bradford County
Athens Township

PAR100814

Equity Enterprises
416 N. Elmira St.
Sayre, PA 18840

Wolcott Creek

Bradford County CD
Stoll Natural Resource
Ctr.
R R. 5, Box 5030C
Towanda, PA 18848
(570) 265-5539Centre County
Harris Township

PAR10F089

Plainfield Estates
Paul Suhey
817 South Sparks St.
State College, PA 16801

Unt. Spring Creek

Centre County CD
414 Holmes Ave.,
Suite 4
Bellefonte, PA 16823
(814) 355-6817*General Permit Type—PAG-3**Facility Location
County and
Municipality**Permit No.**Applicant Name
and Address**Receiving Stream
or Body of Water**Contact Office and
Telephone No.*Tioga County
Lawrence Township

PAR204828

ACP Mfg. Co. LLC
P. O. Box 9
Blossburg, PA 16912

Tioga River WWF

Northcentral
208 W. Third St.
Williamsport, PA 17701Clinton County
Castanea Township

PAR234802

Henkel Corporation
P. O. Box 8
Castanea, PA 17726

Bald Eagle Creek

Northcentral
208 W. Third St.
Williamsport, PA 17701
(717) 327-3664Lehigh County
Washington Township

PAR602204

Ronald A. Sauerwine
Sauerwine Auto Parts
3148 Spring Valley Rd.
Slatington, PA 18080

Coplay Creek

Northeast Office
2 Public Square
Wilkes-Barre, PA
18711
(570) 826-2511Lebanon County
Lebanon CityPAR123544
Amendment No. 1Pasta Group LLC
749 Guilford Street
Lebanon, PA 17046UNT to
Brandywine Creek
Via Storm WaterSouthcentral Region
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707York County
Jackson TownshipPAR113539
Amendment No. 1Powerscreen USC
Incorporated
R. D. 6, Box 34-B
York, PA 17404

Honey Run

Southcentral Region
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707Berks County
Reading CityPAR803621
Amendment No. 1Norfolk Southern Railway
Company
Spring Street (Reading)
Yard
7th and Spring Streets
Reading, PA 19601

Schuylkill River

Southcentral Region
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707

<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>
Blair County Logan Township	PAR803615 Amendment No. 1	Norfolk Southern Railway Company The Rose Yard 200 4th Avenue Altoona, PA 16601	Little Juniata River	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Blair County Logan Township	PAR803614 Amendment No. 1	Norfolk Southern Railway Company Juniata Locomotive Shop 200 4th Avenue Altoona, PA 16601	Spring Run	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
York County York City	PAR603536	First Capital Fibers, Inc. P. O. Box 867 York, PA 17405	Codorus Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Dauphin County Swatara Township	PAR803624	Pitt Ohio Express Inc. Harrisburg Terminal 45 26th Street Pittsburgh, PA 15222	Grassy area located on property	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Dauphin County Lykens Township	PAR803623	Papetti Hygrade Egg Products, Inc. dba Quaker State Farms Spain Road Klingerstown, PA 17941	Trib. to Pine Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-4

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Clearfield County Bradford Township	PAG045061	Chester Cartwright P. O. Box 493 Bigler, PA 16825	Long Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Annin Township McKean County	PAG048581	Brian S. Higley R. R. 1, Box 149A Turtlepoint, PA 16750	Unnamed Tributary to Annin Creek	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942
Vernon Township Crawford County	PAG048584	Edward T. Longstreth, Jr. 9511 Krider Rd. Meadville, PA 16335	Unnamed Tributary of French Creek	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942
Sugar Grove Boro. Warren County	PAG048582	Leonard A. and Florette K. Marg 221 Mill St. Sugar Grove, PA 16350	Tributary to Stillwater Creek	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942
Glade Township Warren County	PAG048579	Joseph J. Shaw 707 Cobham Park Rd. Warren, PA 16365	Glade Run	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942

<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>
Lancaster Township Butler County	PAG048585	James R. Lawrence 103 Hillside Dr. Harmony, PA 16037	Unnamed Tributary of Perry Lake and Scholars Run	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942
Washington Township Erie County	PAG048583	Frank A. and Shirley E. Concoby 1501 Lewis Rd. Waterford, PA 16441-8904	Unnamed Tributary of Little Conneauttee Creek	Northwest Region Water Management 230 Water St. Meadville, PA 16335-3481 814-332-6942

General Permit Type—PAG-5

<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>
Huntingdon County Tell Township	PAG053527	Buckeye Pipe Line Company, L.P. P. O. Box 368 Emmaus, PA 18049-0368	UNT to Georges Run Creek	Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

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

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

Permit No. 0999501. Public water supply. **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. A permit has been issued to Philadelphia Suburban Water Company granting permission to upgrade their Bristol Water Treatment Plant in Bristol Borough, **Bucks County**.

Type of Facility: Public Water Supply System

Consulting Engineer: CET Engineers, 1240 North Mountain Road, Harrisburg, PA 17112

Permit to Construct Issued: April 12, 1999

Permit No. 4698509. Public water supply. **Yerkes Water Association**, 17A Henry Avenue, P. O. Box 26284, Collegeville, PA 19426. A permit has been issued for the deepening of an existing Well No. 2 from 187 feet to 500 feet in Lower Providence Township, **Montgomery County**.

Type of Facility: Public Water Supply

Consulting Engineer: Storb Environmental, Inc., 410 North Easton Road, Willow Grove, PA 19090-2511

Permit to Construct Issued: April 19, 1999

Permit No. 0999502. Public water supply. **Upper Southampton Township Municipal Authority**, 945 Street Road, Southampton, PA 18966. A permit has been issued for the installation of iron sequestration systems at well house Nos. 3, 7, 9 and booster station No. 1 in Upper Southampton Township, **Bucks County**.

Type of Facility: Public Water Supply

Consulting Engineer: David G. Pennoni, Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, PA 19104

Permit to Construct Issued: April 22, 1999

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

Permit No. 3999501. Public water supply. **Parkland School District, Kernsville Elementary School**, Terry DeGroot. This proposal involves the addition of orthophosphate and soda ash to control corrosion and lead levels. It is located in South Whitehall Township, **Lehigh County**. Construction permit issued on April 12, 1999.

Permit No. 4098504. Public water supply. **Sandy Run Water Association**, Nelson Contress, RR 1 Sandy Run, Freeland, PA 18224. This proposal involves construction of a new wellhouse and treatment building along with the new finished water storage tank. It is located in Freeland Borough, **Luzerne County**. Construction permit issued on April 9, 1999.

Minor Permit Amendment for Permit No. 5498505. Public water supply. **Minersville Borough Municipal Authority**, 2 E. Sunbury St., Minersville, PA 17954. This proposal involves conversion of the Minersville slow sand filtration plant to a package filtration plant with associated system modifications. It is located in Cass Township, **Schuylkill County**. Construction permit issued on April 16, 1999.

Minor Amendment to Far Away Springs. Public water supply. **Spruce Street Bottling Plant**, Stanley Frompovicz, 7 Spruce Street, Pine Grove, PA 17963. This proposal involves altering of the bottling line from the second floor to the first floor. It is located in Pine Grove Borough, **Schuylkill County**. Construction permit issued on April 12, 1999.

Operations Permit re-issued on April 23, 1999, to **Coppersburg Home, Inc.**, Colonial Crest Well No. 1, Upper Saucon Township, **Lehigh County**.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Extension for 1998 Certified Host Municipality Inspector Reimbursement Applications under Act 101 (Section 1102), the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, and Act 108 (Section 304), the Hazardous Sites Cleanup Act of 1988

The Department of Environmental Protection (Department) announces an extension of the submission date for 1998 Certified Host Municipality Inspector Program Reimbursement Applications. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and the Hazardous Sites Cleanup Act (Act 108). Municipalities include cities, boroughs, incorporated towns, townships, and home rule municipalities.

The deadline for the submission of applications has been extended to 4 p.m. on June 1, 1999. Applications not received by the deadline will not be considered for reimbursement.

All reimbursements are allocated from the Recycling Fund authorized under Act 101 for municipal waste facilities or from the Hazardous Sites Cleanup Fund under Act 108 for hazardous waste facilities. Reimbursements from the funds are available to any municipality which has a municipal waste landfill, resource recovery or commercial hazardous waste storage, treatment and disposal facility located within its geographic borders. Upon application from any municipality, the Department shall award reimbursements for authorized costs incurred for the salary and expenses of certified host municipality inspectors. The reimbursement shall not exceed 50% of the approved costs of the inspector's salary and approved expenses. Reimbursement is available only for host municipality inspectors trained and certified by the Department.

Inquiries concerning this notice, including those by municipalities wishing to file an application, should be directed to David Harris, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of 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 summa-

ries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

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

The Department has received the following final reports:

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

909Partners, LP Site, Susquehanna Township, Dauphin County. 909 Partners, LP, 3701 Perkiomen Avenue, Reading, PA 19606, has submitted a Remedial Investigation and Final Report concerning remediation of site groundwater contaminated with heavy metals and solvents. The report is intended to document remediation of the site to the site-specific standard.

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

Redevelopment Authority of the City of McKeesport (Fifth and Hartman Streets), City of McKeesport, Allegheny County. Redevelopment Authority of the City of McKeesport, 201 Lysle Boulevard, McKeesport, PA 15132 and Von E. Fisher, KU Resources, Inc., 1 Library Place, Duquesne, PA 15110 have submitted a Final Report concerning remediation of site soil contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

Redevelopment Authority of the City of McKeesport (Walnut Street), City of McKeesport, Allegheny County. Redevelopment Authority of the City of McKeesport, 201 Lysle Boulevard, McKeesport, PA 15132 and Von E. Fisher, KU Resources, Inc., 1 Library Place, Duquesne, PA 15110 have submitted a Final Report concerning remediation of site soil contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program.

Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act (act).

Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure 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. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has acted upon the following plans and reports:

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

Realen Limited Partner, Inc., Old Mill Pointe Development, Middletown Township, **Delaware County**. Joseph W. Standen, Jr., Leggette, Brashears & Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380, has submitted a Final Report concerning remediation of site soils contaminated with lead and heavy metals. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on April 20, 1999.

Serena, Inc., Downingtown Borough, **Chester County**. Dean Seman, RT Environmental Services, Inc., 215 W. Church Road, King of Prussia, PA 19406, has submitted a Final Report concerning remediation of site soils contaminated with PCBs. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on April 20, 1999.

James A. Stimmler, Inc., Loading Rack, AOC, Worcester Township, **Montgomery County**. Philip F. Gray, Jr., Storb Environmental, Inc., 410 North Easton Road, Willow Grove, PA 19090, has submitted a Final Report concerning remediation of site soils contaminated with BTEX and petroleum hydrocarbons. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on April 20, 1999.

James A. Stimmler, Inc., UST, AOC, Worcester Township, **Montgomery County**. Philip F. Gray, Jr., Storb Environmental, Inc., 410 North Easton Road, Willow Grove, PA 19090, has submitted a Final Report concern-

ing remediation of site soils contaminated with BTEX and petroleum hydrocarbons. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on April 20, 1999.

Strunk Farm Property (Former), East Fallowfield Township, **Chester County**. Michael A. Christie, P.G., Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, has submitted a Final Report concerning remediation of site soils contaminated with heavy metals, solvents and polycyclic aromatic hydrocarbons and groundwater contaminated with heavy metals. The Final Report demonstrated attainment of the Statewide health, background and site-specific standards and was approved by the Department on April 20, 1999.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Bethlehem Works Site, City of Bethlehem, **Northampton County**. Edwin B. Wilson, Director, Environmental Assessment and Remediation, Bethlehem Steel Corporation, 1170 Eighth Avenue, Bethlehem, PA 18016, submitted a Final Report August 3, 1998, concerning the remediation of site groundwater found to have been contaminated with volatile organic compounds and cyanide. The final report demonstrated attainment of the site-specific standard, and was approved by the Department on April 5, 1999.

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

Berks Products Corporation, Muhlenberg Township, **Berks County**. Berks Products Corporation, P. O. Box 421, Reading, PA has submitted a final report concerning the remediation of site soils and groundwater contaminated with solvents, BTEX, PHCs and PAHs. The final report demonstrated attainment of the Statewide health standard, and was approved by the Department on April 15, 1999.

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

Wolff's Hardware, 33 Mead Avenue, City of Meadville, **County of Crawford**, has submitted a Final Report concerning remediation of the site contaminated with lead. The report intended to document remediation of the site to meet the Statewide health standard. A summary of the Final Report was published in the *Meadville Tribune* on March 24, 1999.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southcentral Regional Office: Regional Solid Waste Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.

Permit No. 300655. NGK Metals Landfill, NGK Metals Corporation (150 Tuckerton Road, Reading, PA 19612-3367). Application for major modification for residual waste landfill closure plan for a site in Muhlenberg Township, **Berks County**. Permit issued in the Regional Office April 20, 1999.

Permit No. 100113. Northwest Expansion, Modern Trash Removal of York, Inc. (R. R. 9, Box 317, York, PA 17402). Application for construction and operation of the Northwest Expansion for a site in Windsor and Lower Windsor Townships, **York County**. Permit issued in the Regional Office April 16, 1999.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

Permit No. 100403. A permit to modify the final contours of the landfill that incorporates benches every 50 foot rise in elevation with a 33% slope between benches, and to increase the maximum daily volume to 3,000 tons per day was issued by the Regional Office on April 12, 1999, to **Seneca Landfill**, P. O. Box 1080, Mars, PA 16046, located in Jackson and Lancaster Townships, **Butler County**.

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

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

Permit No. 400465. City of Philadelphia Water Department, 1101 Market Street, Philadelphia, PA 19107-2994. This permit has been revoked, because the permittee has indicated that they are no longer using the grit incinerator at the City of Philadelphia Southwest Pollution Control Plant located in the **City of Philadelphia**. Permit was revoked in the Southeast Regional Office on April 6, 1999.

Permit No. 400568. Fox Chase Cancer Center, 7701 Burholme Avenue, Philadelphia, PA 19111. This permit was revoked, because the facility is no longer using their FCCC incinerator, which is located in the **City of Philadelphia**. Permit was revoked in the Southeast Regional Office on April 6, 1999.

Permit No. 601600. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Hailand Farm located in Charlestown Township, **Chester County**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 602658. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Aaron King Farm located in West Sadsbury Township, **Chester County**. Permit was revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 602657. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Lene-Hill Farm located in West Sadsbury Township, **Chester County**.

Permit No. 602096. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit

for agricultural utilization of municipal sewage sludges at the Lantz Farm located in Highland Township, **Chester County**. Permit has been revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 601889. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Elser Farm located in Pocopson Township, **Chester County**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 602612. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Clair Neal Farm located in Sadsbury and West Sadsbury Townships, **Chester County**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 602611. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Henry Stoltzfus Farm located in Honeybrook Township, **Chester County**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 602656. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the S. Levi Stoltzfus Farm located in West Sadsbury Township, **Chester County**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 600034. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Eastwick Redevelopment Area located in **City of Philadelphia**. Permit revoked in the Southeast Regional Office on March 22, 1999.

Permit No. 600040. Philadelphia Water Department, ARA Tower, 1101 Market Street, Fourth Floor, Philadelphia, PA 19103. This permit has been revoked in response to the permittee's request to revoke the permit for agricultural utilization of municipal sewage sludges at the Byberry Site—Bloomfield Farm located in the **City of Philadelphia**. Permit revoked in the Southeast Regional Office on March 22, 1999.

AIR QUALITY OPERATING PERMITS

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

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

15-312-033GP: Mobile Pipe Line Co. (8 South Malin Road, Frazer, PA 19355), issued April 22, 1999, for a storage tank in East Whiteland Township, **Chester County**.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

48-310-037GP: Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 2000, Center Valley, PA 18034), for construction and operation of a portable stone crushing plant at the facility on Tatamy Road in Lower Nazareth Township, **Northampton County**.

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

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

40-318-038B: Comfort Designs, Inc. (263 Schuyler Avenue, P. O. Box 3000, Kingston, PA 18704), for minor modification of a paint spray operation in Kingston Borough, **Luzerne County**.

48-0017A: C F Martin & Co., Inc. (510 Sycamore Street, Nazareth, PA 18064), for minor modification of paint spray operations in Upper Nazareth Township, **Northampton County**.

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

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

OP-09-0076: Cartex Corp. (200 Rock Run Road, Fairless Hills, PA 19030), issued April 9, 1999, for operation of a Facility VOC/NOx RACT in Falls Township, **Bucks County**.

OP-46-0081: Markel Corp. (416 School Lane, Norristown, PA 19404), issued April 9, 1999, for operation of a Facility VOC/NOx RACT in Plymouth Township, **Montgomery County**.

OP-09-0010: TEVA Pharmaceuticals USA, Inc. (650 Cathill Road, Sellersville, PA 18960), issued April 9, 1999, for operation of a Facility VOCs RACT in West Rockhill Township, **Bucks County**.

OP-46-0037: Cabot Performance Materials (County Line Road, Boyertown, PA 19512), issued April 13, 1999, for operation of a Facility VOC RACT in Douglass Township, **Montgomery County**.

OP-15-0030: NVF Co. (Kennett and Mulberry Streets, Kennett Square, PA 19348), issued April 13, 1999, for operation of a Facility VOCs/NOx RACT in Kennett Square Borough, **Chester County**.

46-318-050: Neptune Chemical Pump Co., Inc. (204 DeKalb Pike, Lansdale, PA 19446), issued April 13, 1999, for operation of two spray paint booths and drum in Montgomery Township, **Montgomery County**.

OP-15-0027: John Matthey, Inc. (456 Devon Park Drive, Wayne, PA 19087), issued April 15, 1999, (revised) for operation of a Facility VOCs/NOx RACT in Tredyffrin Township, **Chester County**.

OP-09-0012: Klearfold, Inc. (364 Valley Road, Warrington, PA 18976), issued April 15, 1999, for operation of a Facility VOCs RACT in Warrington Township, **Bucks County**.

OP-09-0014: Northeast Foods, Inc. (2945 Samuel Drive, Bensalem, PA 19020), issued April 9, 1999, for operation of a Facility VOCs/NOx RACT in Bensalem Township, **Bucks County**.

OP-46-0010A: Montenay Energy Resources, Inc. (1155 Conshohocken Road, Conshohocken, PA 19428), issued April 20, 1999, for operation of a Facility VOC/NOx RACT in Plymouth Township, **Montgomery County**.

OP-46-0078: G-Seven Ltd. (2289 North Penn Road, Hatfield, PA 19440), issued April 20, 1999, for operation of a Facility VOC/NOx RACT in Hatfield Township, **Montgomery County**.

OP-46-0033: Waste Management Disposal Serv. of PA (1425 Sell Road, Pottstown, PA 19464), issued April 20, 1999, for operation of a Facility NOx RACT in West Pottsgrove Township, **Montgomery County**.

OP-09-0015: Rohm & Haas Co. (Route 413 and Old Route 13, Bristol, PA 19007), issued April 20, 1999, for operation of a Facility VOCs/NOx RACT in Bristol Township, **Bucks County**.

PLAN APPROVALS

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

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

40-318-038B: Comfort Designs, Inc. (263 Schuyler Avenue, P. O. Box 3000, Kingston, PA 18704), issued on April 2, 1999, for construction of a paint spray operation in Kingston Borough, **Luzerne County**.

48-315-003: Ponderosa Fibers of Pennsylvania Partnership (6 Horwith Lane, Box 190, Northampton, PA 18067), issued April 5, 1999, for modification of a recycle paper pulping operation in Northampton Borough, **Northampton County**.

54-303-015: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), issued April 12, 1999, for construction of a batch asphalt plant in Wayne Township, **Schuylkill County**.

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

07-03019: New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664), issued April 21, 1999, for construction of a sproul crushing plant controlled by water sprays in Greenfield Township, **Blair County**.

36-03068A: Meridian Products, Inc. (124 Earland Drive, New Holland, PA 17557-1503), issued April 23, 1999, for installation of four spray booths in East Earl Township, **Lancaster County**.

38-03003A: Bayer Corp. (400 West Stoeber Avenue, Myerstown, PA 17067), issued April 21, 1999, for installation of an Accela Cota sprays coater in Myerstown Borough, **Lebanon County**.

67-329-001A: Waste Management Disposal Services of PA, Inc. (4400 Mount Pisgah Road, York, PA 17402), issued April 16, 1999, for construction of a landfill gas extraction system controlled by three internal combustion engines and enclosed ground flare at Modern

Landfill in Lower Windsor and Windsor Townships, **York County**. This source is subject to 40 CFR Part 60, Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills.

PA 36-05014B: Alumax Mill Products, Inc. (1480 Manheim Pike, Lancaster, PA 17604), issued April 12, 1999, for modification of two aluminum hot rolling mills in Manheim Township, **Lancaster County**.

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

PA-26-177A: Golden Eagle Construction Co., Inc. (P. O. Box 945, Uniontown, PA 15401), issued April 16, 1999, for operation of hot-mix asphalt plant at Coolspring Plant in North Union Township, **Fayette County**.

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

PA-25-095E: Lord Corp., Mechanical Products Division (1635 West 12th Street, Erie, PA 16514), issued April 12, 1999, for modification to the adhesive spray machine in Erie, **Erie County**.

PA-25-095D: Lord Corp., Mechanical Products Division (1635 West 12th Street, Erie, PA 16514), issued April 12, 1999, for construction of an adhesive spray booth with dry filter in Erie, **Erie County**.

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

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

PA-15-0074: R. A. Ferris & Co., Inc. (899 Fern Hill Road, West Chester, PA 19380), issued April 9, 1999, for operation of a crematory incinerator in West Goshen Township, **Chester County**.

09-399-044: CMS Gilbreth Packaging Systems (3001 State Road, Croydon, PA 19021), issued April 20, 1999, for operation of two hard chromium electroplating in Bristol Township, **Bucks County**.

PA-09-0075: Dunmore Corp. (2900 Wharton Road, Bristol, PA 19007), issued April 20, 1999, for operation of a gravure surface coater in Bristol Township, **Bucks County**.

PA-46-0005: Merck & Co., Inc. (770 Sumneytown Pike, West Point, PA 19486), issued April 20, 1999, for operation of a Facility VOCs/NOx RACT in Upper Gwynedd Township, **Montgomery County**.

46-313-140: SmithKline Beecham Pharmaceuticals (709 Swedeland Road, King of Prussia, PA 19406), issued April 22, 1999, for operation of a hydrochloric acid tank in Upper Merion Township, **Montgomery County**.

23-302-129A: Villanova University (Ithan Avenue and Route 30, Villanova, PA 19085), issued April 22, 1999, for operation of heating hot water boilers in Radnor Township, **Delaware County**.

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

22-301-060: Pinnacle Health at Polyclinic Hospital (2601 North Third Street, Harrisburg, PA 17110), issued March 7, 1999, to authorize temporary operation for the

bio-oxidizer system covered under this Plan Approval until July 4, 1999, in the City of Harrisburg, **Dauphin County**.

36-317-184B: Pepperidge Farm, Inc. (2195 North Reading Road, Denver, PA 17516), issued April 22, 1999, to authorize temporary operation for the bakery operations covered under this Plan Approval until August 20, 1999, in East Cocalico Township, **Lancaster County**.

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

PA-04-445A: VEKA, Inc. (100 Veka Drive, Fombell, PA 16123), issued April 16, 1999, for installation of coating of PVC lineals in Marion Township, **Beaver County**.

PA-65-884A: IA Construction Corp. (P. O. Box 290, Homer City, PA 15648), issued April 16, 1999, for construction of bituminous concrete plant at Donegal Plant in Mt. Pleasant Township, **Westmoreland County**.

PA-03-210A: Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001), issued April 16, 1999, for construction of portable coal crushing plant at Spera Surface Mine in Cowanshannock Township, **Armstrong County**.

63-305-020A: Pennsylvania Railcraine (120 Braemont, McKeesport, PA 15135), issued April 16, 1999, for operation of pebble lime loading/unloading at Donora Site in Carroll Township, **Washington County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

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

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

Coal Permits Issued

11693000. Permit Renewal, **K & J Coal Company, Inc.** (P. O. Box 189, Westover, PA 16692), commencement, operation and restoration of bituminous, coal refuse disposal and coal preparation plant/processing facility strip mine in Chest Township, **Cambria County**, affecting 3,075.5 acres, receiving stream unnamed tributaries of Rock Run and to Rock Run, unnamed tributary to Chest Creek and to Chest Creek; and to Rogues Harbor Run (for an access road, only). Application received February 18, 1999; issued April 16, 1999.

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

63980101. **Twilight Industries, Inc.** (Division of U. S. Natural Resources, Inc., 212 State Street, Belle Vernon, PA 15012). Permit issued for commencement, operation

and reclamation of a bituminous surface mine located in Somerset Township, **Washington County**, affecting 173 acres. Receiving streams: three unnamed tributaries to Pigeon Creek. Application received: March 13, 1998. Permit issued: April 22, 1999.

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

33970102. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous strip operation in Washington Township, **Jefferson County** affecting 52.0 acres. Receiving streams: Unnamed tributaries to Kyle Run and Kyle Run. Application received: April 28, 1997. Permit Issued: April 13, 1999.

101400-33970102-E-1. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830). Application for a stream encroachment to conduct mining activities no closer than 50 feet to Unnamed tributary No. 3 to Kyle Run for the purpose of mineral extraction and support facility construction and maintenance for a distance of approximately 250 feet downstream from the headwaters in Washington Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Kyle Run and Kyle Run. Application received: April 28, 1997. Permit Issued: April 13, 1999.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

65981701. LTV Steel Co., Inc. (200 Public Square, Cleveland, OH 44114-2308), to operate the Banning AMD Plants in Rostraver Township, **Westmoreland County**, new IW Permit, unnamed tributary to Youghiogheny River. Permit issued April 12, 1999.

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

54830101R3. K & K Coal Company (133 Valley Furnace Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 176.0 acres, receiving stream—unnamed tributary to Schuylkill River. Renewal issued April 22, 1999.

54860107R2. Reading Anthracite Company. (200 Mahantongo Street, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in Cass Township, **Schuylkill County** affecting 786.0 acres, receiving stream—none. Renewal issued April 22, 1999.

Knox District Office, P. O. Box 669, Knox, PA 16232.
Noncoal Permits Issued

25980302. Afton Trucking, Inc. (8923 Wattsburg Road, Erie, PA 16509). Commencement, operation and restoration of a noncoal sand and gravel operation in Greene Township, **Erie County** affecting 100.7 acres. Receiving streams: Unnamed tributary to East Branch LeBoeuf Creek and East Branch LeBoeuf Creek. Application received: September 21, 1998. Permit Issued: April 14, 1999.

302668-25980302-E-2. Afton Trucking, Inc. (8932 Wattsburg Road, Erie, PA 16509). Application for a stream encroachment to construct and maintain a haul road crossing over the unnamed tributary No. 2 to East Branch LeBoeuf Creek and to mine through and reconstruct a small (0.26 acre) wetland within the permit area in Greene Township, **Erie County**. Receiving streams: Unnamed tributary to East Branch LeBoeuf Creek and East Branch LeBoeuf Creek. Application received: September 21, 1998. Permit Issued: April 14, 1999.

Knox District Office, P. O. Box 669, Knox, PA 16232.
Noncoal Applications Returned

302668-25980302-E-1. Afton Trucking, Inc. (8932 Wattsburg Road, Erie, PA 16509). Application for a stream encroachment to conduct mining activities within 100 feet and build a stream crossing over Unnamed tributary to East Branch LeBoeuf Creek in Greene Township, **Erie County**. Receiving streams: Unnamed tributary to East Branch LeBoeuf Creek and East Branch LeBoeuf Creek. Application received: September 21, 1998. Permit Returned: April 14, 1999.

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

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rule of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

E46-483A. Encroachment. Toll Brothers, Inc., 3103 Philmont Avenue, Huntingdon Valley, PA 19006. To reissue and amend Water Obstruction and Encroachment permit No. E46-483, for the Blue Bell Country Club Subdivision to include the following activities associated with the proposed Shinecock and Willowbend Villages, also known as Pod Q and P, respectively:

1. To relocate approximately 880 linear feet of an unnamed tributary to the West Branch of Stony Creek (TSF), by installing and maintaining approximately 1,240 linear feet of stormwater utility line.

2. The placement and maintenance of two stormwater outfall structures (a 42-inch RCP and an 18-inch RCP) adjacent to the bridge that carries Golf View Drive over the West Branch Stony Creek.

The site is located approximately 2,000 feet northwest of the intersection of North Wales Road and S. R. 73, (Lansdale, PA Quadrangle N: 10.5 inches; W: 7.25 inches) in Whitpain Township, **Montgomery County**.

Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E35-305. Encroachment. **Sandvik Steel Company**, P. O. Box 1220, Scranton, PA 18501-1220. To place fill in a de minimis area of wetlands less than 0.01 acre for the construction of 180 linear feet of 8-foot high chain link fence. The project is associated with the construction of a security fence and is located at the Sandvik Steel Company immediately east of T-446, approximately 0.1 mile south of S. R. 0632 and T-446 (Dalton, PA Quadrangle N: 5.0 inches; W: 4.8 inches) in Scott Township, **Lackawanna County**.

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

E14-337. Encroachment. **Ferguson Township Supervisors**, 3147 Research Drive, State College, PA 16801-2798. To maintain 3,174 square feet (0.07 acre) of fill in a palustrine emergent wetland and floodway and to place and maintain 1,860 square feet (0.04 acre) of fill in a palustrine emergent wetland along Beaver Branch of Spruce Creek to widen a roadway for safety improvement. The project is in three separate locations along a 1.5 mile section of Tadpole Road (T-965) beginning approximately 1.09 miles west from the intersection of Gatesburg Road in Ferguson Township, **Centre County** (Pine Grove Mills, PA Quadrangle N: 20.5 inches; W: 13.53 inches). The applicant will replace 0.2 acre through participation in the Pennsylvania Wetland Replacement Project.

E55-156. Encroachment. **TRoss Reality**, R. R. 3, P. O. Box 511, Sunbury, PA 17801-0511. The purpose of this project is to place and maintain fill in 0.11 acre of emergent wetlands to construct a two story commercial office building and required parking on a commercially zoned lot. The affected wetland is an isolated 0.25 acre emergent wetland in the flood plain of an unnamed tributary to the Susquehanna River. The tributary is classified as a warm-water fishery. The project is located along the east side of US Route 15, approximately 1.38 miles north of Shamokin Dam (Sunbury, PA Quadrangle, 22.3 inches north and 10.0 inches west) in Monroe Township, **Snyder County**. The permittee has met the wetland replacement requirement by contributing \$1,000 to the Pennsylvania Wetland Replacement Project.

E55-157. Encroachment. **Emitt L. Kreamer**, P. O. Box 58, Middleburg, PA 17842. To place and maintain fill in 0.4 acre of emergent wetlands to expand an existing business. The project is located along the north side of U. S. Route 522, approximately 1 mile east of Middleburg (Middleburg, PA Quadrangle, N: 7.3 inches; W: 2.25 inches) in Franklin Township, **Snyder County**. The permittee will meet the wetland replacement requirement by contributing \$5,000 to the Pennsylvania Wetland Replacement Project.

E59-381. Encroachment. **Covington Township**, R. R. 1, Box 87, Covington, PA 16917. To: 1) maintain protective fill in the river channel having a length of 1,040-feet, a maximum bottom width of 180-feet and a maximum

height of 8.5-feet next to the left bank of the Tioga River for the purpose of redirecting flood flows away from both riverbanks, 2) to construct, by no later than September 30, 1999, and maintain four channel deflectors for low water erosion protection, 3) to apply, by no later than September 30, 1999, and maintain vegetative stabilization to the entire surface of the protective fill, 4) to periodically remove gravel deposits from the riverbed for a distance of 400 feet upstream of an island, which is located immediately downstream of the fill, and for a distance of 100 feet downstream into the left and right channel around the island for a period of 5 years from the date of permit issuance. The center of this encroachment is located 1,000 feet northwest of the intersection of S. R. 6015 and T-437 (Blossburg, PA Quadrangle N: 19.6 inches; W: 11.3 inches) in Covington Township, **Tioga County**. This permit also includes 401 Water Quality Certification.

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

E10-294. Encroachment. **Butler County Commissioners**, P. O. Box 1208, Butler, PA 16003-1208. To remove the existing County Bridge No. 46 (Upper Queens Junction) and to construct and maintain a steel beam bridge having a clear, normal span of 40 feet and an underclearance of 6 feet across Muddy Creek on T-458 (Thompstontown Road) immediately north of S. R. 4002 (Mahood Road) (Mount Chestnut, PA Quadrangle N: 17.2 inches; W: 6.2 inches) located in Clay Township, **Butler County**.

[Pa.B. Doc. No. 99-756. Filed for public inspection May 7, 1999, 9:00 a.m.]

Availability Of Guidance

Guidance Documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "January 1999 Inventory" heading is the Governor's List of Non-regulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 1999.

Ordering Paper Copies Of DEP Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Please check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes To Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Guidance

DEP ID: 580-2219-002 Title: Section 247—Guidelines to Approve Ventilation Plans for Abandoned and Unused Mine Areas Description: The purpose of this guidance is to provide consistency of enforcement through guidelines thus insuring adequate ventilation of abandoned areas. Comment Period Closes: June 8, 1999 Anticipated Effective Date: July 1, 1999 Contact: Richard Stickler at (724) 439-7469.

DEP ID: 580-2219-003 Title: Section 253(b)—Guidelines for Approving Roof Bolts as Primary Support Description: The purpose of this guidance is to provide a standard guideline for evaluating an alternate method of approving roof bolting systems in lieu of removing conventional timbering. Comment Period Closes: June 8, 1999 Anticipated Effective Date: July 1, 1999 Contact: Richard Stickler at (724) 439-7469.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-757. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Philadelphia College of Textiles and Science for Approval of its Request to Change Status from a College to a University

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S.A. § 6503 (e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Philadelphia College of Textiles and Science for a Certificate of Authority approving the institution's request to change status from a college to a university.

In accordance with 24 Pa.C.S.A. § 6503 (e), the Department will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

All petitions to intervene, protest and request for hearing shall be filed with Dr. Warren D. Evans, Chartering/Governance/Accreditation Specialist, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-7572 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or

other accommodation to participate, should contact Dr. Warren Evans at (717) 787-7572 to discuss how the Department may best accommodate their needs.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 99-758. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Instant Million Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Instant Million.

2. *Price:* The price of a Pennsylvania Instant Million instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Instant Million instant lottery game ticket will contain one play area featuring one "Winning Numbers" area and one "Your Numbers" area. The play symbols and their captions located in the "Winning Numbers" area are: 1 (ONE), 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), 11 (ELVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWNTY), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY). The play symbols and their captions located in the "Your Numbers" area: 1 (ONE), 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), 11 (ELVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWNTY), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY) and a Keystone Symbol (KYSTN).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$5.⁰⁰ (FIVE DOL), \$10.⁰⁰ (TEN DOL), \$15\$ (FIFTEEN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$10,000 (TEN THO) and MILLION (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$500, \$10,000 and \$1,000,000. The player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 2,880,000 tickets will be printed for the Pennsylvania Instant Million instant lottery game.

Determination of Prize Winners:

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Keystone Symbol (KYSTN) and a prize play symbol of MILLION (ONE MIL) appears under the Keystone Symbol (KYSTN) play symbol, on a single ticket, shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$10,000 (TEN THO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$500 (FIV HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$100 (ONE HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$20\$ (TWENTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$15\$ (FIFTEEN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$10⁰⁰ (TEN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$5⁰⁰ (FIVE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

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

*Match Any of Your Numbers
To Any of The Winning
Numbers or Get A Keystone
Symbol With Prize(s) Of:*

\$5	\$5
\$5 x 2	\$10
\$10	\$10
\$5 x 3	\$15
\$5 + \$10	\$15
\$15	\$15
\$5 x 4	\$20
\$5 x 2 + \$10	\$20
\$10 x 2	\$20
\$15 + \$5	\$20
\$20	\$20
\$5 x 5	\$25
\$5 x 2 + \$15	\$25
\$5 x 3 + \$10	\$25
\$10 + \$15	\$25
\$25	\$25
\$5 x 10	\$50
\$5 x 2 + \$20 x 2	\$50
\$5 x 8 + \$10	\$50
\$5 x 5 + \$10 + \$15	\$50
\$25 x 2	\$50
\$50	\$50
\$5 x 8 + \$10 + \$50	\$100
\$10 x 10	\$100
\$10 x 8 + \$20	\$100
\$50 x 2	\$100
\$25 x 4	\$100
\$20 x 5	\$100
\$100	\$100
\$50 x 10	\$500
\$100 x 5	\$500
\$500	\$500

<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 2,880,000 Tickets</i>
1:5.22	552,000
1:60	48,000
1:60	48,000
1:300	9,600
1:300	9,600
1:600	4,800
1:600	4,800
1:600	4,800
1:600	4,800
1:600	4,800
1:600	4,800
1:200	14,400
1:200	14,400
1:300	9,600
1:300	9,600
1:300	9,600
1:1,333	2,160
1:1,333	2,160
1:1,333	2,160
1:1,333	2,160
1:6,000	480
1:6,000	480
1:17,143	168
1:17,143	168
1:20,000	144
1:20,000	144
1:20,000	144
1:20,000	144
1:20,000	144
1:60,000	48
1:192,000	15
1:192,000	15
1:192,000	15

*Match Any of Your Numbers
To Any of The Winning
Numbers or Get A Keystone
Symbol With Prize(s) Of:*

\$10,000	\$10,000
Keystone Symbol	\$1,000,000

<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 2,880,000 Tickets</i>
1:960,000	3
1:960,000	3

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

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

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

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

ROBERT A. JUDGE, Sr.
Secretary

[Pa.B. Doc. No. 99-759. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Retention of Engineering Firms

Allegheny and Beaver Counties Project Reference No. 08430AG2345

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately fifteen (15) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services for the following Group Jobs: 111-99-7135-1, 111-99-7135-2, 111-99-7135-3, 111-99-7135-4, 111-99-7135-5, 111-99-7135-6, and 112-99-7135-1. These Group Jobs involve resurfacing, milling, base repairs, manual patching, shoulders, minor drainage, guiderail, and maintenance and protection of traffic to various state routes in Allegheny and Beaver Counties.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's

evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving, and drainage.
- b. Understanding of Department's requirements, policies, and specifications.
- c. Past Performance.
- d. Number of NICET certified inspectors in each payroll classification.
- e. Number of available inspectors in each payroll classification.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Ins. (TCIS) Super. (NICET Highway Construction Level 3 or equivalent)	3 (2)
Transportation Construction (TCI) Inspector (NICET Highway Construction Level 2 or equivalent)	9 (6)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	3 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1999:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCIS)	\$40.54
(TCI)	\$35.47
(TA)	\$24.39

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; three (3) inspectors certified in computer documentation and perform other duties as may be required.

The firm selected will be required to supply twenty-one (21) cellular phones at no direct cost to the Department.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCIS	4
TCI	11

No resumes are required for the TA Classification.

This project reference assignment is considered complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), required information, and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Raymond S. Hack, P.E., District Engineer
Engineering District 11-0
45 Thoms Run Road
Bridgeville, PA 15017

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the twentieth day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to: Mr. Brian Krul, District 11-0, at (412) 429-3801.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information for each Project Reference Number for which the applicant wishes to be considered.

The Letter of Interest and required information must be submitted to the person designated in the individual advertisement.

The Letter of Interest and required information must be received by the Deadline indicated in the individual advertisement.

All consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the appropriate District Office, by the deadline stipulated in the individual advertisements.

For Statewide projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the Central Office, Bureau of Design by the deadline stipulated in the individual advertisements.

By submitting a letter of interest for the projects that requests engineering services, the consulting firm is certifying that the firm is qualified to perform engineering services in accordance with the laws of the Commonwealth of Pennsylvania.

Information concerning the Annual Qualification Package can be found in Strike-off Letter No. 433-99-04 or under the Notice to all Consultants published in the February 27, 1999 issue of the *Pennsylvania Bulletin*.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit a Letter of Interest on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st century (TEA-21) and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The TEA-21 requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE

participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act, WEBS or combinations thereof).

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 99-760. Filed for public inspection May 7, 1999, 9:00 a.m.]

Training Certification of Municipal Police Officers

The Department of Transportation, Bureau of Maintenance and Operations, under the provisions of Section 4704(f) of the Vehicle Code (75 Pa.C.S. § 4704(f)), certifies the following municipal police officers have successfully completed the training prescribed by the Department of Transportation and are hereby certified as "Qualified Commonwealth Employees" as defined in Section 4102 of the Vehicle Code (75 Pa.C.S. § 4102) for the calendar year ending December 31, 1999. Accordingly, local police so qualified are authorized to conduct systematic vehicle inspections of any vehicle, driver, documents, equipment and load and enforce any law or regulation pertaining to same.

Donald F. Airey	Falls Township, Bucks County
Donald K. Alspaugh	Littlestown Borough, Adams County
Thomas J. Augustin	Lower Makefield Township, Bucks County
Joseph P. Bowers	Exeter Township, Berks County
Dennis C. Brillhart	North Codorus Township, York County
John E. Burlett	Edgeworth Borough, Allegheny County
William C. Camlin	West Goshen Township, Chester County
Dennis W. Cassel, Jr.	Robeson Township, Berks County
Neil P. Coll	East Pennsboro Township, Cumberland County

Richard J. Creese	Baden Borough, Beaver County
Edward E. Cross	Leet Township, Allegheny County
David W. Danley	Claysville Borough, Washington County
Donald E. D'Ginto	Uwchlan Township, Chester County
Thomas P. Donaldson	Franklin Township, Butler County
David D. Dunlap	Montgomeryville Township, Montgomery County
Robert D. Eberly	Muhlenberg Township, Berks County
David M. Faulkner	East Whiteland Township, Chester County
Stephen A. Ferri	Lower Makefield Township, Bucks County
William F. Gearhart	Northern York Regional, York County
Larry P. Geist	Fleetwood, Berks County
Thomas J. Glenn	Allegheny County, Allegheny County
Thomas G. Goodfellow, Jr.	Tyrone, Blair County
David J. Greeley	Highspire Borough, Dauphin County
Andrew J. Hansen	Latimore Township-York Springs, Adams County
Ronald G. Harvey	Monroeville, Allegheny County
Roger Heins	Northeastern Berks Regional, Berks County
Kenneth M. Henry	Mount Joy Township, Lancaster County
Patrick N. Hinds	West Manchester Township, York County
Leonard R. Hoffer	Windsor Township, York County
Joseph Huth	Washington Township, Westmoreland County
Thomas J. Kauffman	Upper Allen Township, Cumberland County
Frank J. Keegan	West Whiteland Township, Chester County
Robert S. Keen, Jr.	State College Borough, Centre County
Thomas E. Keirn	Richland Township, Cambria County
Craig A. Kelly	Fairview Township, York County
Luke J. Kelly	West Norriton, Montgomery County
Joel W. Klinedinst	Northeastern Regional, York County
John E. Krieg	Meshoppen Borough, Wyoming County

William D. Leighty	East Cocalico Township, Lancaster County	Shawn P. Nihen	Coaldale, Schuylkill County
Gerard M. Lindenlauf	New Garden Township, Chester County	R. Scott Ohs	State College Borough, Centre County
Robert L. Lockcuff	Shamokin Dam, Snyder County	Vince Pacifico	Phoenixville, Chester County
James D. Loder	Exeter Township, Berks County	James A. Papale, Jr.	Lower Windsor Township, York County
Joseph Logic	Parkesburg Borough, Chester County	David M. Pavelko	Butler Township, Luzerne County
Peter H. Lunn	Upper Chichester Township, Delaware County	Mark N. Pellicciotti	Birdsboro, Berks County
Jeffrey A. Lutz	Pocono Mountain Regional, Monroe County	Robert M. Peloquin	Moore Township, Northampton County
Richard J. Manko	Sewickley, Allegheny County	Lawrence L. Pence	East Brandywine Township, Chester County
Michael G. Marshall	Wright Township, Luzerne County	Joseph W. Pennisi	Walnutport, Northampton County
T. A. Marshall	Edgeworth Borough, Allegheny County	John R. Pioth	Monroeville, Allegheny County
Jerry J. Martin	Richland Township, Cambria County	Jeffery D. Potteiger	Silver Spring Township, Cumberland County
Kenneth F. Massey	Upper Chichester Township, Delaware County	Dwight R. Robison, Jr.	Penn Township, York County
F. Allan Mauger, Jr.	Uwchlan Township, Chester County	Richard J. Rocco	Newberry Township, York County
Steven Mawhinney	Bristol Township, Bucks County	Keith S. Roehm	West Manchester Township, York County
John McCarthy	Montgomery Township, Montgomery County	Eric D. Ruggeri	West Caln Township, Chester County
Dale V. McClure	Uwchlan Township, Chester County	Larry Runk	Gettysburg Borough, Adams County
Michael P. McGonigle	Lehigh Township, Northampton County	Donald J. Rusnak	Mount Joy Borough, Lancaster County
Douglas G. McKinney	Gettysburg Borough, Adams County	James R. Sadler	Silver Spring Township, Cumberland County
Kenneth J. McNally	Bedminster Township, Bucks County	Christopher M. Sam	Wyomissing Borough, Berks County
Gary R. Metzger	Lancaster City, Lancaster County	Edwin J. Schneider	West Manheim Township, York County
Paul F. Miller, Jr.	Cumru Township, Berks County	Robert G. Schortemeyer	Middletown Borough, Dauphin County
Robert F. Miller	Hilltown Township, Bucks County	Ronald H. Shank	Manheim Borough, Lancaster County
Ronald Miller	Monroeville, Allegheny County	Barry L. Sherman	Middlesex Township, Cumberland County
Ronald A. Mohl	Northern Berks Regional, Berks County	Jay P. Smith	Newberry Township, York County
Joseph L. Montemurro	Aleppo Township, Allegheny County	R. G. Smith	Middlesex Township, Cumberland County
Gary F. Moore	West Whiteland Township, Chester County	Thomas R. Smith	Aleppo Township, Allegheny County
Christopher L. Neidert	Exeter Township, Berks County	Stuart A. Spencer	East Pennsboro Township, Cumberland County
		Brian K. Strand	Bern Township, Berks County
		Timothy A. Stringer	Ferguson Township, Centre County

Sean Stuber	Bushkill Township, Northampton County
Scott Sundquist	East Hempfield Township, Lancaster County
John K. Trindle	Falls Township, Bucks County
Bill P. Van Etten	Township of Spring, Berks County
Henry P. Ward	Falls Township, Bucks County
Matthew R. Watts	West Hills Regional, Cambria County
Gary West	Moore Township, Northampton County
James L. Wetzel	Franklin, Venango County
Todd W. Williams	Richland Township, Cambria County
Daniel E. Wilson	East Whiteland Township, Chester County
Troy L. Wisser	Mount Holly Springs Borough, Cumberland County
Timothy Woll	Cumru Township, Berks County
Ronald L. Yocum, Jr.	Shoemakersville Borough, Berks County

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
JAE Electric Service, Inc. (Fed. ER Tax ID No. 23-1605546) -and- Jay Weintraub	14 Mount Pleasant Drive Aston, PA 19014 1010 Nicole Drive Newtown Square, PA 19073	04/14/99

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 99-762. Filed for public inspection May 7, 1999, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, April 22, 1999, and took the following actions:

Regulations Approved:

Department of Health #10-149A: Health Facility Licensure—Long Term Care Nursing Facilities (amends 28 Pa. Code Chapters 201, 203, 205, 207, 209, and 211).

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
April 22, 1999

*Department of Health—Health Facility Licensure—Long
Term Care Nursing Facilities; Regulation No. 10-149A*

Order

On July 3, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Health). This rulemaking amends 28 Pa. Code Chapters 201, 203, 205, 207, 209 and 211. The authority for this regulation is sections 801.1, 803 and 806 of the Health Care Facilities Act (35 P.S. §§ 448.801a, 448.803 and 448.806). The proposed regulation was published in the July 19, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 30, 1999.

This regulation revises existing licensure requirements for long term care facilities and adopts many of the Federal certification regulations required for participation in the Medicare and Medicaid programs. Additionally, the regulation addresses notification of serious incidents to the Department of Health, prevention and control of disease, physical plant and equipment standards, house-keeping and maintenance standards, and fire protection and safety.

The Department of Transportation, from time to time, during the calendar year, will publish addenda to the listing of Qualified Commonwealth Employees as the same become certified.

Comments, suggestions, or questions may be directed to Daniel R. Smyser, P.E., Chief, Motor Carrier Division, Bureau of Maintenance and Operations, P. O. Box 8210, Harrisburg, PA 17105-8210, telephone number (717) 787-7445.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 99-761. Filed for public inspection May 7, 1999, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The contractors referenced as follows have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P.S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P.S. § 165-11(e)), this firm or this person, or any firms, corporations or partnerships in which the firm or person has an interest, shall be awarded no contract for 3 years after the date listed.

We have reviewed this regulation and find it to be in the public interest. The regulations will ensure that residents of long term care facilities receive quality care and adequate protection. Providers will benefit from greater consistency with and incorporation of Federal requirements.

Therefore, It Is Ordered That:

1. Regulation No. 10-149A from the Department of Health, as submitted to the Commission on March 30, 1999, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 99-763. Filed for public inspection May 7, 1999, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received, on the dates indicated, the following regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

Final-Omit

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-476	Department of State State Board of Professional Engineers, Land Surveyors, and Geologists Appeal from Board Decision	4/27/99

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 99-764. Filed for public inspection May 7, 1999, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws

Michael J. Crimboli; Doc. No. SC99-04-015

Notice is hereby given of the Order to Show Cause issued on April 26, 1999 by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: Insurance Department Act of 1921 (40 P. S. §§ 234, 273, 273.1, 277, and 279, Unfair Insurance Practices Act (40 P. S. §§ 1171.5(a) and 1171.9) and 31 Pa. Code §§ 37.46 and 37.47.

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If Respondent files a timely answer, a formal administrative

hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure) 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the above-referenced administrative hearings, and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-765. Filed for public inspection May 7, 1999, 9:00 a.m.]

Alleged Violation of Insurance Laws

Craig Edward Schmoll; Doc. No. SC99-04-020

Notice is hereby given of the Order to Show Cause issued on April 22, 1999, by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: sections 604 and 639 of the Insurance Department Act (40 P. S. §§ 234 and 279), and 31 Pa. Code §§ 37.43, 37.46 and 37.47.

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If Respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the above-referenced administrative hearings, and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-766. Filed for public inspection May 7, 1999, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing, as authorized by the act of June 17, 1998 (P. L. 464, No. 68) in connection with his company's termination of the insured's automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). All administrative hearings are held in the Insurance Department Offices in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

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

Appeal of Edward F. Lippay; file no. 99-121-01804; USAA; doc. no. 99-04-022; May 26, 1999, at 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Commissioner may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, 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 hearings, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-767. Filed for public inspection May 7, 1999, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION

Clean Water State Revolving Fund; Federal FY 1998 and 1999 Project Priority List

The Pennsylvania Infrastructure Investment Authority (PIIA) and the Department of Environmental Protection (Department) have revised the combined Federal fiscal year 1998/1999 Clean Water State Revolving Fund (CWSRF) Project Priority List (List) of municipal sewage construction projects.

The FY 98/99 List was prepared in conformance with the requirements of Title II and Title VI of the Water Quality Act and Federal guidance and was approved by the Environmental Protection Agency (EPA) on July 9, 1998. The projects included on the List have a project priority rating established under the Department's EPA approved Chapter 103 project priority rating system. The Clean Water Act stipulates that States must maintain a Project Priority List of municipal sewage projects from which to develop the annual CWSRF Intended Use Plan (IUP) list of projects to be funded.

The nine projects proposed for addition to the List will not replace any project currently on the approved FY 98/99 List. These nine projects are additions and are being placed in the appropriate ranking slot in relation to other rated and ranked projects on the List. The rank order standing of projects on the List does not dictate the order in which projects are chosen for funding in the CWSRF program. A project may be selected from any numerical rank position on the List for funding. A project's readiness to proceed and the reasonable availability of alternative sources of funds have a bearing on project selection for funding in the program.

Eight of the nine projects to be added to the FY 98/99 List are expected to proceed to construction in the near future and the other is being added as a potential project for future construction loan consideration. The eight projects expected to be ready for loan funding in the near future have submitted applications for funding and will be placed on an IUP to (1) replace projects that have not proceeded timely toward initiation of project construction and/or (2) to fill funding gaps that have developed as a result of cost savings. Projects removed from an IUP will remain on the List and be considered for CWSRF loan funds in the future.

Federal guidance on revising an approved List indicates the List be subject to public comment and review before being submitted to EPA. Interested persons are invited to express their views on the priority rating or ranking of

projects on the revised FY 98/99 List. Persons wishing to offer comments should submit them in writing to the Administrative Services Section, Division of Municipal Financial Assistance, Bureau of Water Supply Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8466, Harrisburg, PA 17105-8466, telephone (717) 787-6744, or by Internet E-Mail (Maisano.Tony a1.dep.state.pa.us) by 4 p.m., June 8, 1999.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tony Maisano as noted above or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

A list of the municipal sewage construction projects to be added to the FY 98/99 List follows this notice.

A copy of the revised FY 1998/99 Project Priority List that shows all 350 municipal sewage projects in priority and ranked order is available to any interested person for a nominal cost or may be reviewed in the Administrative Services Section office and in the following offices:

Southeast Region:

Water Management Program Manager
Lee Park, Suite 6010, 555 North Lane,
Conshohocken, PA 19428
(610) 832-6131

Northeast Region:

Water Management Program Manager
2 Public Square, Wilkes-Barre, PA 18711-0790
(570) 826-2553

Southcentral Region:

Water Management Program Manager
909 Elmerton Avenue, Harrisburg, PA 17110
(717) 705-4707

Northcentral Region:

Water Management Program Manager
208 West 3rd Street, Williamsport, PA 17701
(717) 327-3669

Southwest Region:

Water Management Program Manager
400 Waterfront Drive, Pittsburgh, PA 15222-4745
(412) 442-4000

Northwest Region:

Water Management Program Manager
230 Chestnut Street, Meadville, PA 16335-3481
(814) 332-6942

PENNVEST

22 S. Third Street, 4th Floor, Keystone Building,
Harrisburg, PA 17101
(717) 787-8137

JAMES M. SEIF,
Secretary

*Department of Environmental Protection
Vice-Chairperson
Pennsylvania Infrastructure Investment Authority*

and

PAUL K. MARCHETTI,
*Executive Director
Pennsylvania Infrastructure Investment Authority*

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY
 AND DEPARTMENT OF ENVIRONMENTAL PROTECTION
 CLEAN WATER STATE REVOLVING FUND
**ADDITIONS TO FY 1998 AND FY 1999 PROJECT PRIORITY LIST
 IN ALPHABETICAL ORDER**

EXPLANATION OF COLUMNAR HEADINGS (EXCEPT THOSE THAT ARE SELF-EXPLANATORY)

NEEDS CATEGORY:

- I — SECONDARY TREATMENT
- II — TREATMENT MORE STRINGENT THAN SECONDARY
- IIIA — INFILTRATION/INFLOW CORRECTION
- IIIB — MAJOR SEWER SYSTEM REHABILITATION
- IVA — NEW COLLECTOR SEWERS AND APPURTENANCES
- IVB — NEW INTERCEPTORS AND APPURTENANCES
- V — CORRECTION OF COMBINED SEWER OVERFLOWS

PROJECT TYPE:

- STP — SEWAGE TREATMENT PLANT
- STPMOD — SEWAGE TREATMENT PLANT MODIFICATION
- INT — INTERCEPTOR
- PS — PUMP STATION
- FM — FORCE MAIN
- SS — SEWER SYSTEM
- SS REH — SEWER SYSTEM REHABILITATION

NPDES PERMIT NUMBER:

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT NUMBER

PROJECT NUMBER:

FEDERAL LOAN PROJECT IDENTIFICATION NUMBER

ELIG. COST:

ESTIMATED LOAN AMOUNT FOR ELIGIBLE PROJECT

**PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION
 CLEAN WATER STATE REVOLVING FUND
 ADDITIONS TO FY 1998-FY 1999 PROJECT PRIORITY LIST
 MAY 8, 1999**

APPLICANT INFORMATION		NEEDS CATEGORIES				PROJECT INFORMATION	
BERNVILLE BORO P. O. BOX 73 BERNVILLE PA 19506	COUNTY: BERKS	I:	\$3,502,518	IVA:	\$0	PROJECT NO.:	CS422060-01
	REGION: SC	II:	\$0	IVB:	\$0	PROJ. TYPE:	STPMOD
	HARDSHIP ELIG.?: NO	IIIA:	\$0	V:	\$0	PROJECT RANKING:	51
		IIIB:	\$0	ELIG. COST:	\$3,502,518	NPDES NO.	
CONCORD TWP SA P. O. BOX 171 CONCORDVILLE PA 19331	COUNTY: DELAWARE	I:	\$0	IVA:	\$600,000	PROJECT NO.:	CS422064-01
	REGION: SE	II:	\$0	IVB:	\$0	PROJ. TYPE:	SS
	HARDSHIP ELIG.?:	IIIA:	\$0	V:	\$0	PROJECT RANKING:	176
		IIIB:	\$0	ELIG. COST:	\$600,000	NPDES NO.	
MERCER BORO 147 NORTH PITT ST MERCER PA 16137	COUNTY: MERCER	I:	\$0	IVA:	\$0	PROJECT NO.:	CS422065-01
	REGION: NW	II:	\$0	IVB:	\$0	PROJ. TYPE:	SSREH
	HARDSHIP ELIG.?:	IIIA:	\$0	V:	\$0	PROJECT RANKING:	230
		IIIB:	\$238,805	ELIG. COST:	\$238,805	NPDES NO.	

APPLICANT INFORMATION

NEEDS CATEGORIES

PROJECT INFORMATION

MIDWAY SEWERAGE A P. O. BOX 600 MIDWAY	PA 15060	COUNTY: WASHINGTON REGION: SW HARDSHIP ELIG.?:	I: \$1,800,000 II: \$0 IIIA: \$0 IIIB: \$0	IVA: \$8,100,000 IVB: \$2,500,000 V: \$0 ELIG. COST: \$12,400,000	PROJECT NO.: CS422071-01 PROJ. TYPE: STP, PS, INT, SS PROJECT RANKING: 134 NPDES NO.
NANTY GLO BORO SSA 879 WOOD ST NANTY GLO	PA 15943	COUNTY: CAMBRIA REGION: SW HARDSHIP ELIG.?:	I: \$600,000 II: \$0 IIIA: \$0 IIIB: \$2,000,000	IVA: \$0 IVB: \$0 V: \$0 ELIG. COST: \$2,600,000	PROJECT NO.: CS422066-01 PROJ. TYPE: STPMOD, SSREH PROJECT RANKING: 142 NPDES NO.
NEW BETHLEHEM BORO 210 LAFAYETTE ST NEW BETHLEHEM	PA 16242	COUNTY: CLARION REGION: NW HARDSHIP ELIG.?:	I: \$0 II: \$0 IIIA: \$0 IIIB: \$0	IVA: \$535,700 IVB: \$0 V: \$0 ELIG. COST: \$535,700	PROJECT NO.: CS422067-01 PROJ. TYPE: INT PROJECT RANKING: 275 NPDES NO.
SOUTHERN DELAWARE COUNTY A 101 BEECH ST BOOTHWYN	PA 19061	COUNTY: DELAWARE REGION: SE HARDSHIP ELIG.?:	I: \$0 II: \$0 IIIA: \$0 IIIB: \$0	IVA: \$0 IVB: \$3,190,000 V: \$0 ELIG. COST: \$3,190,000	PROJECT NO.: CS422068-01 PROJ. TYPE: PS, FM PROJECT RANKING: 320 NPDES NO.
SPRING-BENNER-WALKER JA 170 IRISH HOLLOW RD BELLEFONTE	PA 16823	COUNTY: CENTRE REGION: NC HARDSHIP ELIG.?:	I: \$0 II: \$0 IIIA: \$0 IIIB: \$0	IVA: \$4,643,879 IVB: \$0 V: \$0 ELIG. COST: \$4,643,879	PROJECT NO.: CS422072-01 PROJ. TYPE: SS PROJECT RANKING: 98 NPDES NO.
WINDBER BORO 1409 SOMERSET AVE WINDBER	PA 15963	COUNTY: SOMERSET REGION: SW HARDSHIP ELIG.?:	I: \$0 II: \$0 IIIA: \$0 IIIB: \$684,500	IVA: \$0 IVB: \$0 V: \$0 ELIG. COST: \$684,500	PROJECT NO.: CS422070-01 PROJ. TYPE: SSREH PROJECT RANKING: 289 NPDES NO.

[Pa.B. Doc. No. 99-768. Filed for public inspection May 7, 1999, 9:00 a.m.]

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Hearings Scheduled

A hearing has been scheduled, as authorized by Pennsylvania Municipal Retirement Code (53 Pa.C.S. § 881.101 et seq.) (relating to Pennsylvania Municipal Retirement Board), in connection with the Pennsylvania Municipal Retirement Board's denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Pennsylvania Municipal Retirement Board, 1010 North 7th Street, Suite 301, East Gate Center, Harrisburg, PA 17102:

June 14, 1999	John F. Mencer (Disability)	1:30 p.m.
June 21, 1999	Francisco Rivera (Disability)	1:30 p.m.

Persons with a disability who wish to attend the above-listed hearing, and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Tina Eisenhardt at (717) 787-2065 to discuss how the Pennsylvania Municipal Retirement System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 16 Pa. Code § 91.1 (relating to applicability of general rules), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.251 unless specific exemption is granted.

JAMES B. ALLEN,
Secretary

[Pa.B. Doc. No. 99-769. Filed for public inspection May 7, 1999, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications

A-310770F0002. GTE North Incorporated and AX Telecommunications, Inc. Joint Petition of GTE North Incorporated and AX Telecommunications, Inc. for Approval of a Resale Agreement.

GTE North Incorporated and AX Telecommunications, Inc., by its counsel, filed on April 22, 1999, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of a Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 10 days after the date of publication of this notice. Copies of the GTE North Incorporated and AX Telecommunications, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-770. Filed for public inspection May 7, 1999, 9:00 a.m.]

Water Service Without Hearing

A-212285F0063. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply public water service to the public in an additional portion of Newberry Township, Montgomery County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 24, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company.

Through and By Counsel: Velma A. Redmond, Esquire, Susan D. Simms, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-771. Filed for public inspection May 7, 1999, 9:00 a.m.]

Water Service Without Hearing

A-212285F0062. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply public water service to the public in an additional portion of Lower Providence Township, Montgomery County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 24, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company.

Through and By Counsel: Velma A. Redmond, Esquire, Susan D. Simms, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-772. Filed for public inspection May 7, 1999, 9:00 a.m.]

Water Service Without Hearing

A-212285F0064, A-212285F0065. Pennsylvania-American Water Company. Application of Pennsyl-

vania-American Water Company for approval of (1) the transfer, by sale, of the water works property and rights of the Borough of Koppel Water System to Pennsylvania-American Water Company, and (2) the rights of Pennsylvania-American Water Company to begin to offer or furnish water service to the public in all of the Borough of Koppel, Beaver County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 24, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company.

Through and By Counsel: Velma A. Redmond, Esquire, Susan D. Simms, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-773. Filed for public inspection May 7, 1999, 9:00 a.m.]

Water Service Without Hearing

A-212955 F0009. Superior Water Company, Inc. Application of Superior Water Company, Inc., for approval to begin to offer, render, furnish or supply water service to the public in portions of North Coventry Township, Chester County, PA.

This application may be considered without a hearing. Protests or petitions to intervene may be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 25, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Superior Water Company, Inc.

Through and By Counsel: Louise A. Knight, Counsel, Malatesta, Hawke and McKeon, LLP, Harrisburg Energy Center, 100 North Tenth Street, Harrisburg, PA 17101.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-774. Filed for public inspection May 7, 1999, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Project #9906.1, Paving Repairs at PAMT, P98SA, P96S, P84S, P82S, P80S, P78S, P38-40S & TMT, until 2 p.m. on Thursday, May 20, 1999. The bid documents can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Square, 13th Floor, Philadelphia, PA 19106, (215) 928-9100 and will be

available May 11, 1999. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations. Mandatory prebid job site meeting will be held May 13, 1999, 10 a.m. at the Tioga Administration Building, 3460 N. Delaware Ave., Suite 203, Philadelphia, PA 19134.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 99-775. Filed for public inspection May 7, 1999, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

June 9, 1999	John Gera (Disability)	1 p.m.
	Catherine H. Hawes (Purchase of Service)	2:30 p.m.
June 23, 1999	Donald D'Amico (Final Average Salary)	1 p.m.
	Gay M. Slaterbeck (Purchase of Service)	2:30 p.m.
June 30, 1999	Sylvia M. Sitko (Membership Eligibility)	1 p.m.

Persons with a disability who wish to attend the above-listed hearings, and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Arthur J. Granito, Assistant Executive Director, at (717) 783-5613 to discuss how the Public School Employees' Retirement System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code Part II unless specific exemption is granted.

DALE EVERHART,
Secretary

[Pa.B. Doc. No. 99-776. Filed for public inspection May 7, 1999, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

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

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

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

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

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

Reader's Guide

Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

⑥ Duration

REQUIRED DATA DESCRIPTIONS

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

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

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

Commodities

1690388 Construction and building materials—1 each provide all labor, material, supervision and all items necessary to furnish and install a chain link fence and accessories.

Department: Conservation and Natural Resources
Location: Elverson, Chester County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

7314230 Containers, packaging and packing supplies—18,000 cs. bag, polyethylene, style T-shirt, color dark brown—PMS412C size 11 1/2" wide x 7" deep x 23" long, 1,000/case.

Department: Liquor Control Board
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1693358 Motor vehicles, trailers and cycles—1 each latest model cab and chassis with laboratory source testing trailer.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1749158 Communication equipment—1 each Avid Symphony—digital non-linear uncompressed video/audio editing system; 1 each 108 GB Mediary rack mount; 2 each 18 GB 10K RPM drive in carrier; 1 each one year assurance on Symphony.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1761708 Paper and printing—4,416 M printing/distribution of State Employees Retirement System's member handbook.

Department: State Employees' Retirement System
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1673218 Motor vehicles, trailers and cycles—1 each latest model converted passenger type wheelchair van.

Department: Public Welfare
Location: Hamburg, Berks County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1727158 Motor vehicles, trailers and cycles—1 each latest model cab and chassis with roll back body.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1016159 Paper and printing—33,400 Mpages The Pennsylvania Manual—Volume 114 December 1999 edition.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1753358 Laboratory instruments and equipment—1 each Clorimeter chlorine service Model 128Cl with installed 1136 Bomb Cat No. 90-4066-03; 1 each spare Bomb head Model No. A895DDCL Cat No. 90-4066-11; 1 each spare parts kit Model 1289 Cat No. 90-4066-05; 1 each spare Bomb Model 1136CL Cat No. 90-4066-10; 1 each O'Ring kit head Cat No. 90-4066-17; 1 each O'Ring Kit Cat No. 90-4016-18.

Department: Environmental Protection
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1019159 Communication equipment—1 each Mediasite-Video Builder, server and Logger system; 1 each Mediasite server bundle—including Dual PIII PC 19" monitor, 5-user Oracle streaming support (Flat File) and 144 GB storage; 1 each Mediasite Logger-plus State-included PII PC 19" monitor, Logger software for scene detection, video display, voice annotation MPEG1 encoding and analog to digital capture; 1 each log cable kit with A/V capture/remote control of VTR; 1 each log cable kit with remote control of VTR and all cables for audio and video; 2 each closed caption decoder kit—serial port and cable with text grabber hardware; 1 each software support, upgrade and maintenance for 1 year; 1 each system setup and operator training.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1020159 Communication equipment—3 each Canon 8-120MM Broadcast Zoom Studio Lens Model J15AX8BIRS; 3 each Options Model MS-210 deluxe rear focus and zoom control.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1661118 Textiles—40,000 yards fabric polycotton twill "Bandmaster" or approved equal Pantone 17-000 TC gray.

Department: Correctional Industries
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1021159 Communication equipment—1 lot Leitch video and audio distribution amplifiers; 1 lot Tektronix Waveform and Vectorscopes; 1 each Videotex multi-format on-screen monitor; 2 lots Scan Do ultra-broadcast quality scan converter and down converter N American line cord.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1657118 Communication equipment—Furnish equipment and materials for a video surveillance alarm system. All equipment to be as specified and manufactured by Phillips Communications and Security System or approved equal.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1668118 Communication equipment—1 lot closed circuit TV equipment.

Department: Corrections
Location: Frackville, Schuylkill County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8141440 Construction and building materials—7,200 ton bituminous wearing course ID-2, 44 ton fiber asphalt deck membrane.

Department: Transportation
Location: Mercer, Mercer County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1760048 Agricultural machinery and supplies—1 each sheep pens—Group 1 requirement and ratio requirement from Group No. 2; 1 each sheep pens—remaining Group 2 requirement.

Department: State Farm Products Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1728128 Maintenance and repair shop equipment—1 lot PA Certified Emissions Test Inspection system.

Department: Public Welfare
Location: Hiram G. Andrews Center, Johnstown, Cambria County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1746158 Photographic equipment—1 each furnish, install and make operational digital camera work station system.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1745158 Photographic equipment—1 each furnish, install and make operational all equipment and software digital fiber-optic printer system.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1018119 Textiles—10,000 yards Staphchek No. 70 color green 39 1/2" wide in rolls of 50 yards each, flame retardant, waterproof.

Department: Correctional Industries
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1747158 Photographic equipment—2 each furnish, install and make operational digital long roll film scanning workstation system.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

5009-699 Communication equipment—Computerized engraving system—Signature 9088 or equal—complete with an IBM compatible Pentium computer, scanner and Adobe Streamline software, art and letter graphics/clip art software. Table size 25" x 48" with holder for engraving pens, watches and small jewelry items. Engraving on all stock such as plastic, laminates and metal. Vacuum pump system for chip removal. Installation, onsite training, full warranty. To bid call (412) 761-1955, ext. 303-Rich.

Department: Correctional Industries
Location: Mercer, Mercer County, PA
Duration: FY 98—99
Contact: State Correctional Institution Mercer, Chip Hell, (724) 662-1837, ext. 142

M8485 Communication equipment—Video surveillance equipment.

Department: Corrections
Location: Waynesburg, Greene County, PA
Duration: FY 98—99
Contact: State Correctional Institution Waynesburg, Judith Cook, (724) 852-5609

49630-47 Electric and electronic components—Shippensburg University is seeking vendors interested in bidding on providing a 1200 AMP breaker for the main switchgear. Bid due date will be May 21, 1999. Vendors interested in receiving a bid package should fax their request to (717) 532-1350, Zora Frank, Purchasing Manager, Shippensburg University, Shippensburg, PA 17257. If you have any questions, call Zora Frank at (717) 532-1386.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, Cumberland and Franklin Counties, PA
Duration: FY 98—99
Contact: Shippensburg University, Zora Frank, (717) 532-1386

ADV No. 18 Miscellaneous—Indiana University of Pennsylvania (IUP) is seeking bids for the following items for the IUP Academy of Culinary Arts: chef uniforms, server uniforms, knife kits and textbooks. Requests for any or all of the bid packages should be made in writing, referencing Advertisement No. 18, directed to Dee Baker-Simon, Purchasing Agent, IUP, 650 South 13th Street, Indiana, PA 15705. Fax (724) 357-2670, phone (724) 357-2507 or e-mail address dbsimon@grove.iup.edu. Request for bid package(s) will be accepted until May 17, 1999 only. The university encourages responses from small and disadvantaged, minority and women-owned firms.

Department: State System of Higher Education
Location: Indiana University of PA, Indiana, Indiana County, PA
Duration: FY 98—99
Contact: IUP, Dee Baker-Simon, (724) 357-2507

1897 Construction and building materials—Supplies needed for hospital bathroom partitions to include: panels, doors, pilasters, assorted wall brackets, headrail assemblies and latch assemblies.

Department: Public Welfare
Location: Harrisburg State Hospital, Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Harrisburg State Hospital, Jack W. Heinze, (717) 772-7435

73200-99-03 Service and trade equipment—Brother BAS-311E programmable electronic pattern sewer with cylinder bed. Complete with delivery and setup.

Department: Corrections
Location: Waymart, Wayne County, PA
Duration: FY 98—99
Contact: State Correctional Institution Waymart, Joseph P. Kanjorski, (570) 773-2158, ext. 560

73100-98-218 Textiles—10,000 yards Staphchek No. 20 color green 39 1/2" wide, weight 10.5 ounces per square yard.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: State Correctional Institution Dallas, Joseph P. Kanjorski, (570) 773-2158

HA-003 Service and trade equipment—California University of PA of the State System of Higher Education is interested in obtaining bids for the purchase and installation of commercial washers and dryers and mounting bases for the washers. Interested bidders can obtain the request for bid HA-003 from Joy Folmar at (724) 938-4430. The University encourages responses from small firms, minority firms, women owned firms and firms which have not previously performed work for the university.

Department: State System of Higher Education
Location: California University of PA, California, Montour County, PA
Duration: FY 98—99
Contact: California University of PA, Carl J. Maurer, (724) 938-4430

SO-182 Electric and electronic equipment components—Lithonia exterior spotlights, No. TFA1000S-TA-TB-PER.

Department: Corrections
Location: Somerset, Somerset County, PA
Duration: FY 98—99
Contact: State Correctional Institution Somerset, Sherre Benninghoff, (814) 443-8100, ext. 313

Audio/Video—04

SBC 90678008 Contractor shall perform repair service to color televisions, VCR's and antenna network system (located on each living unit). Repair service shall be on an as needed basis.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoe Road, Bensalem, PA 19020
Duration: July 1, 1999—June 30, 2000
Contact: Mary Jo Scanlon, (215) 953-6405

Computer Related Services—08

ESU 405-99-CARD ESU405-99-Card-All Campus Card Access System. University seeks procurement of a system from a vendor whose business is development, production, installation and maintenance of Card access system with debit card functionality as a major system feature. Vendor must provide complete solution-multi application card access system, card production system, card stock, supplementary services. Responsible vendors including MBE/WBE firms may fax a request for a copy of the REP to contracts manager at (570) 422-3777. Exact details on issue/closing dates will be cited in the REP.

Department: State System of Higher Education
Location: East Stroudsburg University, East Stroudsburg, PA 18301
Duration: 1 year
Contact: Ann Zaffuto, (570) 422-3595

HUN 331 Software Time and Attendance System. Graphical user interface, Microsoft Windows based software capable of daily and periodic absentee reports, hours worked reports, reports and employes currently punched in house. System must be capable of storing maximum 1,300 employe capacity, Proximity reader system used with Proximity employe badges.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike Street, Huntingdon, PA 16654
Duration: May 1, 1999 to December 1, 1999
Contact: Robert Jessell, Purchasing Agent, (814) 643-2400

OGC 1999-1 The Office of General Counsel (OGC) has developed a Technology Plan, which constitutes OGC's blueprint for technology development. OGC is seeking interested technology consultants to submit sealed proposals for consideration for the following project: Provision of Intranet Services, Office of General Counsel. Request for the RFP may be addressed to M. Jane Demko in the Office of General Counsel, 333 Market Street, 17th Floor, Harrisburg, PA 17101 by fax at (717) 787-1788. All questions pertaining to this RFP must be received by fax by 5 p.m. May 24, 1999. Inquiries received after this time and date will not be considered. Address questions to M. Jane Demko, fax (717) 787-1788. All proposals are due Friday, June 18, 1999 no later than 5 p.m., Office of General Counsel, 17th Floor, 333 Market Street, Harrisburg, PA 17101. Responses received after this due date and time will be returned unopened.

Department: Office of General Council
Location: 333 Market Street, 17th Floor, Harrisburg, PA 17101
Duration: July 1, 1999—July 1, 2000
Contact: M. Jane Demko, (717) 787-9354

PERS 052 Microsoft Windows based automated Time and Attendance System which would include programming, installation of software, and all input devices; onsite training for several employes.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: May 27, 1999 through October 31, 1999
Contact: Peggy A. Chilcote, Purchasing Agent, (814) 643-6520, ext. 125

RFP-2-99 The successful vendor will be expected to perform data match and/or recovery activity with numerous commercial health insurance carriers, DEERS/CHAMPUS, Blue Cross/Blue Shield, and Medicare on behalf of the Commonwealth. The primary end product of this activity will be the recovery of Medicaid funds which were originally used to pay for medical services on behalf of the Commonwealth's recipient population, but may be reimbursable due to the identification of a potentially liable third party insurance coverage. The Department will also receive validated resource files on a regular schedule, which will be used to update the Department's TPL database. Various reports to support the vendor's activity will also be required. Please contact Procurement Office for copy of RFP.

Department: Public Welfare
Location: 2nd Floor, Willow Oak Building, Harrisburg State Hospital, Harrisburg, PA 17105
Duration: Estimated January 01, 2000—December 31, 2000 with four 1-year renewals
Contact: Kathy A. King-McCarthy, (717) 705-3878

Construction and Construction Maintenance—09

401-BL-587 Conversion of CMC for IIT—Provide labor, equipment and material necessary to convert the existing CMC area for use to the Institute for Interactive Technologies (IIT). The new work includes installation of new gypsum wallboard partitions, a suspended ceiling system, new doors and finishes along with modifying and upgrading the electrical and lighting systems, HVAC system. There will be three prime contractors a general, electrical and HVAC contractor. To obtain a set of bid specifications a non-refundable deposit of \$75 should be sent to Reilly Associates, 222 Wyoming Avenue, West Pittston, PA 18643-2822, telephone 654-2473. All necessary information regarding the project including specifications, prebid and bid opening dates will be included in the package.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA
Duration: 60 days
Contact: Joseph C. Quinn, (570) 389-4311

DGS A 251-471 (Rebid) Project title: New Fuel Facility. Brief description: Removal of existing fuel and heating oil underground storage tanks. Install new underground storage tanks, fuel facility island and canopy and domestic water supply line. Estimated range: \$100,000 to \$500,000. Electrical and UST/AST construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 19, 1999 at 2 p.m.

Department: General Services
Location: PennDOT Maintenance Building, Harrisburg, Dauphin County, PA
Duration: 125 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 251-538 (Rebid) Project title: New Fuel Facility. Brief description: Removal of fuel, waste oil, heating oil, underground storage tanks and fuel facility. Install new underground storage tanks and aboveground storage tanks. Construct new fuel facility island and canopy. Estimated range: \$100,000 to \$500,000. Electrical and UST/AST construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 19, 1999 at 1 p.m.

Department: General Services
Location: PennDOT Maintenance Building, Laporte, Sullivan County, PA
Duration: 125 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 376-1 (Phase 2) Project title: Conversion of Somerset State Hospital to a State Correctional Institution. Brief description: Work includes site improvement, roads and sidewalks, concrete foundations, masonry walls, steel framing, metal and built-up roofing, detention windows, security glazing, security system, interior partitioning and finishes, including HVAC, plumbing and electrical systems. Estimated range: Over \$10,000,000. General, HVAC, plumbing and electrical construction. Plans deposit: \$860.00 per set. Payable to: STV/KSV (JV). Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: STV/KSV (JV), 205 West Welsh Drive, Douglassville, PA 19518, telephone (610) 385-8200. Bid date Wednesday, June 2, 1999 at 11 a.m. A prebid conference has been scheduled for May 19, 1999 at 10 a.m. at the State Correctional Institution, Laurel Highlands, Main Entrance, Somerset County, PA. Contact: Ted Trefsgar, telephone (610) 385-8450. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: State Correctional Institution, Laurel Highlands, Somerset County, PA
Duration: 780 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 553-83 Project title: Replace Roof—Building No. 16 and No. 31. Brief description: New spray polyurethane foam and coating roof system. Estimated range: \$100,000 to \$500,000. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 26, 1999 at 2 p.m.

Department: General Services
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA
Duration: 150 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 557-52 Project title: Replace Windows. Brief description: Remove existing windows from third and fifth floors. Install new windows that match the existing window profile and finish recently installed on fifth floor. Estimated range: \$100,000 to \$500,000. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 26, 1999 at 2 p.m.

Department: General Services
Location: South Mountain Restoration Center, South Mountain, Franklin County, PA
Duration: 200 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 589-43 Project title: Repair Swimming Pool Building and Roof. Brief description: Add two new roof drains and downspouts, replace missing block and broken or cracked block, tighten loose mortar joints and other repairs as shown on drawing. Estimated range: Under \$100,000. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, May 26, 1999 at 11 a.m.

Department: General Services
Location: Youth Development Center, New Castle, Lawrence County, PA
Duration: 125 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 1103-38/46 PR1.2 Project title: Pre-purchase of Steam and Chilled Water Piping. Brief description: Work consists of, but is not limited to, the following: steamline and chilled water pipe, including shop drawings and installation technical support. Plans deposit: \$50 per set. Payable to: Pitt-Center Partners. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check in the amount of \$20 made payable to Pitt-Center Partners must be submitted to cover the cost of delivery. Additional sets may be purchased at the bidders cost. Mail requests to: Pitt-Center Partners, Thirteen West, One Gateway Center, Pittsburgh, PA 15222, Attn: Marty Wood, (412) 394-6888. Bid date Tuesday, May 25, 1999 at 11 a.m.

Department: General Services
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA
Duration: As identified in the specifications
Contact: Contract Bidding Unit, (717) 787-6556

S07:31-101.1 Channel Restoration, Poplar Run, involves an estimated 810 s. y. riprap for a distance of approximately 315 feet and seeding.

Department: Environmental Protection
Location: Blair Township, Blair County, PA
Duration: 90 days after Notice to Proceed
Contact: Construction Contracts Section, (717) 783-7994

Elevator Maintenance—13

SBC 90678006 Contractor shall provide all necessary parts and labor required to perform maintenance and testing on the three following elevators located at the Bensalem Youth Development Center. All service work shall be accomplished by a fully qualified elevator mechanic. Building No. 1—Administration Building; Building No. 2—Education Building; Building No. 2—Education Building.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoe Road, Bensalem, PA 19020
Duration: July 1, 1999—June 30, 2000
Contact: Dorthia Claud-Williams, (215) 953-6412

SP-260018 Provide all materials, labor, supervision, tools, equipment and transportation necessary to perform full preventive maintenance and emergency service/repairs, adjustments and inspection of four Houghton gearless passenger elevators.

Department: Liquor Control Board
Location: Northwest Office Building, Capital and Boas Streets, Harrisburg, PA 17124-0001
Duration: July 01, 1999 through June 30, 2000 with option to renew for two additional 1-year periods
Contact: Betty J. Goodling, (717) 787-6360

Engineering Services—14

08430AG2345 To provide construction inspection services on various group paving projects in Allegheny and Beaver Counties.

Department: Transportation
Location: Engineering District 11-0
Duration: Eleven months
Contact: Consultant Agreement Division, (717) 783-9309

CLA-300 Clarion University is interested in securing design services from multiple engineering/architectural firms to be provided under open-end contracts for projects on an as needed basis. Firms interested in providing these services should request a copy of the RFP by contacting: Judy McAninch, 218 Carrier Hall, Clarion University, Clarion, PA 16214, (814) 226-2240. To be considered responses to the RFP must be submitted no later than 4:30 p.m. on May 20, 1999. All applications submitted are subject to review by a Selection and Negotiating Board. The System Boards disclaim any liability whatsoever as to their review of the applications submitted and in formulating their recommendations for selection. All recommendations for selection made by the Board shall be final under the Act of November, 1982, (P. L. 660, No. 188). The System encourages responses for small firms, minority firms, women-owned firms and firms which have not previously performed work for the System, and will consider joint ventures which will enable these firms to participate. Professionals may be required as part of the selection process to be interviewed by the Selections Board.

Department: State System of Higher Education
Location: Clarion University, Clarion, Clarion County, PA
Duration: 1 year with option to renew for 3 years
Contact: Judy McAninch, Contract Specialist, (814) 226-2240

Environmental Maintenance—15

AMD 18(0888)101.1 Acid Mine Drainage Abatement, Middle Branch, involves approximately 2,130 c. y. ditch excavation, 8,900 treatment cell earthwork, installation of flow controls, access road construction and seeding. One Hundred Percent of this project is financed by the Federal government.

Department: Environmental Protection
Location: Leidy Township, Clinton County, PA
Duration: 180 days after Notice to Proceed
Contact: Construction Contracts Section, (717) 783-7994

Firefighting Services—18

FS-99-30 Vendor will provide to the State Correctional Institution Graterford service on fire extinguishers: Type A, ABC, BC—Water Dry Chemical/Powder and CO₂. Service to include recharging of chemical extinguishers, hydro test and maintenance for chemical extinguishers. Test and maintain water extinguishers. Approximately 615 units. Also required will be the six year service and marking units that are due for such service per NFPA-10. Contract is as needed during a 3 year period.

Department: Corrections
Location: State Correctional Institution Graterford, Route 29, Graterford, PA 19426
Duration: 3 years
Contact: Kelly Richardson, (610) 489-4151

Food—19

397 Bread and bread products; 9,655 loaves—white bread; 310 loaves—rye bread; 7,915 loaves—cracked wheat bread; 1,610 dozen—flat buns; 150 dozen—weiner buns; 400 dozen—dinner rolls; 550 lbs.—bread cubes; 140 dozen—sweet rolls; 190 loaves—raisin bread; 740 dozen—doughnuts; 300 lbs.—bread crumbs; 108 dozen—hoagie buns.

Department: Public Welfare
Location: Polk Center, Polk, Venango County, PA 16342
Duration: July through December, 1999
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

4227 Perishable foods: Prepared salads; dairy products and drinks; prepared vegetables; frozen juice; poultry and poultry products; fresh fruits and vegetables; pastries, pies and cakes, fresh; frozen vegetables; fish and fish products, frozen; ice cream and sherbet; meat and meat products, miscellaneous frozen foods and bread, rolls and related products, fresh. Various deliveries for period beginning July 1, 1999 through September, 1999.

Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: July—September, 1999
Contact: F. Molisee, Purchasing Agent, (412) 257-6215

Inquiry No. 7669 Perishable foods: meats, poultry, seafood/fish, miscellaneous, juice, pre-prepared salads, pre-prepared produce, fresh fruits/vegetables, bread/rolls, ice cream, dairy products, frozen fruits/vegetables, fresh eggs, cheese, fresh pies/cakes, and fresh pastry.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: July 6, 1999—September 30, 1999
Contact: Pamela Bauman, Purchasing Agent, (570) 271-4578

9016 Bread, rolls and related items.

Department: Public Welfare
Location: Selingsgrove Center, Box 500, Route 522, Selingsgrove, PA 17870
Duration: July—December, 1999
Contact: Arletta K. Ney, Purchasing Agent, (570) 372-5070

181883 Bread, rolls and related products, fresh. Vendor agrees to deliver 3 times per week (Monday, Thursday and Saturday) except holidays. Complete specifications may be obtained by contacting the hospital. Award to be made on an aggregate basis.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Drive, North Warren, Warren County, PA 16365-5099
Duration: July 01, 1999—December 31, 1999
Contact: BD Muntz, (814) 726-4496

AA 04079 Coffee, frozen liquid.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 1999 through June 30, 2000
Contact: Jeanette Gualtieri, (814) 878-4930

HSH FY99 Perishable Foods In the very near future, Harrisburg State Hospital will be bidding our the following perishable food groups, for the bid periods indicated, with deliveries to begin in early July 1999. All interested perishable food vendors are encouraged to call (717) 772-7303 or (717) 772-7435 to be placed on the appropriate food group(s) vendor bid list(s) or fax this information to (717) 772-7096. Food Group and Bid Frequency: Fresh pastry—6 months; fresh pies/cakes—6 months; juices—6 months; bread/rolls—6 months; ice cream—6 months; dairy products—6 months; fresh eggs—3 months; frozen fruits/vegs—3 months; cheese—3 months; snacks—3 months; meats—monthly; poultry—monthly; seafood/fish—monthly; miscellaneous foods—monthly; pre-prepared produce—monthly; pre-prepared salads—monthly; fresh fruits/vegs—monthly.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105
Duration: Indeterminate 1998—99
Contact: Jack W. Heinze, Purchasing Agent, (717) 772-7435

NSH-VPF Norristown State Hospital will be soliciting bids for the following perishable foods: ice tea, prepared salads, fruit drinks, orange juice, margarine, eggs, cheeses, and prepared vegetables. These items will be bid separately. If interested, please contact Sue Brown, (610) 313-1026 or fax (610) 313-1066 to request bid packets.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: July through September, 1999
Contact: Sue Brown, Purchasing Agent, (610) 313-1026

Hazardous Material Services—21

9999-9999-999 The contractor shall provide all equipment and labor to remove and dispose of transformers that contain PCB's. There are 52 transformers, 10 have PCB's in them. Containers must be disposed in accordance with EPA regulations.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: July 1, 1999 to June 30, 2000
Contact: Delores Stephens, (717) 975-5200

HVAC—22

AA 04080 Renovation and repair to recreation/smoking lounge at PA Soldiers and Sailors Home.

Department: Military and Veterans Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 1999 through June 30, 2000
Contact: Jeanette Gualtieri, (814) 878-4930

SU-713.2 Project title: SU-713.2 Summer Reheat Boilers for Three Buildings. Work shall be completed at Shippensburg University of the State System of Higher Education, Shippensburg Township, Cumberland County, Pennsylvania and shall be accomplished by a Prime HVAC Contractor. Brief description: Work includes providing hot water boilers and circulation pumps to include all associated work including the concrete pads for boilers, flue pipe and power venters, hydronic piping and specialties, supports for piping, conduit, equipment and ductwork, natural gas piping, air fans and electrical power and control. Prospective bidders may obtain project plans by contacting Deborah K. Martin, Contract Administrator, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257, (717) 532-1121 or fax (717) 530-4004. Prebid meeting with site visit immediately to follow will be held on Wednesday, May 19, 1999 at 10 a.m. in the Reed Operations Center. Bids due: June 8, 1999 at 4 p.m. Old Main Room 300. Public bid opening: June 9, 1999 at 2 p.m., Old Main Room 203A. The system encourages responses from small firms, minority firms, and firms which may have not previously performed work for the System. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, Shippensburg Township, Cumberland County, PA 17257
Duration: 150 days from date of Notice to Proceed
Contact: Deborah K. Martin, Contract Administrator, (717) 532-1121

FS-99-16 Vendor is to provide annual inspection service for testing of all sprinklers, stand pipes, hose cabinets, PIV valves. All testing is to conform to NFPA 24 and 25 standards. This will be a 3 year contract. Anticipated starting date is September 1, 1999 to August 30, 2002.

Department: Corrections
Location: State Correctional Institution Graterford, Route 29, Graterford, PA 19426
Duration: 3 years
Contact: Kelly Richardson, (610) 489-4151

Janitorial Services—23

ADV No. 16 Indiana University of Pennsylvania (IUP) will be seeking bids for window cleaning services at the main and branch campuses of IUP. Requests for copies of the bid package should be made in writing referencing Advertisement No. 16 and directed to the attention of Barbara Cerovich, Contracts Administrator, IUP, Robertshaw Building, 650 South 13th Street, Indiana, PA 15705; fax (724) 357-2670; e-mail cerovich@grove.iup.edu. Requests to receive a copy of the bid package will be accepted until May 14, 1999. The University encourages responses from small and disadvantaged, minority and woman-owned firms.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705
Duration: 3 years
Contact: Barbara Cerovich, (724) 357-2301

Medical Services—29

3800042 Provide physical examinations for employes of the Department of Conservation and Natural Resources by utilizing mobile facility.

Department: Conservation and Natural Resources
Location: Services shall be provided Statewide
Duration: July 1, 1999—June 30, 2002 with option to renew
Contact: Ruth DeWalsche, (717) 783-0760

Property Maintenance—33

23-6003029 Lawn mowing service is to be provided at Benner Spring Fish Culture Station. Contract will consist of mowing main lawn area once a week, area along Shiloh Road every other week, sickle bar mowing along earthen ponds and upper end of hatchery and effluent race once a month. Also included will be spraying of weeds with weed killer along fence lines, bird enclosures, building perimeters, along concrete walls, guard posts, mailbox, gate area and removal of sprayed vegetation from sprayed areas.

Department: Fish and Boat Commission
Location: Benner Spring Fish Culture Station, 1225 Shiloh Road, State College, Centre County, PA 16801
Duration: June 01, 1999 to October 15, 1999
Contact: Kathi Tibbott, Purchasing Agent, (814) 359-5131

90671019 Supply all labor, tools, equipment, building materials and appurtenances to remove existing windows and install new windows in Building No. 22 at Norristown State Hospital. Work required: no formal lead abatement, general clean-up of loose paint chips; remove existing top and bottom sash units, pulley, rope or any existing trim; install new windows, panning, caulking and paint interior of vinyl clad wooden windows.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401
Duration: 120 days from contract approval
Contact: Sue Brown, Purchasing Agent, (610) 313-1026

Real Estate Services—35

106 Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 6,902 useable square feet of new or existing office space in Ridgway, Elk County, PA, with a minimum parking for 11 vehicles, within the Borough of Ridgway. In areas where street or public parking is not available, an additional 16 parking spaces are required. The Elk County Assistance Office will occupy the space. Proposals due: May 24, 1999. Solicitation No.: 92821.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1998—99
Contact: Cynthia T. Lentz, (717) 787-4394

107 Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 28,046 useable square feet of new or existing office space in York, York County, PA, with minimum parking for 60 vehicles, within the following boundaries: North: North Street; South: Springettsbury Avenue; East: Sherman Street; and West: Hartley Street. The York County Assistance Office will occupy the space. Proposals due: June 7, 1999. Solicitation No.: 92825.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1998-99
Contact: Cynthia T. Lentz, (717) 787-0394

108 Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Health with 1,616 useable square feet of new or existing office space in Wyoming County, PA, with minimum parking for six vehicles, within the following boundaries: within a 5 mile radius of the intersection of US Route 6 and PA Route 29. In areas where street or public parking is not available, an additional nine parking spaces are required. The Department of Health will occupy the space. Proposals due: July 2, 1999. Solicitation No.: 92826.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 1998-99
Contact: John A. Hocker, (717) 787-4394

Sanitation—36

0630 This work will involve the disposal of approximately 25,000 cubic yards of clean excavated material from Department excavations. Material will include pipe cement blocks, tree roots or limbs, broken bricks, black top, concrete and other excavated material. Material will be transported to land fill by Department vehicles. Contract will be bid for a five year term. Disposal site must be in Delaware County and be an approved land fill.

Department: Transportation
Location: 426 South Old Middletown Road, Media, PA 19063
Duration: July 1, 1999 to June 30, 2004
Contact: Daniel Graham, (610) 566-0972

Security Services—37

DES011 The Department of Transportation is soliciting bids to obtain security services at the Riverfront Office Center, 1101 South Front Street, Harrisburg, PA. Services will be for security guard coverage on a 24-hour basis. To request a bid package, submit by fax to (717) 772-8282, company name, address and phone number to the attention of James Doheny.

Department: Transportation
Location: Office Services, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA
Duration: 2 years with three 1-year renewals
Contact: James Doheny, (717) 787-4463

Vehicle, Heavy Equipment—38

2-2-00035 Perform minor body repairs, sandblast and paint cabs, beds and frames (excluding end-gates) on 5 dump trucks. Entire vehicle shall be primed and painted using two part epoxy primer and acrylic urethane paint supplied by the contractor. It is suggested that the contractor visit site to evaluate trucks before bidding. Successful bidder must pick up and deliver to and from location.

Department: Transportation
Location: District 0220, P. O. Box 245, corner of Washington Avenue and Hall Street, Hyde, PA 16843-0245
Duration: June 01, 1999 through December 31, 1999
Contact: Debbie Swank or Jake Bacher, (814) 765-0524

2-2-00036 Perform minor body repairs, sandblast, prime and paint complete loader (including cab interior) on 3 loaders. Entire loader shall be primed and painted using two part epoxy primer and acrylic urethane paint supplied by the contractor. It is suggested that the contractor visit site to evaluate loaders before bidding. Delivery and pick up will be made by PennDOT lowboy. This will be a deciding factor in the bid award.

Department: Transportation
Location: District 0220, P. O. Box 245, corner of Washington Avenue and Hall Street, Hyde, PA 16843-0245
Duration: June 01, 1999 through December 31, 1999
Contact: Debbie Swank or Jake Bacher, (814) 765-0524

SBC 90678007 Contractor shall provide repair service to electric motors, for the Bensalem Youth Development Center. Service shall be provided on an as needed basis.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July 1, 1999—June 30, 2000
Contact: Mary Jo Scanlon, (215) 953-6405

Miscellaneous—39

08-600RFI PennDOT is seeking information and participation from timber glue-lamination manufacturers and/or fabricators to provide industry information for the development of procurement specifications to supply timber glue-lamination bridge decks in the Commonwealth. PennDOT recently completed a timber bridge glue-lamination deck demonstration project in Lebanon County and intends to advance more projects utilizing hardwoods including red maple, red oak and yellow poplar. Interested individuals are encouraged to attend a meeting to discuss the issue. The meeting will be held on Wednesday, May 26, 1999 from 1:30 to 4 p.m. in PennDOT's Forum Place Building, Conference Room 6D, 555 Walnut Street, Harrisburg. If unable to attend, information/comments may be faxed to Christopher Johnston at (717) 787-5491 or mailed to PennDOT, c/o Local and Area Transportation, 555 Walnut Street, 9th Floor, Harrisburg, PA 17101-1900.

Department: Transportation
Location: PennDOT
Duration: Request for Information
Contact: Christopher Johnston, (717) 787-8197

1998-9 Contractor shall supply material and labor for the installation of a pole building at State Correctional Institution Cambridge Springs.

Department: Corrections
Location: State Correctional Institution at Cambridge Springs, 451 Fullerton Avenue, Cambridge Springs, PA 16403
Duration: 1 or 2 months beginning June or July, 1999
Contact: Quentin Hargenrater, Jr., (814) 398-5400

EDUC-98-05 Language Assistance Services. Provide translation/interpreter services to the non-English speaking inmate population at the State Correctional Institution at Coal Township.

Department: Corrections
Location: State Correctional Institution at Coal Township, 1 Kelley Drive, Coal Township, PA 17866
Duration: 3 years
Contact: Nancy A. Lasko, Purchasing Agent, (570) 644-7890, ext. 142

HUN 332 Contractor to supply materials and personnel to make repairs to an interior truck gate. Gate is located at the State Correctional Institution at Huntingdon. Site visit is required and bid will be held at agency until such visit is made.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike Street, Huntingdon, PA 16654
Duration: May 1, 1999 to June 30, 2000
Contact: Robert Jessell, Purchasing Agent, (814) 643-2400

SBC 90678005 Contractor shall supply all labor and parts and material required to repair Stanley Automatic Gate Operators, Vehicle Gates and Pedestrian Gates locks and closures located on the grounds of the Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020.

Department: Public Welfare
Location: Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020
Duration: July 1, 1999—June 30, 2000
Contact: Dorthia Claud-Williams, (215) 953-6412

[Pa.B. Doc. No. 99-777. Filed for public inspection May 7, 1999, 9:00 a.m.]

DESCRIPTION OF LEGEND

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

STATE CONTRACTS INFORMATION

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
1352118-01	04/26/99	Buffalo Rest. Equip.	14,488.00
1368218-01	04/26/99	Coloplast Corp.	66,271.32
1368218-02	04/26/99	Airwick Professional Products, Inc.	3,644.58
1368218-03	04/26/99	Red Line Medical Supply, Inc.	4,918.80
1368218-04	04/26/99	All State Dist. Northeast, Inc.	1,166.40
1470118-01	04/26/99	Neal Burns d/b/a Trans-Global Leather	79,200.00
1503078-01	04/26/99	The Hite Co.	18,696.00
1517168-01	04/26/99	Advanced Training Systems, Inc.	100,117.00

Requisition or Contract #	Awarded On	To	In the Amount Of
1540118-01	04/26/99	Venus Textiles	30,750.00
1542118-01	04/26/99	Agway Reading Bone	23,299.50
1543057-01	04/26/99	Tri State Envelope Corp.	1,814.00
1643228-01	04/26/99	BOC Gases	62,561.16
1645228-01	04/26/99	BOC Gases	57,461.30
1681148-01	04/26/99	L. B. Smith Lincoln Mercury	51,594.80
8104360-01	04/26/99	LH Systems LLC	490,900.00
8206030-01	04/26/99	Sowers Printing Co.	32,401.92

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 99-778. Filed for public inspection May 7, 1999, 9:00 a.m.]