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PENNSYLVANIA BULLETIN

Volume 30

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Pages 2201—2340

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Development

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Department of Environmental Protection

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Independent Regulatory Review Commission

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State Board of Nursing

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

No. 306, May 2000

PENNSYLVANIA



BULLETIN

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Pennsylvania Bulletin

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

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

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

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

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.

**SUBSCRIPTION INFORMATION: (717) 766-0211
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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1915]

Proposed Amendments to the Rules Relating to Custody; Recommendation 53

The Domestic Relations Procedural Rules Committee proposes the following amendments to Rules of Civil Procedure 1915.4-1, 1915.4-2 and new Rule 1915.4-3. The Committee solicits comments and suggestions from all interested persons prior to submission of these proposed amendments to the Supreme Court of Pennsylvania.

Written comments relating to the proposed amendments must be received no later than Friday June 9, 2000 and must be directed to: Patricia A. Miles, Esquire, Counsel, Domestic Relations Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, Fax (717) 795-2116, E-mail patricia.miles@supreme.court.state.pa.us.

Any notes and explanatory comments which may appear in connection with the proposed amendments have been inserted by the Committee for the convenience of those using the rules. They will not constitute part of the rules and will not officially be adopted or promulgated by the Supreme Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.4-1. Alternative Hearing Procedures.

[(a) Except as provided in subdivision (b), an]
 An action for partial custody or visitation may be heard by a hearing officer as prescribed by Rule 1915.4-2. **Trials before a judge shall be as set forth in Rule 1915.4-3.**

[(b) Promptly after the filing of the complaint, a party may move the court for a hearing before a judge where

- (1) there are complex questions of law, fact or both, or
- (2) the hearing will be longer than one hour, or
- (3) the parties certify to the court that there are serious allegations affecting the child's welfare.]

Rule 1915.4-2. Office Conference[.], Hearing[.], Record[.], Exceptions[.], Order.

* * * * *

(d) At the conclusion of the conference if an agreement relating to partial custody or visitation has not been reached, the parties shall be given notice of the date, time and place of a hearing, which may be the same day, **but in no event shall be more than 45 days from the date of the conference.**

* * * * *

(f) **Within 10 days of the conclusion of the hearing, [The] the hearing officer shall file with the court and serve upon all parties a report containing a recommendation with respect to the entry of an order of partial custody or visitation. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or visitation. [A copy of the report shall be furnished to all parties within ten days.]**

* * * * *

(i) If exceptions are filed, the court shall hear argument on the exceptions **within 30 days of the date the last party files exceptions**, and enter an appropriate final order **within 15 days of argument**. No motion for Post-Trial Relief may be filed to the final order.

Rule 1915.4-3. Prompt Disposition of Custody Cases.

(a) **Initial Contact.** Depending upon the procedure in the judicial district, the parties' initial contact with the court (e.g., conference with hearing or conference officer pursuant to Rule 1915.4-2 in actions for partial custody or visitation, conciliation, mediation and/or seminar) shall be scheduled to occur not later than 30 days from the service of the complaint or petition. If the practice in the judicial district does not include conferences, conciliation, mediation, education or another preliminary step, the matter shall be listed for trial before a judge as set forth in subdivision (b) below.

(b) **Listing.** Depending upon local practice, a praecipe, motion or request for trial shall be submitted no earlier than 60 days and no later than 120 days from service of the pleading, except as otherwise provided in this subdivision. If no praecipe, motion or request for trial is filed within 120 days of service of the pleading, the court shall dismiss the matter unless the moving party has been granted an extension for good cause shown, which extension shall not exceed 60 days beyond the 120 day limit. A praecipe, motion or request for trial may be submitted earlier than 60 days after service of a petition for emergency relief, contempt, relocation or for other good cause shown.

(c) **Trial.** Trials before a judge shall commence within 90 days of the date of filing the praecipe, motion or request for trial. Trials and hearings shall be scheduled to be heard on consecutive days whenever possible but, if not on consecutive days, then the trial or hearing shall be concluded not later than 45 days from commencement.

(d) **Prompt Decisions.** The judge's decision shall be entered and filed within 15 days of the date upon which the trial is concluded unless, within that time, the court extends the date for such decision by order entered of record showing good cause for the extension. In no event shall an extension delay the entry of the court's decision more than 45 days after the conclusion of trial.

Explanatory Comment—2000

A new rule requiring prompt custody trials was recommended by a special committee established by the Pennsylvania Superior Court. That committee concluded that the interests of children who are

the subjects of custody litigation would best be served by a requirement that the litigation be concluded within specific time frames.

DAVID S. RASNER,
Esquire

Domestic Relations Procedural Rules Committee

[Pa.B. Doc. No. 00-733. Filed for public inspection May 5, 2000, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 5, 6, 20, 300,
1100 AND 4000]

Order Adopting New Rule 300; Amending Rules 21 and 4015; and Approving the Revision of the Comments to Rules 25 and 1100¹; No. 263 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining new Rule of Criminal Procedure 300 (Transfer of Proceedings), the amendments to Rules 21 (Venue) and 4015 (Receipt for Deposit; Return of Deposit), and the revision of the Comments to Rules 25 (Objections to Venue) and 1100 (Prompt Trial) that were adopted April 20, 2000, effective July 1, 2000. These rule changes provide uniform procedures for the institution or transfer of proceedings in cases in which there are multiple charges in more than one judicial district, or multiple charges in more than one magisterial district within one judicial district, arising from a single criminal episode. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 20th day of April, 2000, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 28 Pa.B. 475 (January 31, 1998), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 703), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(1) Rule of Criminal Procedure 300 is hereby promulgated;

(2) Rules of Criminal Procedure 21 and 4015 are amended; and

(3) the revision of the Comments to Rules of Criminal Procedure 25 and 1100 is approved,

all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2000.

¹ New Rule 300 will be renumbered Rule 555 and be in new Part (D)(1) (Transfer of Multi-Venue Cases), Rule 21 will be renumbered Rule 130, Rule 25 will be renumbered 134, Rule 1100 will be renumbered Rule 600, and Rule 4015 will be renumbered Rule 535 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 20. ISSUING AUTHORITIES: VENUE, LOCATIONS AND RECORDING OF PROCEEDINGS

Rule 21. Venue; Transfer of Proceedings.²

(a) Venue

All criminal proceedings shall be brought before the issuing authority for the magisterial district [**where**] in **which** the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

[(a)] (1) A criminal proceeding may be brought before any issuing authority of any magisterial district within the judicial district whenever the particular place within the judicial district where the offense is alleged to have occurred is unknown.

(2) When charges arising from the same criminal episode occur in more than one magisterial district within the same judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in any one of the magisterial districts in which the charges arising from the same criminal episode occurred.

(3) When charges arising from the same criminal episode occur in more than one judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in a magisterial district within any of the judicial districts in which the charges arising from the same criminal episode occurred.

[(b)] (4) Whenever an arrest is made without a warrant for any summary offense arising under the Vehicle Code, which allegedly occurred on a highway of the Pennsylvania Turnpike System or any controlled or limited access highway, or any right-of-way of such System or highway, or any other highway or highways of the Commonwealth, the defendant shall be taken and the proceeding shall be brought either where the offense allegedly occurred, or before the issuing authority for any other magisterial district within the same judicial district which, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary line of any magisterial district or county.

[(c)] (5) [**Where**] When any offense is alleged to have occurred within 100 yards of the boundary between two or more magisterial districts of a judicial district, the proceeding may be brought in either or any of the magisterial districts without regard to the boundary lines of any county.

[(d)] (6) [**Where**] When the [**President**] **president** [**Judge**] **judge** designates a magisterial district or a location in that district in which certain classes of offenses, which occurred in other specified magisterial districts, may be heard.

(b) Transfer of Proceedings

(1) Prior to the completion of the preliminary hearing:

² Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

(a) When charges arising from a single criminal episode, which occurred in more than one judicial district,

(i) are filed in more than one judicial district, upon the filing with the issuing authority of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth; or

(ii) are filed in one judicial district, upon the filing of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth.

(b) When charges arising from a single criminal episode, which occurred in more than one magisterial district,

(i) are filed in more than one magisterial district, the proceedings may be transferred to the magisterial district selected by the attorney for the Commonwealth; or

(ii) are filed in one magisterial district, the proceedings may be transferred to another magisterial district selected by the attorney for the Commonwealth.

(2) The issuing authority shall promptly transmit to the issuing authority of the magisterial district to which the proceedings are being transferred a certified copy of all docket entries, together with all the original papers filed in the proceeding, a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail, and a bill of the costs which have accrued but have not been collected prior to the transfer.

Comment

Except as otherwise provided in paragraph (A)(3), paragraph (a) of [This] this rule governs venue between magisterial districts within the same judicial district, i.e., the matter of where a proceeding is to be brought within the judicial district having jurisdiction.

Paragraph (a)(3), which is an exception to the general rule governing venue, was added in 2000 in view of *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), in which the Court held that "all charges stemming from a single criminal episode" must be joined in a single trial "despite the fact that some of the charges arose in a different county." Accordingly, when charges arising from a single criminal episode occur in more than one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue, may be any one of the magisterial districts in which the charges occurred.

Similarly, when charges arising from a single criminal episode occur in more than one magisterial district within one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue, may be any one of the magisterial districts in which the charges occurred.

The decision of in which magisterial district in paragraph (a)(2) or in which judicial district in paragraph (a)(3) the proceedings are to be brought is to be made initially by the law enforcement

officers or attorneys for the Commonwealth. In making the decision, the law enforcement officers or attorneys for the Commonwealth must consider in which magisterial district under paragraph (a)(2) or in which judicial district under paragraph (a)(3) it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

See Rule 25 (Objections to Venue)³ for the procedures to challenge a transfer of proceedings under this rule.

See Rule 151 for the procedures to withdraw the prosecution.⁴

See Chapter 4000 concerning bail.⁵

Official Note: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered Rule 21 September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000.

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Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Rule 25. Objections to Venue.⁶

* * * * *

Comment

An objection to venue under this rule would include a challenge to the transfer of proceedings pursuant to Rule 21(B).⁷

Official Note: Formerly Rule 155, adopted January 6, 1970, effective immediately; renumbered Rule 25 September 18, 1973, effective January 16, 1974; amended January 28, 1983, effective July 1, 1983; renumbered Rule 134 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000.

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Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

³ Rule 25 will be renumbered Rule 134 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁴ Rule 151 will be renumbered Rule 551 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁵ Chapter 4000 will be renumbered Chapter 5 Part C as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁶ Rule 25 will be renumbered Rule 134 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁷ Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

Final Report explaining the April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

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

CHAPTER 300. PRETRIAL PROCEEDINGS

Rule 300. Transfer of Proceedings.⁸

(A) In all cases in which charges arising from a single criminal episode occur in more than one judicial district:

(1) If the charges are filed in more than one judicial district, at any time after the case is held for court, the proceedings shall be transferred to one of the judicial districts.

(2) If all the charges are filed in one judicial district, at any time after the case is held for court, the proceedings may be transferred to another one of the judicial districts.

(B) The judicial district to which the proceedings are to be transferred shall be determined either:

(1) by written agreement of the parties, filed with the clerk(s) of courts of the judicial district(s) in which the charges are pending; or

(2) by written agreement of the attorneys for the Commonwealth, filed with the clerk(s) of courts of the judicial district(s) in which the charges are pending, with service upon the defendant or defendant's counsel, and an opportunity for the defendant to object.

(C) Upon the filing of the agreement of the parties in paragraph (B)(1), the court promptly shall order the transfer of the proceedings.

(D) Upon the filing of the agreement of the attorneys for the Commonwealth in paragraph (B)(2),

(1) absent an objection within 10 days of filing, the court promptly shall order the transfer of the proceedings.

(2) In those cases in which an objection is filed by the defendant, the court shall promptly dispose of the objection. If the objection is denied, the court immediately thereafter shall order the transfer of the proceedings.

(E) Upon the issuance of the transfer order pursuant to paragraphs (C), (D)(1), or (D)(2), the clerk(s) of courts of the transferring judicial district(s) shall promptly transmit to the clerk of courts of the judicial district to which the proceedings are being transferred a certified copy of all docket entries, together with all the original papers filed in the proceeding in the clerk's judicial district, a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail, and a bill of the costs which have accrued but have not been collected prior to the transfer.

(F) When a proceeding is transferred pursuant to this rule, the case shall proceed to trial and judgment in the same manner as if the proceeding had been instituted in the transfer judicial district.

(1) If the proceeding is transferred before an information has been filed in the transferring judicial district, the attorney for the Commonwealth in the transfer judicial district shall join the charges from the transferring judicial district with the charges in the transfer judicial district in the same information.

(2) If the proceeding is transferred after an information has been filed, the attorney for the Commonwealth in the transfer judicial district shall proceed pursuant to Rule 1127 (Joinder—Trial of Separate Indictments or Informations).⁹

(3) The results of any pretrial proceedings that have been completed in the transferring judicial district shall be binding on the transfer judicial district proceedings.

(4) Costs, not previously collected, shall be collected in the transfer judicial district.

(G) If the defendant is in custody in a transferring judicial district, the order transferring the case shall provide that the defendant shall be delivered to the custody of the sheriff of the transfer judicial district.

Comment

The Supreme Court held in *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), that the trial in one judicial district of some of the charges arising from a single criminal episode may be a bar to the trial in another judicial district of the other charges arising from the same criminal episode. In view of this decision, it is incumbent upon law enforcement officers and prosecutors to be vigilant about instituting proceedings and proceeding to trial in cases in which there are multi-judicial district charges arising from a single criminal episode.

The *McPhail* decision has necessitated both a clarification of the procedures for the institution of criminal proceedings, and new procedures for the transfer of proceedings in cases in which multiple charges arising from a single criminal episode have occurred in more than one judicial district. See Rule 21(B) for the procedures for transferring charges prior to the preliminary hearing.

In many cases, multiple charges arising from a single criminal episode will be known to the police officers and attorneys for the Commonwealth involved in the case, and will be joined in the first instance in one criminal complaint, and filed before one issuing authority in one judicial district. See Rule 21(A)(3).¹⁰ However, since there may be cases in which this does not occur, and the charges are filed in more than one judicial district, new Rule 300 establishes the procedures, after such a case is held for court, for the transfer of proceedings to one judicial district. Rule 300 also governs the transfer of charges in cases in which all the charges are filed in one judicial district, but the parties or the attorneys for the Commonwealth agree that the charges should have been filed in one of the other judicial districts in which the charges occurred.

The procedures in this rule are distinct from the Rule 312 (Motion for Change of Venue or Change of Venue)¹¹ procedures for a change of venue in cases in which it is determined at a hearing that a fair and impartial trial cannot be had in the county in which the case is pending.

It is expected that the parties will be able to agree on the judicial district in which the case should proceed. However, if they cannot agree, paragraph (B)(2) provides for the determination to be by the agreement of the attorneys for the Commonwealth. In determining the

⁹ Rule 1127 will be renumbered Rule 582 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁰ Rule 21 will be renumbered Rule 130 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹¹ Rule 312 will be renumbered Rule 584 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁸ New Rule 300 will be renumbered Rule 555 and be in new Part (D)(1) (Transfer of Multi-Venue Cases) as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

judicial district to which the proceedings are to be transferred, the parties must consider in which judicial district it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

Pursuant to paragraph (B)(2), upon the filing of the agreement of the attorneys for the Commonwealth, the defendant must be served a copy of the agreement, and be given an opportunity to object to the transfer or to the judicial district selected for the trial.

When an agreement is filed pursuant to this rule, the clerk of courts must promptly transmit the agreement as provided in Rule 9022.¹²

Pursuant to paragraphs (C) and (D), the court, immediately upon receipt of the agreement, must issue a transfer order, unless the defendant challenges the transfer or the judicial district to which the case would be transferred. "Court," as used in this rule, includes the judge assigned to handle miscellaneous motions in criminal matters or the president judge, unless a judge has already been assigned to the case.

The decision to transfer a proceeding under this rule should be made at the earliest time after the case is held for court, so that most, if not all, of the pretrial proceedings can be accomplished in the transfer judicial district.

For venue between magisterial districts, see Rule 21(A).

For the procedures for the joinder of offenses in a complaint, see Rule 105.¹³

For the procedures for the joinder of offenses in an information, see Rule 228.¹⁴

For the procedures for the joinder or consolidation for trial of offenses charged in separate informations, see Rule 1127.

For the procedures for nolle prosequi, see Rule 313.¹⁵

When proceedings are transferred pursuant to this rule, the case is to proceed in the same manner as if the charges had been instituted in the transfer judicial district. If any pretrial proceedings have been conducted in the transferring judicial district, the results of those proceedings will be binding on the proceedings in the transfer judicial district. For example, if discovery has been initiated, and the judge in the transferring judicial district has ordered or denied disclosure, this order would be binding on the judge and parties in the transfer judicial district. See *Commonwealth v. Starr*, 664 A.2d 1326 (Pa. 1995), concerning the coordinate jurisdiction rule and the law of the case doctrine.

Any costs, except bail-related costs, collected before a proceeding is transferred will remain in the transferring judicial district. See Rule 4015 concerning bail-related costs.¹⁶

Official Note: Former Rule 300 rescinded June 28, 1974, effective immediately; rescinded and number re-

¹² Rule 9022 will be renumbered Rule 576 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹³ Rule 105 will be renumbered Rule 505 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁴ Rule 228 will be renumbered Rule 563 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁵ Rule 313 will be renumbered Rule 585 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁶ Rule 4015 will be renumbered Rule 535 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

served 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; **new Rule 300 adopted April 20, 2000, effective July 1, 2000.**

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Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

CHAPTER 1100. TRIAL

Rule 1100. Prompt Trial.¹⁷

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Comment

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For purposes of determining the time for commencement of trial, paragraph (C) contains the periods which must be excluded from that calculation. **For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill and Commonwealth v. Cornell*, 736 A.2d 578 (Pa. 1999).**

* * * * *

Although a defendant's removal from the ARD program does not result in a "new trial" under paragraph (D)(3), termination of the defendant's ARD program pursuant to Rule 184 commences a new trial period for the purpose of this rule.¹⁸

* * * * *

When admitted to nominal bail pursuant to this rule, the defendant must execute a bail bond. See Rules 4004 and 4005.¹⁹

In addition to requesting that the defendant waive Rule 1100 for the period of enrollment in the ARD program (see Rule 178, paragraph (3)),²⁰ the attorney for the Commonwealth may request that the defendant waive Rule 1100 for the period of time spent in processing and considering the defendant's inclusion into the ARD program.

Official Note: Rule 1100 [Adopted] adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; Comment revised September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 600 and

¹⁷ Rule 1100 will be renumbered Rule 600 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁸ Rule 184 will be renumbered Rule 318 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

¹⁹ Rules 4004 and 4005 will be renumbered Rules 525 and 526 respectively as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

²⁰ Rule 178 will be renumbered Rule 312 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

amended March 1, 2000, effective April 1, 2001; **Comment revised April 20, 2000, effective July 1, 2000.**

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Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the April 20, 2000 Comment revision concerning *Commonwealth v. Hill* and *Commonwealth v. Cornell* published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Rule 4015. Receipt for Deposit; Return of Deposit.²¹

(B) When the deposit is the percentage cash bail authorized by Rule 4007,²² the depositor shall be notified that by signing the bail bond, the depositor becomes a surety for the defendant and is liable for the full amount of the monetary condition in the event the defendant fails to appear or comply as required by these rules.

* * * * *

(E) When a case is transferred pursuant to Rule 21(B) or Rule 300,²³ the full deposit shall be promptly forwarded to the transfer judicial district, together with any bail-related fees, commissions, or costs paid by the depositor.

Comment

* * * * *

The full and final disposition of a case includes all avenues of direct appeal in the state courts. Therefore, the return of any deposits would not be required until after either the expiration of the appeal period or, if an appeal is taken, after disposition of the appeal. See Rule 4014.²⁴

* * * * *

When a case is transferred pursuant to Rules 21(B) and 300, paragraph (E) and Rules 21(B) and 300 require that any bail-related fees, commissions, or costs collected pursuant to paragraph (D) be forwarded to the transfer judicial district. Fees, commissions, or costs that have been assessed but not paid at the time of transfer may not be collected in the transferring judicial district.

When bail is terminated upon acceptance of the defendant into an ARD program, such action constitutes a "full and final disposition" for purposes of this rule and Rule 4014 (Duration of Obligation). See Rule 179.²⁵

Official Note: Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September

²¹ Rule 4015 will be renumbered Rule 535 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

²² Rule 4007 will be renumbered Rule 528 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

²³ Rules 21 and 300 will be renumbered Rules 130 and 555 respectively as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

²⁴ Rule 4014 will be renumbered Rule 534 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

²⁵ Rule 179 will be renumbered Rule 313 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; **amended April 20, 2000, effective July 1, 2000.**

Committee Explanatory Reports:

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Final Report explaining new paragraph (E) concerning the interplay with Rules 21(B) and 300 published with Court's Order at 30 Pa.B. 2219 (May 6, 2000).

(Editor's Note: The following shows the amendments to new Rules 130, 134, 535, 555 and 600. The ellipses refer to the existing text of the rules found at 30 Pa.B. 1477 (March 18, 2000).)

CHAPTER 1. GENERAL PROVISIONS

PART C. Venue, Location, and Recording of Proceedings before Issuing Authority

Rule 130. Venue.

(A) VENUE

All criminal proceedings shall be brought before the issuing authority for the magisterial district [**where**] in which the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

(1) A criminal proceeding may be brought before any issuing authority of any magisterial district within the judicial district whenever the particular place within the judicial district where the offense is alleged to have occurred is unknown.

(2) **When changes arising from the same criminal episode occur in more than one magisterial district within the same judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in any one of the magisterial districts in which the charges arising from the same criminal episode occurred.**

(3) **When charges arising from the criminal episode occur in more than one judicial district, the criminal proceeding on all the charges should be brought before one issuing authority in a magisterial district within any of the judicial districts in which the charges arising from the same criminal episode occurred.**

[(2)] (4) Whenever an arrest is made without a warrant for any summary offense arising under the Vehicle Code, which allegedly occurred on a highway of the Pennsylvania Turnpike System or any controlled or limited access highway, or any right-of-way of such System or highway, or any other highway or highways of the Commonwealth, the defendant shall be taken and the proceeding shall be brought either where the offense allegedly occurred, or before the issuing authority for any other magisterial district within the same judicial district which, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary line of any magisterial district or county.

[(3)] (5) [**Where**] **When** any offense is alleged to have occurred within 100 yards of the boundary between two or more magisterial districts of a judicial district, the

proceeding may be brought in either or any of the magisterial districts without regard of the boundary lines of any county.

[(4)] (6) [Where] When the [President Judge] president judge designates a magisterial district or a location in that district in which certain classes of offenses, which occurred in other specified magisterial districts, may be heard.

(b) Transfer of Proceedings

(1) Prior to the completion of the preliminary hearing:

(a) When charges arising from a single criminal episode, which occurred in more than one judicial district,

(i) are filed in more than one judicial district, upon the filing with the issuing authority of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth; or

(ii) are filed in one judicial district, upon the filing of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth.

(b) When charges arising from a single criminal episode, which occurred in more than one magisterial district,

(i) are filed in more than one magisterial district, the proceedings may be transferred to the magisterial district selected by the attorney for the Commonwealth; or

(ii) are filed in one magisterial district, the proceedings may be transferred to another magisterial district selected by the attorney for the Commonwealth.

(2) The issuing authority shall promptly transmit to the issuing authority of the magisterial district to which the proceedings are being transferred a certified copy of all docket entries, together with all the original papers filed in the proceeding, a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail, and a bill of the costs which have accrued but have not been collected prior to the transfer.

Comment

Except as otherwise provided in paragraph (A)(3), paragraph (A) of [This] this rule governs venue between magisterial districts within the same judicial district, i.e., the matter of where a proceeding is to be brought within the judicial district having jurisdiction.

Paragraph (A)(3), which is an exception to the general rule governing venue, was added in 2000 in view of *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), in which the Court held that "all charges stemming from a single criminal episode" must be joined in a single trial "despite the fact that some of the charges arose in a different county." Accordingly, when charges arising from a single criminal episode occur in more than one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue,

may be any one of the magisterial districts in which the charges occurred.

Similarly, when charges arising from a single criminal episode occur in more than one magisterial district within one judicial district, the magisterial district in which the proceeding on all the charges is brought, i.e., the one with venue, may be any one of the magisterial districts in which the charges occurred.

The decision of in which magisterial district in paragraph (A)(2) or in which judicial district in paragraph (A)(3) the proceedings are to be brought is to be made initially by the law enforcement officers or attorneys for the Commonwealth. In making the decision, the law enforcement officers or attorneys for the Commonwealth must consider in which magisterial district under paragraph (A)(2) or in which judicial district under paragraph (A)(3) it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

See Rule 134 (Objections to Venue) for the procedures to challenge a transfer of proceedings under this rule.

See Rule 551 for the procedures to withdraw the prosecution.

See Chapter 5 Part C concerning bail.

Official Note: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered Rule 21 September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001; **amended April 20, 2000, effective July 1, 2000.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Rule 134. Objections to Venue.

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Comment

An objection to venue under this rule would include a challenge to the transfer of proceedings pursuant to Rule 130(B).

Official Note: Formerly Rule 155, adopted January 6, 1970, effective immediately; renumbered Rule 25 September 18, 1973, effective January 16, 1974; amended January 28, 1983, effective July 1, 1983; renumbered Rule 134 and amended March 1, 2000, effective April 1, 2001; **amended April 20, 2000, effective July 1, 2000.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the April 20, 2000 amendments concerning multiple charges arising from a single criminal episode published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C(2). General Procedures in All Bail Cases

Rule 535. Receipt for Deposit; Return of Deposit.

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(E) When a case is transferred pursuant to Rule 130(B) or Rule 555, the full deposit shall be promptly forwarded to the transfer judicial district, together with any bail-related fees, commissions, or costs paid by the depositor.

Comment

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When a case is transferred pursuant to Rules 130(B) and 555, paragraph (E) and Rules 130(B) and 555 require that any bail-related fees, commissions, or costs collected pursuant to paragraph (D) be forwarded to the transfer judicial district. Fees, commissions, or costs that have been assessed but not paid at the time of transfer may not be collected in the transferring judicial district.

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Official Note: Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; **amended April 20, 2000, effective July 1, 2000.**

Committee Explanatory Reports:

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Final Report explaining new paragraph (E) concerning the interplay with Rules 21(B) and 300 published with Court's Order at 30 Pa.B. 2219 (May 6, 2000).

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

Rule 555. Transfer of Proceedings.

(A) In all cases in which charges arising from a single criminal episode occur in more than one judicial district:

(1) If the charges are filed in more than one judicial district, at any time after the case is held for court, the proceedings shall be transferred to one of the judicial districts.

(2) If all the charges are filed in one judicial district, at any time after the case is held for court, the proceedings may be transferred to another one of the judicial districts.

(B) The judicial district to which the proceedings are to be transferred shall be determined either:

(1) by written agreement of the parties, filed with the clerk(s) of courts of the judicial district(s) in which the charges are pending; or

(2) by written agreement of the attorneys for the Commonwealth, filed with the clerk(s) of courts of the judicial district(s) in which the charges are pending, with service upon the defendant or defendant's counsel, and an opportunity for the defendant to object.

(C) Upon the filing of the agreement of the parties in paragraph (B)(1), the court promptly shall order the transfer of the proceedings.

(D) Upon the filing of the agreement of the attorneys for the Commonwealth in paragraph (B)(2),

(1) absent an objection within 10 days of filing, the court promptly shall order the transfer of the proceedings.

(2) In those cases in which an objection is filed by the defendant, the court shall promptly dispose of the objection. If the objection is denied, the court immediately thereafter shall order the transfer of the proceedings.

(E) Upon the issuance of the transfer order pursuant to paragraphs (C), (D)(1), or (D)(2), the clerk(s) of courts of the transferring judicial district(s) shall promptly transmit to the clerk of courts of the judicial district to which the proceedings are being transferred a certified copy of all docket entries, together with all the original papers filed in the proceeding in the clerk's judicial district, a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail, and a bill of the costs which have accrued but have not been collected prior to the transfer.

(F) When a proceeding is transferred pursuant to this rule, the case shall proceed to trial and judgment in the same manner as if the proceeding had been instituted in the transfer judicial district.

(1) If the proceeding is transferred before an information has been filed in the transferring judicial district, the attorney for the Commonwealth in the transfer judicial district shall join the charges from the transferring judicial district with the charges in the transfer judicial district in the same information.

(2) If the proceeding is transferred after an information has been filed, the attorney for the Commonwealth in the transfer judicial district shall proceed pursuant to Rule 582 (Joinder—Trial of Separate Indictments or Informations).

(3) The results of any pretrial proceedings that have been completed in the transferring judicial district shall be binding on the transfer judicial district proceedings.

(4) Costs, not previously collected, shall be collected in the transfer judicial district.

(G) If the defendant is in custody in a transferring judicial district, the order transferring the case shall provide that the defendant shall be delivered to the custody of the sheriff of the transfer judicial district.

Comment

The Supreme Court held in *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), that the trial in one judicial district of some of the charges arising from a single criminal episode may be a bar to the trial in another judicial district of the other charges arising from the same criminal episode. In view of this decision, it is incumbent upon law enforcement officers and prosecutors to be vigilant about instituting proceedings and proceeding to trial in cases in which there are multi-judicial district charges arising from a single criminal episode.

The *McPhail* decision has necessitated both a clarification of the procedures for the institution of criminal proceedings, and new procedures for the transfer of proceedings in cases in which multiple charges arising from a single criminal episode have occurred in more than one judicial district. See Rule 21(B) for the procedures for transferring charges prior to the preliminary hearing.

In many cases, multiple charges arising from a single criminal episode will be known to the police officers and attorneys for the Commonwealth involved in the case, and will be joined in the first instance in one criminal complaint, and filed before one issuing authority in one judicial district. See Rule 130(A)(3). However, since there may be cases in which this does not occur, and the charges are filed in more than one judicial district, new Rule 300 establishes the procedures, after such a case is held for court, for the transfer of proceedings to one judicial district. Rule 300 also governs the transfer of charges in cases in which all the charges are filed in one judicial district, but the parties or the attorneys for the Commonwealth agree that the charges should have been filed in one of the other judicial districts in which the charges occurred.

The procedures in this rule are distinct from the Rule 584 (Motion for Change of Venue or Change of Venire) procedures for a change of venue in cases in which it is determined at a hearing that a fair and impartial trial cannot be had in the county in which the case is pending.

It is expected that the parties will be able to agree on the judicial district in which the case should proceed. However, if they cannot agree, paragraph (B)(2) provides for the determination to be by the agreement of the attorneys for the Commonwealth. In determining the judicial district to which the proceedings are to be transferred, the parties must consider in which judicial district it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice.

Pursuant to paragraph (B)(2), upon the filing of the agreement of the attorneys for the Commonwealth, the defendant must be served a copy of the agreement, and be given an opportunity to object to the transfer or to the judicial district selected for the trial.

When an agreement is filed pursuant to this rule, the clerk of courts must promptly transmit the agreement as provided in Rule 576.

Pursuant to paragraphs (C) and (D), the court, immediately upon receipt of the agreement, must issue a transfer order, unless the defendant challenges the transfer or the judicial district to which the case would be transferred. "Court," as used in this rule, includes the judge assigned to handle miscellaneous motions in criminal matters or the president judge, unless a judge has already been assigned to the case.

The decision to transfer a proceeding under this rule should be made at the earliest time after the case is held for court, so that most, if not all, of the pretrial proceedings can be accomplished in the transfer judicial district.

For venue between magisterial districts, see Rule 21(A).

For the procedures for the joinder of offenses in a complaint, see Rule 505.

For the procedures for the joinder of offenses in an information, see Rule 563.

For the procedures for the joinder or consolidation for trial of offenses charged in separate informations, see Rule 1127.

For the procedures for nolle prosequi, see Rule 585.

When proceedings are transferred pursuant to this rule, the case is to proceed in the same manner as if the charges had been instituted in the transfer judicial district. If any pretrial proceedings have been conducted

in the transferring judicial district, the results of those proceedings will be binding on the proceedings in the transfer judicial district. For example, if discovery has been initiated, and the judge in the transferring judicial district has ordered or denied disclosure, this order would be binding on the judge and parties in the transfer judicial district. See *Commonwealth v. Starr*, 664 A.2d 1326 (Pa. 1995), concerning the coordinate jurisdiction rule and the law of the case doctrine.

Any costs, except bail-related costs, collected before a proceeding is transferred will remain in the transferring judicial district. See Rule 535 concerning bail-related costs.

Official Note: Former Rule 300 rescinded June 28, 1974, effective immediately; rescinded and number reserved 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; **new Rule 300 adopted April 20, 2000, effective July 1, 2000.**

* * * * *

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART A. General Provisions

Rule 600. Prompt Trial.

* * * * *

Comment

* * * * *

For purposes of determining the time for commencement of trial, paragraph (C) contains the periods which must be excluded from that calculation. **For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 736 A.2d 578 (Pa. 1999).**

Under paragraph (C)(3)(a), in addition to any other circumstances precluding the availability of the defendant or the defendant's attorney, the defendant should be deemed unavailable for the period of time during which the defendant contested extradition, or a responding jurisdiction delayed or refused to grant extradition; or during which the defendant was physically incapacitated or mentally incompetent to proceed; or during which the defendant was absent under compulsory process requiring his or her appearance elsewhere in connection with other judicial proceedings.

* * * * *

Official Note: Rule 600 [Adopted] adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; Comment revised September 13, 1995, effective

January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 600 and amended March 1, 2000, effective April 1, 2001; **Comment revised April 20, 2000, effective July 1, 2000.**

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

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

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the April 20, 2000 Comment revision concerning *Commonwealth v. Hill* and *Commonwealth v. Cornell* published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

FINAL REPORT¹

**Proposed New Pa.R.Crim.P. 300,
amendments to Pa.Rs.Crim.P. 21 and 4015, and
the revision of the *Comments* to Pa.Rs.Crim.P. 25
and 1100²**

**PROCEDURES IN CASES INVOLVING MULTIPLE
CHARGES ARISING FROM A SINGLE CRIMINAL
EPISODE OCCURRING IN MORE THAN ONE
JUDICIAL DISTRICT OR MAGISTERIAL DISTRICT**

On April 20, 2000, effective July 1, 2000, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Rule of Criminal Procedure 300 (Transfer of Proceedings), amended Rules 21 (Venue) and 4015 (Receipt for Deposit; Return of Deposit), and approved the revision of the Comments to Rules 25 (Objections to Venue) and 1100 (Prompt Trial). These rule changes provide uniform procedures for the institution or transfer of proceedings in cases in which there are multiple charges in more than one judicial district, or multiple charges in more than one magisterial district within one judicial district, arising from a single criminal episode. The new procedures are necessary to implement the holding in *Commonwealth v. McPhail*, 692 A.2d 139, 144 (Pa. 1997), that "the place of trial, whether within or without the county where the alleged crime occurred, is a matter of venue, not jurisdiction," and therefore, under 18 Pa.C.S. § 110, when all the charges are within the jurisdiction of a single court, and must be joined in a single trial, the trial in one judicial district of some of the charges arising from a single criminal episode is a bar to the trial in another judicial district of the other charges arising from the same criminal episode.

I. Background

Following the Court's decision in *Commonwealth v. McPhail*, 692 A.2d 139 (Pa. 1997), the Committee received several inquiries concerning the procedures for handling *McPhail*-type cases, specifically whether the various judi-

cial districts should be using Rule 312 (Motion for Change of Venue or Change of Venire),³ or some other mechanism to move cases from one judicial district to another for trial. In view of these inquiries, the Committee examined the existing Criminal Rules, and procedures in other jurisdictions governing change of venue and transfer of cases. We first looked at Rule 312, and, noting that the Rule 312 "change of venue to have a fair trial" concept has been in the rules since 1964, the consensus was that it would be confusing to the bench and bar to expand Rule 312 to include *McPhail* procedures. Looking at the rest of the rules, we concluded that the existing rules do not accommodate *McPhail*-type cases, and, in fact, may cause confusion in a *McPhail* context. See, e.g., Rule 21, which governs venue between magisterial districts. In view of our conclusions, the Committee agreed that the Criminal Rules should be amended to provide specific procedures addressing *McPhail*, and that we should approach the issue from the perspective of a transfer of proceedings that would be separate and distinct from a Rule 312 change of venue.

II. Discussion

As we discussed how to address the *McPhail* situation, the Committee recognized that there are several stages within the process that would be implicated:

- (1) cases in which charges have not yet been filed;
- (2) cases in which charges have been filed in more than one judicial district, but no preliminary hearing has been held;
- (3) cases in which the charges have been filed in more than one judicial district, and the charges have been held for court;
- (4) cases in which the charges arose in more than one judicial district, were filed in one judicial district, and it is determined before the preliminary hearing that the charges should have been filed in a different judicial district; and
- (5) cases in which the charges arose in more than one judicial district, were filed in one judicial district, and it is determined after the preliminary hearing that the charges should have been filed in a different judicial district.

We also considered that comparable issues could come up in the context of multiple offenses stemming from a single criminal episode arising within one judicial district, but in more than one magisterial district, and that the rules should address this scenario as well. In view of these considerations, the Committee agreed that there should be a new rule, Rule 300, to provide the procedures to govern *McPhail*-type cases after the charges are held for court, and that Rule 21 should be amended to govern *McPhail*-type cases prior to the preliminary hearing.

A. Pa.R.Crim.P. 21 (Venue)

One of the Committee's considerations concerning *Commonwealth v. McPhail*, *supra*, is that the case alters what has been generally accepted as the scope of venue set forth in Rule 21 (Venue). In view of this consideration, we agreed that cases falling within the parameters of *McPhail*, that is, cases in which there are multiple charges arising from a single criminal episode that are alleged to have been committed in more than one judicial district, should be included within the exceptions to the general venue rule that "all criminal proceedings shall be brought before the issuing authority for the magisterial

¹ The Committee's Final 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 Committee's explanatory Final Reports.

² New Rule 300 will be renumbered Rule 555 and placed in new Part (D)(1) (Transfer of Multi-Venue Cases), Rule 21 will be renumbered Rule 130, Rule 25 will be renumbered Rule 134, Rule 1100 will be renumbered Rule 600, and Rule 4015 will be renumbered Rule 535, all as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

³ Rule 312 will be renumbered Rule 584 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

district in which the offense is alleged to have occurred," as set forth in new paragraph (A) (Venue). Under paragraph (A)(3), it is expected when the law enforcement officers or the attorneys for the Commonwealth in the respective judicial districts are aware that there are multiple charges arising from a single criminal episode, all the charges should be filed before one issuing authority in any of the judicial districts in which the charges occurred. Similarly, paragraph (A)(2) has been added to recognize, as another exception to the general venue rule, the comparable situation in which there are multiple charges arising from a single criminal episode that occur in more than one magisterial district but within the same judicial district.

The second change to Rule 21 is the addition of paragraph (B) (Transfer of Proceedings). This paragraph establishes the procedures for the transfer of proceedings in *McPhail*-type cases at any time following the filing of charges, but prior to the completion of the preliminary hearing, and was developed following the Committee's consideration of the publication responses. Although we agreed that it is preferable, in the first instance, if all the charges are filed in one judicial district, or in one magisterial district, the Committee recognized that there will be cases in which the police institute the proceedings, and the attorney(s) for the Commonwealth are not involved in the initial decision about where the charges are filed. In these cases, once the attorney(s) for the Commonwealth becomes aware of the police officers' choice, the Committee agreed that the attorney(s) for the Commonwealth, as part of his or her charging function, should be able to have the case transferred to a different judicial district or magisterial district. Rule 21 therefore includes the procedures to accomplish this transfer.

New paragraph (B)(1) provides for the transfer of the proceedings in the four different situations in which such a transfer would be deemed necessary by the attorney(s) for the Commonwealth:

- (1) when the charges are filed in more than one judicial district;
- (2) when the charges are filed in one judicial district;
- (3) when the charges are filed in more than one magisterial district; or
- (4) when the charges are filed in one magisterial district.

For a transfer to occur in cases falling within either (1) or (2), subparagraphs (B)(1)(a)(i) and (ii) require the attorneys for the Commonwealth of the respective judicial districts to file with the issuing authority a written agreement indicating the judicial district and magisterial district to which the case should be transferred. For a transfer to occur in cases falling within either (3) or (4), subparagraphs (B)(1)(b)(i) and (ii) require the attorney for the Commonwealth of the judicial district to select the magisterial district to which the case should be transferred. Paragraph (B)(2) requires the issuing authority promptly to transmit a certified copy of all docket entries, all original papers, a copy of the bail bond and any bail deposits, and a bill for uncollected costs to the issuing authority in the transfer magisterial district.

The Comment has been revised to include a citation to *Commonwealth v. McPhail*, and to provide guidance concerning in which judicial district or magisterial district the proceedings should be brought. The fourth paragraph explains that the decision should be based

upon the convenience to the defendant and witnesses, and the prompt administration of justice. The Comment also includes:

- (1) a cross-reference to Rule 25 for the procedures to challenge a Rule 21(B) transfer;
- (2) a cross-reference to Rule 151 to make it clear that the attorney for the Commonwealth may withdraw the charges as provided in Rule 151;⁴ and
- (3) a cross-reference to Rule 4015 for the authorization to forward the bail deposit, as well as any bail-related costs.

B. *New Rule 300 (Transfer of Proceedings)*⁵

New Rule 300 provides the procedures after the charges are held for court in *McPhail*-type cases

- (1) for transferring proceedings that have been instituted in more than one judicial district to one judicial district; or
 - (2) for transferring proceedings that have been instituted in one judicial district to another judicial district.
- See paragraph (A), which sets forth the scope of Rule 300.

Paragraph (B) sets forth the procedures for determining to which judicial district the proceedings should be transferred. The Committee agreed that, in many cases, the determination of the transfer judicial district will be by agreement of the parties, that is, the defendant and the attorneys for the Commonwealth. In these cases, the parties should prepare a written agreement that is filed in the judicial district(s) in which the charges are pending. See paragraph (B)(1).

The Committee also recognized there may be cases in which the attorneys for the Commonwealth will have reached an agreement without seeking input from the defendant, or the defendant and the attorneys for the Commonwealth will not be able to reach an agreement concerning the judicial district in which the case should be heard. In these cases, paragraph (B)(2) provides that the attorneys for the Commonwealth must file a written agreement with the clerk of courts in the judicial district(s) in which the charges are pending. In addition, the rule requires that the agreement be served on the defendant or defendant's attorney, and that the defendant have an opportunity to object to the transfer or to the judicial district selected for the trial.

Paragraphs (C) and (D) provide that the court must promptly order the transfer of the proceedings. Although the Committee agreed that it is within the attorney for the Commonwealth's charging function to decide in which judicial district the charges should be tried, we were concerned that, without an order from the court, the clerk of courts would not transfer the proceedings. Accordingly, the rule provides for the court's order, but the order is not subject to the discretion of the court.

In cases involving the agreement of the attorneys for the Commonwealth, the court is required to wait ten days before ordering the transfer to allow for the defendant's objection, if any. See paragraph (D)(1). When a defendant files an objection, paragraph (D)(2) requires the court to

⁴ Rule 151 will be renumbered Rule 551 as part of the renumbering and reorganization of the Rules of Criminal Procedure the Court adopted on March 1, 2000, effective April 1, 2001.

⁵ The Committee recommended numbering the new rule Rule 300, both because the number is available within Chapter 300 (Pretrial Procedures), and because these transfers could occur at any time after a case is held for court and before any of the other pretrial procedures take place. For the same reasons, Rule 300 will be in a separate part within the reorganization, new Part (D)(1) (Transfer of Multi-Venue Cases), and renumbered Rule 555.

promptly dispose of the objection, and if the objection is denied, immediately order the transfer.

Once an order transferring a proceeding is issued, paragraph (E) directs the clerk of courts of the transferring judicial district(s) to promptly transmit to the clerk of courts of the transfer judicial district all of the following:

- (1) a certified copy of all docket entries;
- (2) all the original papers filed in the proceeding in the clerk's judicial district;
- (3) a copy of the bail bond and any deposits in satisfaction of a monetary condition of bail; and
- (4) a bill of the costs that have accrued but have not been collected prior to transfer.

One issue that caused some difficulties for the Committee relates to bail. Several members were concerned that, although paragraph (E) provides that any bail deposits be transmitted to the transfer judicial district, the defendant could be assessed two sets of bail-related costs if the case is instituted in one judicial district and transferred to another judicial district. Agreeing that the defendant should not be assessed these dual costs, the Committee has included as the last paragraph of the Comment an explanation that bail-related costs collected before a proceeding is transferred are not to remain in the transferring judicial district. A new paragraph also has been added to Rule 4015 (Receipt for Deposit; Return of Deposit) requiring that the deposit and all bail-related costs be forwarded to the transfer judicial district. See Rule 4015(E).

Paragraph (F) sets forth the procedures after the case is transferred, noting that the case is to proceed in the same manner as if the proceeding had been instituted in the transfer judicial district. If the case is transferred before an information has been filed, then the charges are to be joined in the same information. See paragraph (F)(1). If the case is transferred after an information has been filed, then the case is to proceed pursuant to Rule 1127, and the informations should be joined for trial.⁶ See paragraph (F)(2). Paragraph (F)(3) makes it clear that the results of any pretrial proceedings completed in the transferring judicial district are binding on the transfer judicial district. This point is emphasized in the second to last paragraph of the Comment, with a citation to *Commonwealth v. Starr*, 664 A.2d 1326 (Pa. 1995), concerning the coordinate jurisdiction rule and the law of the case doctrine. The last provision of paragraph (F) directs that costs that have not been collected previously are to be collected in the transfer judicial district.

Finally, when the defendant in the case is in custody in a transferring judicial district, paragraph (G) requires that the order transferring the case include a provision for the delivery of the defendant to the custody of the sheriff of the transfer judicial district.

The Committee has included an extensive Comment as an aid to the bench, bar, clerks of courts, and police officers in applying the new procedures. The first three paragraphs of the Comment explain the need for the new rule, and the inter-relationship between Rule 21 and Rule 300. The first paragraph of the Comment also cautions police officers and prosecutors to be vigilant about instituting proceedings and proceeding to trial in cases in

⁶ Rule 1127 will be renumbered Rule 582 as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

which there are multi-judicial district charges arising from a single criminal episode.

The Comment explains that, in determining the judicial district to which the proceedings are to be transferred, "the parties must consider in which judicial district it would be in the interests of justice to have the case proceed, based upon the convenience of the defendant and the witnesses, and the prompt administration of justice." It is further explained that the decision to transfer should be made at the earliest possible time, so that as many of the pretrial proceedings as possible may be conducted in the transfer judicial district. The Comment also explains that the "court," upon receiving an agreement, is to issue a transfer order. "Court" is defined as including the president judge, or the judge assigned to handle miscellaneous motions, or the judge assigned to handle the case, whichever applies in the given judicial district.

Lastly, the Comment includes the following cross-references:

- (1) Rule 21(A) concerning venue between magisterial districts;
- (2) Rules 105, 228, and 1127 concerning joinder of offenses;⁷
- (3) Rule 313 concerning nolle prosequi⁸ to make it clear that the attorney for the Commonwealth may proceed pursuant to Rule 313 rather than Rule 300;

(4) Rule 4015 for the procedures to forward the bail deposit, and any bail-related costs to the transfer judicial district; and

(5) Rule 9022 (Filing),⁹ which requires the clerk of courts to docket the agreement and promptly transmit it to such persons as may be designated by the court, to ensure that the clerks of courts understand that Rule 9022 applies in Rule 300 cases.

C. Additional Correlative Changes

(1) Rule 25 (Objections to Venue)

When the Committee agreed that Rule 300(B)(2) should include a provision for the defendant to object to the transfer of the proceedings, we also considered whether it was necessary to include a comparable provision in Rule 21(B). We concluded that this was unnecessary in view of Rule 25. However, some members were concerned, because Rule 25 had been adopted before the addition of the Rule 21(B) transfer provisions, there might be some confusion about the applicability of Rule 25 to a Rule 21(B) transfer. To reduce the likelihood of such confusion, the Committee has added a clarifying statement to the Rule 25 Comment.

(2) Rule 1100 (Prompt Trial)

The final consideration for the Committee concerned the impact of the *McPhail* procedures on Rule 1100. The Committee noted that, although a defendant's objection to a *McPhail* transfer is a pretrial motion, these challenges are unique from other omnibus pretrial motions in that the determination of the issue may result in changing the county of prosecution. The members agreed that this unique posture provided justification for different treatment of these challenges within the context of Rule 1100.

⁷ Rules 105, 228, and 1127 will be renumbered Rules 505, 563, and 582 respectively as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

⁸ Rule 313 will be renumbered Rule 585 as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

⁹ Rule 9022 will be renumbered Rule 576 as part of the renumbering and reorganization of the Rules of Criminal Procedure that the Court adopted on March 1, 2000, effective April 1, 2001.

However, because there continue to be problems with these cases, suggesting a continuing need for rules to provide guidance to the bench and bar about how to proceed, the Committee agreed that we should undertake an in depth review of Rule 1100. Rather than delay the *McPhail* proposal, we agreed to consider Rule 1100 separately. In the interim, the Committee has included in the Rule 1100 Comment the following cross-reference to recent cases that address pretrial motions in the context of Rule 1100:

For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 736 A.2d 578 (Pa. 1999).

[Pa.B. Doc. No. 00-734. Filed for public inspection May 5, 2000, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEDFORD COUNTY

Local Rule Relating to Continuances; Misc. Doc. No. 60081 for 2000

Order

And now, this 4th day of April, 2000, the Court hereby promulgates Local Rule of Court relating to continuances, Rule L 216, for Bedford County, comprising the 57th Judicial District of the Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

DANIEL LEE HOWSARE,
President Judge

CONTINUANCES

Rule L 216.

Except as hereinafter set forth, all motions requesting the continuance of any matter pending in the Court of Common Pleas of Bedford County shall be in writing setting forth the reason for the continuance and whether the opposing party or parties consent to the request. Except for continuance motions which arise during the hearing of a matter, all such motions shall be presented to the Calendar Control Judge through the Court Administrator for disposition. The Calendar Control Judge shall be designated by the President Judge. Motions for continuance which arise during the hearing of the matter in question shall be ruled upon by the assigned judge.

No request for continuance presented to the Calendar Control Judge less than 48 hours before the time scheduled for the hearing of the matter in question will be granted, unless for good cause shown. Except for extraordinary circumstances, continuances will not be granted because of previously scheduled depositions, district justice hearings, or other like matters. In the event the request for continuance concerns a conflict with a matter scheduled in another court of common pleas, the request shall state which matter was scheduled first. Motions for

continuance will be granted when a conflict arises with an appellate or federal court.

[Pa.B. Doc. No. 00-735. Filed for public inspection May 5, 2000, 9:00 a.m.]

BEDFORD COUNTY

Local Rules Relating to Compulsory Arbitration; Misc. Doc. No. 60082 for 2000

Order

And now, this 4th day of April, 2000, the Court hereby promulgates Local Rules of Court relating to compulsory arbitration for Bedford County, comprising the 57th Judicial District of the Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin* at which time all previously adopted local rules relating to compulsory arbitration are rescinded.

By the Court

DANIEL LEE HOWSARE,
President Judge

COMPULSORY ARBITRATION

Rule L 1301. Scope.

1. All cases which are at issue, where the amount in controversy is \$25,000.00 or less, exclusive of interest and costs, except those issues involving title to real estate, equity actions, actions upon penal statutes and other actions which do not involve the recovery of money damages only shall be submitted to and heard and decided by a board of arbitrators which shall be composed of three (3) members of the Bar of the 57th Judicial District. The amount in controversy shall be determined solely from the pleadings or by an agreement of the parties.

2. Cases which are not at issue and whether or not suit has been filed may be placed on the arbitration list by agreement of reference in writing signed by counsel for all parties in the case. Said agreement shall define the issues involved for determination by the board and, when agreeable, shall also contain stipulations with respect to facts submitted or agreed or defenses waived. In such cases, the agreement of reference shall take the place of pleadings and shall be filed of record in the Office of the Prothonotary and shall be assigned a number.

Rule L 1302. List of Arbitrators; Appointment of Board; Compensation.

1. The Prothonotary of Bedford County shall maintain a list of available arbitrators in accordance with the applicable provisions of the Rules of Civil Procedure.

2. The Prothonotary of Bedford County shall make all appointments of arbitrators in cases being submitted to compulsory arbitration, subject to the applicable provisions of the Rules of Civil Procedure.

3. The chairman of a board of arbitration shall be paid the sum of \$150.00 by the County of Bedford. Each other member shall be paid the sum of \$100.00 by the County of Bedford. In cases requiring hearing of unusual duration or involving questions of unusual complexity, the Court, on petition of the members of the board, and for cause shown, may allow additional compensation.

Rule L 1303. Hearing; Notice.

1. The person designated as the chairman of a board of arbitration shall fix the date, time and place of the

hearing and shall provide notice of the hearing in accordance with the applicable provisions of the Rules of Civil Procedure.

[Pa.B. Doc. No. 00-736. Filed for public inspection May 5, 2000, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Collection Fee and Late Payment Penalty for 2000-2001 Registration Year

Notice is hereby given of the establishment by The Disciplinary Board of the Supreme Court of Pennsylvania for the 2000-2001 registration year of the collection fee for checks in payment of the annual registration fee for attorneys that are dishonored and the late payment penalty for registrations not received on time.

Pennsylvania Rule of Disciplinary Enforcement 219(d)(2) provides that, where a check in payment of the annual registration fee for attorneys has been returned to the Board unpaid, a collection fee established annually by the Board must be paid before the annual registration fee shall be deemed to have been paid. The Board has established the collection fee for the 2000-2001 registration year as \$50.00 per returned item.

Pa.R.D.E. 219(h)(2) provides that a late payment penalty established annually by the Board must be paid by an attorney who fails to timely file an annual registration statement before the attorney shall be considered on active status for the new registration year. The Board has established the late payment penalty for the 2000-2001 registration year as \$50.00.

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

[Pa.B. Doc. No. 00-737. Filed for public inspection May 5, 2000, 9:00 a.m.]

Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 17, 2000, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 16, 2000 for Compliance Group 2 due August 31, 1999.

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

Richard T. Barth
Mt. Laurel, NJ

Randy John Berholtz
San Diego, CA

William Steven Berman
Voorhees, NJ

Margaret J. Bozik
Alburt, VT

David Keith Burgess
San Diego, CA

Michael Charles Cascio
Marlton, NJ

Claire Ann Collins
Madison, NJ

Rickey Lee Crawford
Norfolk, VA

Edward R. Cummings
Washington, DC

David Kevin Cuneo
Collingswood, NJ

Betsy A. Cuthbertson
Arlington, VA

John W. Ditsler
Linden, NJ

Edward F. Eaton
Wilmington, DE

Joseph J. Finley
Princeton, NJ

Eric John Franklin
Washington, DC

Steven P. Goodell
Princeton, NJ

Carol B. Guerrero
San Francisco, CA

Bertrand Conroy Harry
Cherry Hill, NJ

Christine C. Hays
Englewood, CO

Kimberly Ann Hunter
Plainfield, NJ

Robert Lawrence Ignasiak
Fort Wayne, IN

Demery C. Johnson
Lawrenceville, NJ

Mary L. Kevlin
New York, NY

Josiah Knapp
Cherry Hill, NJ

John D. Kosylo
Turnersville, NJ

Andrew Jason Leibovitz
Haddonfield, NJ

Jessica D. Litman
Detroit, MI

Thomas R. Lochner
Williamsville, NY

Robin Mellanese Lofton
Benicia, CA

Joseph Anthony Lombardo
Cherry Hill, NJ

John Michael Makowski
Voorhees, NJ

Michael J. Maloney
Toms River, NJ

Mitchell G. Mandell
New York, NY

Vernon McGowen Jr.
Neptune, NJ

Alan M. Minato
Vineland, NJ

Catherine Ann Muldoon
Westfield, NJ

Catherine Panchou
Coral Springs, FL

John Edward Parkin
West Milford, NJ

Alanson E. Payne
Vincentown, NJ

Thomas Joseph Powell
McLean, VA

Jan Peter Quaglia
Burbank, CA

Peter P. Radetich
Buffalo, NY

George E. Roeder III
Morgantown, WV

Ethan Jesse Sheffet
South Plainfield, NJ

Marlene Koch Silverman
Miami, FL

Mark S. Snyder
Seattle, WA

Leonard J. Vecchiollo
Spotsylvania, VA

Andrew S. Viola
Runnemede, NJ

William J. Volonte
Hoboken, NJ

John A. Zagorski
Camden, NJ

Larry A. Zink
Canton, OH

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

[Pa.B. Doc. No. 00-738. Filed for public inspection May 5, 2000, 9:00 a.m.]

Notice to Attorneys

Notice is hereby given that pursuant to Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E. which provides for trust account overdraft notification:

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

List of Approved PA Financial Institutions

Bank Code	A.
374	Abington Savings Bank
2	Adams County National Bank
477	Advest, Inc.
302	Allegheny Valley Bank of Pittsburgh
548	Allegiance Bank of North America
24	Allfirst
375	Altoona First Savings Bank
376	Ambler Savings and Loan Association
532	American Bank of Lehigh Valley
502	American Eagle Savings Bank, PaSA
377	Apollo Trust Company
407	Armstrong County Trust Company
B.	
155	Bank of Hanover & Trust Company
3	Bank of Lancaster County, N.A.
415	Bank of Landisburg (The)
546	Bank Philadelphia
519	Beaver Valley Federal Credit Union
396	Bell Federal Savings & Loan Association
397	Beneficial Mutual Savings Bank
399	Bernville Bank, N.A.
391	Blue Ball National Bank
520	Boston Safe Deposit & Trust Company
392	Brentwood Savings Bank
495	Brown Brothers Harriman & Co.
161	Bryn Mawr Trust Company
C.	
540	C & G Savings Bank
480	Cambria County Federal Savings & Loan Assoc.
393	Carnegie Savings Bank
11	Central Bank
13	Cenwest Bank
394	Charleroi Federal Savings Bank
238	Citizens and Northern Bank
395	Citizens Bank and Trust Company
352	Citizens National Bank of Ashland
15	Citizens National Bank - Evans City
328	Citizens National Bank of Lansford
420	Citizens National Bank - Myersdale
177	Citizens National Bank of Southern PA
206	Citizens Savings Association
353	Citizens Trust Company
16	Clearfield Bank & Trust Co.
354	Coatesville Savings Bank
17	Columbia County Farmers National Bank
250	Commerce Bank, PA, NA
18	Commerce Bank/Harrisburg, NA
223	Commercial National Bank of Pennsylvania
522	Commonwealth Bank
310	Community Bank & Trust Company
542	Community Bank of Chester County
21	Community Bank, National Association
204	Community Banks National Association
533	Community First Bank, N.A.
430	Community National Bank of Northwestern PA
132	Community State Bank of Orbisonia
379	Corry Savings Bank
23	County National Bank
380	County Savings Association
381	Crusader Bank
382	C S B Bank

	D.	198	First National Bank of Minersville (The)
		524	First National Bank of New England
25	Deposit Bank	47	First National Bank of Newport (The)
339	Dime Bank (The)	426	First National Bank of Palmerton (The)
27	Dollar Bank	48	First National Bank of Pennsylvania
239	Downingtown National Bank	427	First National Bank of Port Alleghany (The)
222	Drovers Bank (The)	428	First National Bank of Slippery Rock (The)
423	Dwelling House Savings & Loan Association	321	First National Bank of Spangler (The)
		52	First National Bank of West Chester (The)
	E.	175	First National Community Bank
		549	First National Community Bank - Midland
357	Eagle National Bank	54	First National Trust Bank
424	East Penn Bank	170	First Penn Bank
358	East Prospect State Bank	378	First Pennsylvania Savings Association
340	East Stroudsburg Savings Association	220	First Republic Bank
500	Elderton State Bank	40	First Savings Bank of Perkasio
541	Enterprise Bank	349	First Star Savings Bank
28	Ephrata National Bank (The)	158	First Summit Bank
383	ESB Bank, F.S.B.	338	First Union National Bank
		408	First United National Bank
	F.	325	FirstService Bank
		151	Firsttrust Savings Bank
384	Farmers & Merchants Bank - Honesdale	493	FNB Bank, N.A.
31	Farmers & Merchants Trust Company	282	Founders' Bank
30	Farmers First Bank	291	Fox Chase Federal Savings Bank
436	Farmers National Bank of Kittanning	241	Franklin Mint Federal Credit Union
205	Farmers National Bank of Emlenton	58	Fulton Bank
34	Fidelity Deposit & Discount Bank	59	Fulton County National Bank & Trust Company
343	Fidelity Savings and Loan of Bucks County		
311	Fidelity Bank		G.
385	First American National Bank of PA		Glen Rock State Bank
389	First Bank of Leechburg	506	Grange National Bank of Wyoming County
332	First Capitol Bank	409	Gratz National Bank (The)
174	First Citizens National Bank	499	Great American Federal Savings & Loan Association
191	First Columbia Bank & Trust Co.	401	Great Valley Savings Bank
539	First Commonwealth Trust Company		Greenville Savings Bank
523	First County Bank	400	Guaranty Bank, National Association
390	First Federal Bank	498	
369	First Federal Savings & Loan Assoc. of Bucks County	193	
437	First Federal Savings & Loan Assoc. of Carnegie		H.
504	First Federal Savings & Loan Assoc. of Greene County	402	Halifax National Bank
388	First Federal Savings Bank	244	Hamlin Bank and Trust Company
432	First Federal Savings Bank of Kane	64	Harleysville National Bank and Trust Company
370	First Financial Bank	362	Harrisville Savings Bank
318	First Heritage Bank	65	Harris Savings Bank
525	First Heritage Federal Credit Union	501	Harrisburg BELCO, Federal Credit Union
228	First Keystone Federal Savings Bank	363	Hatboro Federal Savings
371	First Liberty Bank & Trust	410	Herndon National Bank (The)
263	First Merit, N.A.	411	Hoblitzell National Bank
51	First National Bank & Trust Co. of Newtown (The)	176	Hollidaysburg Trust Company
416	First National Bank in Fleetwood (The)	68	Honesdale National Bank (The)
42	First National Bank of Berwick (The)	350	HSBC Bank of USA
216	First National Bank of Bradford County (The)	508	Huntingdon National Bank of PA
138	First National Bank of Canton	364	Huntingdon Valley Federal Savings & Loan Assoc.
246	First National Bank of Centre Hall (The)		
421	First National Bank of Fredericksburg		I.
275	First National Bank - Garrett		Indiana First Savings Bank
322	First National Bank of Greencastle	365	Iron and Glass Bank
165	First National Bank of Herminie (The)	200	Iron Workers Savings Bank
182	First National Bank of Leesport (The)	526	Irwin Bank & Trust Company
417	First National Bank of Lilly (The)	366	
418	First National Bank of Liverpool (The)		J.
43	First National Bank - Marysville		Jefferson Bank
44	First National Bank of McConnellsburg (The)		Jersey Shore State Bank
46	First National Bank of Mercersburg (The)	143	
419	First National Bank of Mifflintown (The)	70	

127	Jim Thorpe National Bank	489	OMEGA Federal Credit Union
488	Jonestown Bank and Trust Company	94	Orrstown Bank
72	Juniata Valley Bank (The)		
	K.		P.
403	Keystone Savings Bank	267	Parkvale Savings Bank
57	Keystone Financial Bank, N.A.	512	Patriot Bank
414	Kishacoquillas Valley National Bank (The)	96	Penn Central National Bank
		97	Penn Security Bank & Trust Company
		544	Pennsylvania Business Bank
	L.	320	Pennsylvania Capital Bank
404	LA Bank, National Association	441	Pennsylvania Savings Bank
74	Lafayette Ambassador Bank	445	Pennsylvania State Bank
75	Laurel Bank	442	Pennview Savings Bank
76	Laurel Savings Bank	99	PeoplesBank, A Codorus Valley Company
187	Lebanon Valley Farmers	446	Peoples Bank of Jennerstown
547	Legacy Bank	185	Peoples Bank of Oxford (The)
78	Luzerne National Bank	188	Peoples Bank of Western Pennsylvania
		154	Peoples Home Savings Bank
		482	Peoples National Bank of Rural Valley (The)
	M.	447	Peoples National Bank of Susquehanna County
269	Madison Bank	444	Peoples Savings Bank
398	Main Street Bank	491	Peoples State Bank (The)
386	Malvern Federal Savings Bank	443	Peoples Thrift Savings Bank
412	Manor National Bank	131	PFC Bank
361	Manufacturers and Traders Trust Company	448	Phoenixville Federal Savings
510	Marion Center National Bank	168	Pioneer American Bank, N.A.
387	Marquette Savings Bank	453	Pittsburgh Home Savings Bank
81	Mars National Bank (The)	79	PNC Bank, National Association
367	Mauch Chunk Trust Company	534	Pocono Community Bank
368	Mechanics Savings and Loan, FSA	528	Polonia Bank
5	Mellon Bank, N.A.	449	Port Richmond Savings
413	Merchants Bank of PA	454	Portage National Bank
192	Merchants National Bank of Bangor (The)	450	Premier Bank
478	Merchants National Bank of Kittanning	455	Prestige Bank, FSB
294	Mid Penn Bank	202	Progress Federal Savings Bank
511	Mifflin County Savings Bank	451	Progressive Home Federal
276	Mifflinburg Bank & Trust Company	456	Prudential Savings Bank
345	Minersville Safe Deposit Bank and Trust Company	530	PSB
346	Morton Savings and Loan Association		
484	Muncy Bank & Trust Company (The)	107	Quakertown National Bank (The)
	N.		Q.
440	National Bank of Commerce	109	Reeves Bank
433	National Bank of Malvern	487	Reliable Bank, PaSA
435	National Bank of North East	452	Reliance Savings Bank
337	National City Bank of Pennsylvania	463	Rittenhouse Trust Company (The)
88	National Penn Bank	496	Roxborough Manayunk Federal Savings Bank
157	Nazareth National Bank	208	Royal Bank of Pennsylvania
527	NBOC		
347	Neffs National Bank (The)		S.
372	Nesquehoning Savings Bank		S&T Bank
536	New Century Bank	153	Savings and Loan Association of Milton
434	New Tripoli National Bank (The)	457	Schuylkill Savings & Loan Association
90	NOR-CAR Federal Credit Union	514	Scottdale Bank & Trust Company (The)
492	North Penn Savings & Loan Association	464	Second Federal Savings & Loan Assoc. of Philadelphia
92	Northern Central Bank	460	Second National Bank of Masontown
543	Northern State Bank		Security National Bank
373	Northside Bank	335	Security Savings Association of Hazleton
439	Northumberland National Bank	147	Sentry Federal Credit Union
93	Northwest Savings Bank	461	Sharon Savings Bank
		516	Sky Bank
	O.	458	Slovenian Savings & Loan Assoc. of Franklin—Conemaugh
348	Old Forge Bank	12	
323	Omega Bank, NA	462	

459	Smithfield State Bank		V.
10	Snyder County Trust Co.		
486	Somerset Trust Company	136	Vartan National Bank
469	Spring Hill Savings Bank, FSB		
111	Southwest National Bank of PA		W.
316	Sovereign Bank, FSB		
465	St. Edmond's Savings and Loan Association	119	Washington Federal Savings Bank
518	Standard Savings Bank	121	Wayne Bank
529	Suburban Community Bank	122	West Milton State Bank
466	Suburban Federal Savings Bank	494	West View Savings Bank
485	Summit Bank	473	Westmoreland Federal Savings and Loan Assoc. of Latrobe
517	Sun Bank		
236	Swineford National Bank	476	William Penn Savings and Loan Association
		123	Williamsport National Bank
		474	Willow Grove Bank
		160	Wilmington Trust of PA
		272	Woodlands Bank
	T.		
26	Third Federal Savings Bank		
150	Three Rivers Bank & Trust Company		
467	Turbotville National Bank (The)		X.
313	Twin Rivers Community Bank		
	U.		
		537	York Federal Savings and Loan Association
113	Union Bank and Trust Company		
481	Union Building and Loan Savings Bank		Z.
232	Union National Bank & Trust Co.		
483	Union National Bank of Mount Carmel (The)		
133	Union National Bank of Mount Joy		
243	Unitas National Bank		
472	United Bank of Philadelphia		
475	United Savings Bank		
116	US Bank		

[Pa.B. Doc. No. 00-739. Filed for public inspection May 5, 2000, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 84c]

Valuation of Life Insurance Policies

The Insurance Department (Department) amends Chapter 84c (relating to valuation of life insurance policies), to read as set forth at 30 Pa.B. 23 (January 1, 2000). The Department is publishing the amendment of the regulation as a final-form rulemaking.

Statutory Authority

The final-form regulation is adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and section 301(c)(1) and (3) of The Insurance Department Act of 1921 (40 P. S. § 71(c)(1) and (2)) (act).

Comments and Response

A notice of proposed rulemaking was published at 30 Pa.B. 23 with a 30-day comment period ending January 31, 2000. During the 30-day comment period, comments were received from Insurance Federation of Pennsylvania, Inc. (IFP) in favor of the proposal and requesting a retroactive effective date of January 1, 2000.

In preparing the final-form rulemaking, the Department did not modify the effective date as suggested by the IFP, due to concerns about the constitutionality of retroactive application of the amendments. This rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department.

Affected Parties

The final-form rulemaking applies to all insurers and fraternal benefit societies marketing life insurance policies and who are licensed to do the business of life insurance in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the adoption of the rulemaking. The Department currently reviews valuation filings submitted by domestic life insurance companies and fraternal benefit societies for compliance with the minimum standards of valuation. The select mortality factors and the interpretation of the minimum reserve standard for plans with nonlevel premiums or benefits and for plans with secondary guarantees will not affect the time required to review a valuation filing.

General Public

Consumers will benefit from the advantages of purchasing life insurance from an insurance industry that is establishing sound and reasonable reserves to fulfill contractual obligations. Insurers may increase premium rates for policies sold after May 6, 2000, because of an increase in the required reserves.

Political Subdivisions

Adoption of the rulemaking will not impose additional costs on political subdivisions. Because this rulemaking promotes stability and sound reserves in the insurance industry, political subdivisions' tax revenues may benefit as a result of fewer insurance company insolvencies. Fewer insolvencies may also result in less unemployment.

Private Sector

The specific select factors and the rules for using the segmented reserve valuation method in the rulemaking do not apply to policies issued prior to May 6, 2000. An insurance company may need to increase reserves on policies issued on and after May 6, 2000. The rulemaking does permit an insurance company to recognize the company's specific mortality experience in calculating deficiency reserves. This should ensure that the reserves for a company are sound and reasonable.

Paperwork

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry. The select mortality factors and the interpretation of the minimum reserve standard affect an insurance company's reserve calculation but will not result in additional paperwork.

Effectiveness/Sunset Date

This rulemaking becomes effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact Person

Questions regarding these amendments should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions or comments may be E-mailed to psalvato@ins.state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 21, 1999, the Department submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 23 to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee for review and comment. In addition to the submitted proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final-form rulemaking, the Department considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was approved by the Senate and House Committees on April 4, 2000. In accordance with 5(g) of the Regulatory Review Act, IRRC met on April 13, 2000, and the final-form rulemaking was deemed approved.

Findings

The Department finds that:

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

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

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

Order

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

(1) The regulations of the Department, 31 Pa. Code, are amended by adding §§ 84c.1—84c.7 and Appendix A to read as set forth at 30 Pa.B. 23.

(2) The Commissioner shall submit this order and 30 Pa.B. 23 to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(3) The Commissioner shall certify this order and 30 Pa.B. 23 and deposit them with the Legislative Reference Bureau as required by law.

(4) The order shall take effect upon final publication in the *Pennsylvania Bulletin*.

(Editor's Note: A correction to the proposed rulemaking was published at 30 Pa.B. 312 (January 15, 2000) replacing § 84c.4(b)(1)(i) with corrected text.)

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 2176 (April 29, 2000).)

Fiscal Note: Fiscal Note 11-196 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 00-740. Filed for public inspection May 5, 2000, 9:00 a.m.]

INSURANCE DEPARTMENT
[31 PA. CODE CH. 89]

Medicare Supplement Insurance Minimum Standards

The Insurance Department (Department) amends § 89.790 and Appendix E and adopts § 89.777a, to read as set forth in Annex A. The Department adopts the amendments under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412).

Purpose

Chapter 89, Subchapter K (relating to Medicare Supplement Insurance minimum standards), was initially promulgated to establish certain minimum standards for Medicare Supplement Insurance. The Department has modified Subchapter K to allow for the sale of "Medicare Select" products (previously a Federal pilot program) which is intended to expand the health care choices of Medicare eligible insureds. Generally, Medicare Select will allow consumers to purchase Medicare Select products for lower premiums than standard Medicare supplement policies. The major difference between standard Medicare supplement policies and Medicare Select policies is that each Medicare Select issuer will have a network of specific hospitals, and possibly specific doctors,

that must be utilized to receive full benefits, except in the case of an emergency. It is similar in concept to preferred provider organizations (PPOs) for accident and health insurance. However, Medicare Select policies are not PPO policies and are not subject to section 630 of The Insurance Company Law of 1921 (40 P. S. § 764a). In addition, because Medicare Select policies do not meet the definition of "managed care plans" in Act 68 of 1998 (40 P. S. §§ 991.2101—991.2193), the provisions of that act, including those relating to complaints and grievances, do not apply to Medicare Select policies. This Commonwealth is one of the few remaining states that has not authorized the sale of the Medicare Select products. The Department believes this puts consumers and issuers at a competitive disadvantage in comparison with neighboring states. The Department has received numerous inquiries and letters of support for Medicare Select from consumers, the insurance industry and providers alike. The Department has also clarified and revised language to improve the readability and understandability of the regulations.

Comments and Response

Notice of proposed rulemaking was published at 29 Pa.B. 650 (February 6, 1999) as a proposed rulemaking with a 30-day public comment period. No comments were received from the public or the insurance industry.

On April 8, 1999, the Independent Regulatory Review Commission (IRRC) responded with comments.

IRRC noted that the amendments were not clear regarding what constitutes a complaint, how complaints are to be distinguished from grievances, and the procedures an insurer must follow when a complaint is received. IRRC also commented that the definition of "complaint" in § 89.777a(c)(1) does not provide a clear distinction between a complaint and a grievance.

Complaints are more general and less formal than grievances. Grievances are more formal and focused on the administration, claims practices or provision of services of a Medicare Select issuer or its network providers. The Department believes that both complaints and grievances need to be included in the amendments. Based on its review of this comment, the Department revised the definition to clarify that a complaint can be expressed "orally or in writing" and can be filed by an individual "insured under a Medicare Select policy or certificate."

IRRC commented that subsection (f)(3) requires a Medicare Select issuer to provide a description of the grievance procedure. It questioned why there was not a similar requirement for complaints.

The Department agrees and a new subsection (f)(4) has been added requiring that Medicare Select issuers provide a description of the complaint procedure to be utilized.

IRRC further commented that the scope of subsection (f)(7), which required a proposed plan to contain "other information requested by the Commissioner," was too broad and should be narrowed to information pertinent to the plan of operation.

The Department agrees and subsection (f)(7) has been renumbered as subsection (f)(8) and revised to include that the other information requested by the Commissioner shall be "pertinent to the plan of operation."

IRRC commented that the requirements for hearing complaints and resolving written grievances in subsection (l)(1)—(6) should apply to both complaints and grievances.

The Department agrees and subsection (l)(1)—(5) have been revised to include these requirements for both complaints and grievances. Subsection (l)(6) has not been revised to include complaints. Because complaints are a less formal process than grievances and can be expressed orally, the Department believes it would be an unnecessary regulatory burden to require issuers to track and formally report on complaints to the Department. The Department has the authority under the examination law to review insurers' files. Examinations can be performed at any time to determine if an insurer is properly classifying complaints and grievances if the Department determines that an examination is necessary.

IRRC further commented regarding subsection (l) that the Department should require issuers to explain how an individual may initiate a complaint or grievance.

The Department believes that this issue is addressed by the proposed language in subsection (l)(2).

IRRC further commented on the timeframes for consideration of and notification to concerned parties in subsection (l)(3)—(5). IRRC was concerned that this subsection does not provide clear guidance for when the actions are expected to occur.

Medicare Select is a Medicare supplement product that pays after Medicare pays based on Medicare's benefit determination and the use of participating Medicare Select providers. Time frames for the consideration of complaints and grievances have been added. The time frames for action by the issuer do not start until after a benefit determination has been made by Medicare. The Department has clarified this in subsection (l)(3)—(5).

Persons Regulated

These amendments apply to all insurance companies that issue Medicare Supplement products in this Commonwealth and that choose to offer Medicare Select policies.

Fiscal Impact

The Department currently has the capacity to review the new Medicare Select filings in the course of normal business and should experience minimal or no cost increases in reviewing these new products.

The insurance industry will incur minimal additional costs in filing for the approval of the new forms, if they choose to offer Medicare Select products. Most issuers should be able to submit forms either identical, or very similar to, variations approved in other states because these amendments are adopting the NAIC model language.

Consumers could experience additional savings based on greater product availability.

Paperwork

Adoption of these amendments will require additional paperwork in the product development area only if issuers choose to market Medicare Select products. Paperwork requirements should not be burdensome for the Department because the new Medicare Select products can be reviewed during the normal course of business.

Effectiveness/Sunshine Date

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

Contact Person

Questions or comments regarding this final-form rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions and comments may also be E-mailed to psalvato@ins.state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 1999, the Department submitted a copy of the proposed rulemaking, published at 29 Pa.B. 650, to IRRC and to the Chairpersons of the Senate Committee on Banking and the Insurance and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Under section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received. In preparing these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public. A copy of that material is available to the public upon request.

These final-form regulations were deemed approved by the Senate Committee on Banking and Insurance and the House Insurance Committee on March 28, 2000, in accordance with section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)). IRRC met on April 13, 2000, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

The Department finds that:

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

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

Order

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

(a) The regulations of the Department, 31 Pa. Code Chapter 89, are amended by amending § 89.790 and Appendix E; and adding § 89.777a to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2176 (April 29, 2000).

Fiscal Note: Fiscal Note 11-193 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART IV. LIFE INSURANCE

CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

Subchapter K. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

§ 89.777a. Medicare Select policies and certificates.

(a) This section applies to Medicare Select policies and certificates, as defined in this section.

(b) A policy or certificate may not be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.

(c) For the purposes of this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Complaint—Dissatisfaction expressed orally or in writing by an individual insured under a Medicare Select policy or certificate concerning a Medicare Select issuer or its network providers.

Grievance—Dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate concerning the administration, claims practices or provision of services with a Medicare Select issuer or its network providers.

Medicare Select issuer—An issuer offering, or seeking to offer, a Medicare Select policy or certificate.

Medicare Select policy or *Medicare Select certificate*—A Medicare supplement policy or certificate, respectively, that contains restricted network provisions.

Network provider—A provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

Restricted network provision—A provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

Service area—The geographic area approved by the Commissioner within which an issuer is authorized to offer a Medicare Select policy.

(d) The Commissioner may authorize an issuer to offer a Medicare Select policy or certificate, under this section, and section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (42 U.S.C.A. § 1395b-2) if the Commissioner finds that the issuer has satisfied the requirements of this section.

(e) A Medicare Select issuer may not issue a Medicare Select policy or certificate in this State until its plan of operation has been approved by the Commissioner.

(f) A Medicare Select issuer shall file a proposed plan of operation with the Commissioner in a format prescribed by the Commissioner. The plan of operation shall contain at least the following information:

(1) Evidence that all covered services that are subject to restricted network provisions are available and acces-

sible through network providers, including a demonstration that:

(i) Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect the usual practice in the local area. Geographic availability shall reflect the usual travel times within the community.

(ii) The number of network providers in the service area is sufficient, with respect to current and expected policyholders, to either:

(A) Deliver adequately all services that are subject to a restricted network provision.

(B) Make appropriate referrals.

(iii) There are written agreements with network providers describing both parties' specific responsibilities.

(iv) Emergency care is available 24 hours per day and 7 days per week.

(v) In the case of covered services that are subject to a restricted network provision and are provided on a pre-paid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This subparagraph does not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(2) A statement or map providing a clear description of the service area.

(3) A description of the grievance procedure to be utilized.

(4) A description of the complaint procedure to be utilized.

(5) A description of the quality assurance program, including the following:

(i) The formal organizational structure.

(ii) The written criteria for selection, retention and removal of network providers.

(iii) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(6) A list and description, by specialty, of the network providers.

(7) Copies of the written information proposed to be used by the issuer to comply with subsection (j).

(8) Other information pertinent to the plan of operation requested by the Commissioner.

(g) A Medicare Select issuer shall file:

(1) Proposed changes to the plan of operation, except for changes to the list of network providers, with the Commissioner prior to implementing the changes. Changes shall be considered approved by the Commissioner after 30 days unless specifically disapproved.

(2) An updated list of network providers with the Commissioner at least quarterly, if changes occur.

(h) A Medicare Select policy or certificate may not restrict payment for covered services provided by non-network providers if the following apply:

(1) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition.

(2) It is not reasonable to obtain services through a network provider.

(i) A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(j) A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

(i) Medicare supplement policies or certificates offered by the issuer.

(ii) Other Medicare Select policies or certificates.

(2) A description, including the address, phone number and hours of operation, of the network providers, including primary care physicians, specialty physicians, hospitals and other providers.

(3) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(4) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(5) A description of limitations on referrals to restricted network providers and to other providers.

(6) A description of the policyholder's rights to purchase another Medicare supplement policy or certificate otherwise offered by the issuer.

(7) A description of the Medicare Select issuer's quality assurance program and grievance procedure.

(k) Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided under subsection (j) and that the applicant understands the restrictions of the Medicare Select policy or certificate.

(l) A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(1) The complaint and grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a complaint or grievance may be registered with the issuer.

(3) Complaints and grievances shall be considered within 45 days. If a benefit determination by Medicare is necessary, the 45-day review period may not begin until after the Medicare determination has been made. The complaint or grievance shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(4) If a complaint or grievance is found to be valid, corrective action shall be taken within 45 days.

(5) The concerned parties shall be notified about the results of a complaint or grievance within 45 days of the decision.

(6) The issuer shall report by March 31 to the Commissioner regarding its grievance procedure. The report shall be in a format prescribed by the Commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature and resolution of the grievances.

(m) At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(n) For purposes of this section the following apply:

(1) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for 6 months.

(2) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a "significant benefit" means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(o) Medicare Select policies and certificates shall provide for continuation of coverage in the event the United States Department of Health and Human Services Secretary determines that Medicare Select policies and certificates issued under this section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a "significant benefit" means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(p) A Medicare Select issuer shall comply with reasonable requests for data made by State or Federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

§ 89.790. Guaranteed issue for eligible persons.

* * * * *

(b) *Eligible persons.* An eligible person is an individual described in paragraphs (1)—(6):

* * * * *

(6) The individual, upon first becoming eligible for benefits under Part A and enrolled in Part B, if eligible, of Medicare, enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan within 12 months after the effective date of enrollment.

* * * * *

APPENDIX E

MEDICARE SUPPLEMENT REFUND CALCULATION FORM FOR CALENDAR YEAR _____

TYPE ¹ _____ SMSBP ² _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Person Completing This Exhibit _____

Title _____ Telephone Number _____

	<i>(a) Earned Premium³</i>	<i>(b) Incurred Claims⁴</i>
1 Current Year's Experience		
a. Total (all policy years)	_____	_____
b. Current year's issues ⁵	_____	_____
c. Net (for reporting purposes = 1a - 1b)	_____	_____
2 Past Years' Experience (All Policy Years)	_____	_____
3 Total Experience (Net Current Year + Past Years' Experience)	_____	_____
4 Refunds Last Year (Excluding Interest)	_____	_____
5 Previous Since Inception (Excluding Interest)	_____	_____
6 Refunds Since Inception (Excluding Interest)	_____	_____
7 Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1)	_____	_____
8 Experienced Ratio Since Inception (Ratio 2)	_____	_____
Ratio 2 = $\frac{\text{Total Actual Incurred Claims (line 3, col b)}}{\text{Total Earned Premium (line 3, col a) - Refunds Since Inception (line 6)}}$		
9 Life Years Exposed Since Inception	_____	_____
If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.		
10 Tolerance Permitted (obtained from credibility table)	_____	_____
11 Adjustment to Incurred Claims for Credibility (Ratio 3)	_____	_____
Ratio 3 = Ratio 2 + Tolerance		
If Ratio 3 is more than benchmark ratio (Ratio 1), a refund or credit to premium is not required. If Ratio 3 is less than the benchmark ratio, then proceed.		
12 Adjusted Incurred Claims =		
(Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6)) x Ratio 3 (line 11)		
13 Refund = Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6) -		
{Adjusted Incurred Claims (line 12)/Benchmark Ratio (Ratio 1) (line 7)}		
If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premium to be used must be attached to this form.		

RULES AND REGULATIONS

MEDICARE SUPPLEMENT CREDIBILITY TABLE

<i>Life Years Exposed Since Inception</i>	<i>Tolerance</i>
10,000 +	0.0%
5,000—9,999	5.0%
2,500—4,999	7.5%
1,000—2,499	10.0%
500—999	15.0%
If less than 500, no credibility.	

- ¹ Individual Group, Individual Medicare Select, and Group Medicare Select only.
- ² "SMSBP" = Standardized Medicare Supplement Benefit Plan—Use "P" for prestandardized plans.
- ³ Includes modal loadings and fees charged.
- ⁴ Excludes Active Life Reserves.
- ⁵ This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios."

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature

Name—Please Type

Title

Date

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION
FOR INDIVIDUAL POLICIES FOR CALENDAR YEAR _____

TYPE ¹ _____ SMSBP ² _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Person Completing This Exhibit

Title _____ Telephone Number _____

(a) ³	(b) ⁴ Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(o) ⁵ Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.40
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77

Total: (k): _____ (l): _____ (m): _____ (n): _____

Benchmark ratio since inception (Ratio 1): $(l + n)/(k + m)$:

- ¹ Individual Group, Individual Medicare Select, and Group Medicare Select only.
- ² "SMSBP" = Standardized Medicare Supplement Benefit Plan—Use "P" for prestandardized plans.

- ³ Year 1 is the current calendar year—1
Year 2 is the current calendar year—2 (etc.)
(Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)
- ⁴ For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- ⁵ These loss ratios are not explicitly used in computing the benchmark loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown for informational purposes only.

REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES FOR CALENDAR YEAR _____

TYPE ¹ _____ SMSBP ² _____

For the State of _____

Company Name _____

NAIC Group Code _____ NAIC Company Code _____

Person Completing This Exhibit _____

Title _____ Telephone Number _____

(a) ³	(b) ⁴ Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(o) ⁵ Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.80
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89

Total: (k): _____ (l): _____ (m): _____ (n): _____

Benchmark ratio since inception (Ratio 1): $(l + n)/(k + m)$:

- ¹ Individual, Group, Individual Medicare Select, and Group Medicare Select only.
- ² "SMSBP" = Standardized Medicare Supplement Benefit Plan—Use "P" for prestandardized plans.
- ³ Year 1 is the current calendar year—1
Year 2 is the current calendar year—2 (etc.)
(Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989, etc.)
- ⁴ For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.
- ⁵ These loss ratios are not explicitly used in computing the benchmark loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown for informational purposes only.

[Pa.B. Doc. No. 00-741. Filed for public inspection May 5, 2000, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 101]

Personal Income Tax

The Department of Revenue (Department), under authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354), proposes to amend §§ 101.1 and 101.6 (relating to definitions; and compensation) to read as set forth in Annex A.

Purpose of Regulation

This regulatory amendment will provide an explanation of the meaning and scope of the exclusion from compensation in section 301(d)(vi) of the TRC, Personal Income Tax (72 P.S. § 7301(d)(vi)) for employer or labor union payments for supplemental unemployment programs. The proposed changes will address the tax treatment of programs offered to provide supplemental benefits to employees terminated from service as a result of layoff, workforce reduction, plant closings or other involuntary terminations.

Explanation of Regulatory Requirements

Section 101.1 is amended by adding the definition of "supplemental unemployment benefit plan." Section 101.6 is amended by adding a new paragraph (9) relating to benefits payable under a supplemental unemployment benefit plan, under subsection (c) which enumerates what compensation does not mean or include. The numbering of this new paragraph will change upon the Department's adoption of Regulation 15-402 (see 28 Pa.B. 1946 (April 25, 1998)), relating to payments for employee welfare benefit plans and cafeteria plans.

Affected Parties

Persons receiving employer or labor union payments for supplemental unemployment programs may be affected by this proposed rulemaking.

Fiscal Impact

The Department has determined that the proposed rulemaking will have no fiscal impact on this Commonwealth.

Paperwork

The proposed rulemaking will not require additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

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

Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed rulemaking to Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061, within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 26, 2000, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Finance. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

ROBERT A. JUDGE, Sr.,
Secretary

Fiscal Note: 15-414. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

Chapter 101. GENERAL PROVISIONS

§ 101.1. Definitions.

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

* * * * *

Supplemental unemployment benefit plan—A plan established or maintained by an employer or by an employe organization, or by both, that has both of the following attributes:

(i) Under the plan, no benefit is payable to, or subject in any manner to anticipation, assignment or pledge by, any plan participant except upon lay-off or involuntary separation from the employment of the employer (whether or not the separation is temporary) resulting directly from:

- (A) A permanent reduction in force.
- (B) Plant closing.
- (C) Change in organizational structure.
- (D) Discontinuance of an operation.

(E) The participant's failure to meet or maintain standards of performance for the position due to inability to carry out the responsibilities of the position, health, obsolescence, failure to meet the changed responsibilities of the position or similar circumstance beyond the control of the participant.

(ii) Under the plan, no benefit is payable to, or subject in any manner to anticipation, assignment or pledge by, any plan participant who either:

- (A) Voluntarily separates from service.
- (B) Is separated or discharged from service for any of the following reasons:
 - (I) Refusal to accept another position with reasonably comparable compensation.
 - (II) The commission of illegal acts.
 - (III) Insubordination, failure or refusal to comply with rules or regulations or similar acts within the control of the participant.

* * * * *

§ 101.6. Compensation.

* * * * *

(c) Compensation does not mean or include any of the following:

* * * * *

(9) Benefits payable under a supplemental unemployment benefit plan, whether payable on a periodic basis or in the form of cash, services or property.

* * * * *

[Pa.B. Doc. No. 00-742. Filed for public inspection May 5, 2000, 9:00 a.m.]

SECURITIES COMMISSION

[64 PA. CODE CHS. 202, 203, 205, 206, 301—305, 404, 602 AND 603]

Registration of Securities; Investment Adviser Representatives; and Administration

Statutory Authority

The Securities Commission (Commission), under the authority contained in sections 202(g), 203(j), (q) and (r), 205(b), 206(b), 301(b), 302(f), 303(a)—(e), 304(a), (b) and (e), 305(a) and (f), 404(a), 602(f), 603(c) and 609(a) of the Pennsylvania Securities Act of 1972 (70 P. S. §§ 1-202(g), 1-203(j), (q) and (r), 1-205(b), 1-206(b), 1-301(b), 1-302(f), 1-303(a)—(e), 1-304(a), (b) and (e), 1-305(a) and (f), 1-404(a), 1-602(f), 1-603(c) and 1-609(a)) (act) proposes to amend and adopt regulations concerning the subject matter of the act to read as set forth in Annex A and further described under the Summary and Purposes of Proposed Amendments.

Summary and Purpose of Proposed Amendments

§ 202.070. Proposed changes would clarify when the exemption would be available to certain nonemployees included in compensatory plans or compensatory contracts.

§ 203.101. Proposed changes would allow attorneys to give a clear legal opinion on the availability of the exemption.

§ 203.171. Proposed changes would allow attorneys to give a clear legal opinion on the availability of the exemption.

§ 203.185. Proposed changes would allow attorneys to give a clear legal opinion on the availability of the exemption.

§ 203.186. Proposed changes would allow attorneys to give a clear legal opinion on the availability of the exemption.

§ 203.192. Proposed new regulation would create a registration exemption for certain rights offerings and exchange offers made by foreign private companies to Commonwealth residents that are exempt from registration with the United States Securities and Exchange Commission (SEC).

§ 205.021. Proposed changes would replace Form 205 with Form R and eliminate the requirement to file Form R for all issuers applying for registration under section 205 except those relying on SEC Regulation A.

§ 206.010. Proposed changes would replace Form 206 with Form R and restrict the requirement to file Form R to issuers making an offering under sections 3(a)(4) or (11) of the Securities Act of 1933 or Rule 504 of SEC Regulation D or SEC Regulation A.

§ 301.021. This regulation would be deleted as its provisions have been superseded by a new Web-based electronic transfer program.

§ 302.063. Proposed changes would codify a No Action Letter issued by the Commission in 1999 concerning third party brokerage activities occurring in a limited purpose bank branch office.

§ 303.012. Proposed changes anticipate electronic filing through a centralized depository system and eliminate the requirement for investment adviser applicants that do not have custody, possession or discretion over clients' funds or securities to file a statement of financial condition.

§ 303.014. Proposed changes utilize the new terminology of "investment adviser representative" and anticipate electronic filing through a centralized depository system.

§ 303.015. This new regulation is proposed to implement the notice filing requirement imposed on Federally covered advisers by Act 109 of 1998.

§ 303.021. Proposed changes would accord the same treatment to notice filings by Federally covered advisers for successor firms as is accorded to registered investment advisers.

§ 303.032. Proposed changes delete the experience requirement for agents and investment adviser representatives, adopt new uniform examinations for investment advisers and investment adviser representatives, uniform grandfathering provisions and uniform waivers of the examination. These are based on a uniform model adopted by the North American Securities Administrators Association (NASAA).

§ 303.042. Proposed changes reduce net worth requirements for investment advisers and eliminates the current net worth requirement for investment advisers that do not have custody, possession or discretion over clients' funds or securities. These changes are based on a NASAA model rule and conform to Federal law as provided by the Investment Advisers Supervision Coordination Act of 1996 (Federal Act).

§ 303.051. Proposed changes revise the surety bond requirements to conform to a NASAA model rule and the requirements of the Federal Act.

§ 304.012. Proposed changes establish in State regulation recordkeeping requirements for investment advisers. Under the Federal Act, the SEC has exclusive jurisdiction over investment advisers with \$25 million or more of assets under management or advise investment companies and states have exclusive jurisdiction over the remaining investment advisers. These changes conform to a NASAA model rule and the Federal Act.

§ 304.022. Proposed changes revise the required financial reports to be filed by investment advisers which conform to a NASAA model rule, the Federal Act and a proposed amendment to the Federal Act.

§ 304.052. Proposed changes recognize that standardized commission rates charged by National securities exchanges have been eliminated.

§ 305.011. Proposed changes expand coverage of this regulation to investment adviser representatives and incorporate requirements found in the Code of Conduct of the National Association of Securities Dealers.

§ 305.019. Proposed changes expand coverage of this regulation to investment adviser representatives and include failure to comply with investor suitability requirements as a basis for taking action against a person's license.

§ 305.061. Proposed changes anticipate electronic filing through a centralized depository system and extend the regulation to withdrawal of notice filings by Federally covered advisers.

§ 404.010. Proposed changes extend this regulation to investment adviser representatives.

§ 404.011. This new regulation makes it a fraudulent, deceptive or manipulative act or practice within the meaning of section 404 of the act for an investment adviser to fail to furnish a disclosure statement to prospective clients. A similar provision already applies to Federally covered advisers.

§ 404.012. This new regulation makes it a fraudulent, deceptive or manipulative act or practice within the meaning of section 404 of the act for an investment adviser who sponsors a wrap fee program to fail to furnish a wrap fee disclosure statement to prospective clients. Similar rules currently apply to Federally covered advisers.

§ 404.013. This new regulation makes it a fraudulent, deceptive or manipulative act or practice within the meaning of section 404 of the act for an investment adviser to make cash payments to persons who solicit business for the investment adviser unless certain requirements are met. A similar provision already applies to Federally covered advisers.

§ 404.014. This new regulation makes it a fraudulent, deceptive or manipulative act or practice within the meaning of section 404 of the act for an investment adviser to have custody or possession of clients' funds or securities unless certain requirements are met. This regulation is similar in scope to § 404.020 which is being deleted. A similar provision already applies to Federally covered advisers.

§ 404.020. This regulation is being deleted in favor of § 404.014 which codifies the current requirements.

§ 602.060. Proposed changes would delete the subscription fee for the Commission's *Bulletin and Annual Report*. The publications are currently available to the public free of charge.

§ 603.031. Proposed changes would clarify that any record which the Commission deems is excluded from the definition of a public record in 65 P. S. § 66.1(2) may be withheld from the public and that the Social Security numbers, home addresses and dates of birth appearing on Form U-4 filed by all agent and investment adviser representative applicants and registrants would be treated as confidential.

Persons Affected by these Amendments

The first eight proposed regulatory actions will affect issuers relying on certain exemptions from registration to issue securities and issuers of securities in registered offerings. The bulk of the remaining proposed regulatory actions will affect, to varying degrees, broker-dealers, agents, investment advisers and investment adviser representatives. These actions are required to implement Act 109 of 1998 and the Federal Act.

Fiscal Impact

The proposed regulatory actions substantially will reduce costs to the investment advisory community by reducing or eliminating net worth requirements, reducing or eliminating required financial reports, waiving examination requirements for certain classes of applicants and conforming Commission rules to uniform NASAA model rules and provisions of the Federal Act.

The proposed recordkeeping provisions, supervisory requirements and disclosure delivery requirements are similar to what currently is required by the NASD Code of Conduct, by existing Commission regulations or by Federal law with respect to Federally covered advisers. Therefore, the Commission does not anticipate that the proposed regulatory actions will impose additional financial burdens on applicants or registrants.

Also, most companies making a registered public offering of securities no longer will have to expend the time and money to file an additional state-specific form with the Commission.

Paperwork

The Commission proposes to eliminate current Forms 205 and 206 in favor of one new form designated as Commission Form R which will be used by certain issuers making application with the Commission to make a public offering of securities in this Commonwealth. The Commission further proposes to reduce substantially the categories of issuers that would be required to file new Form R.

With respect to investment advisers, the Commission proposes to eliminate or reduce the required financial reports and statements of financial condition that must be filed by applicants or registrants.

Effective Date

The proposed amendments and regulations will become effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 11, 2000, the Commission submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance for comment and review. In addition to submitting the proposed amendments, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis

Form prepared by the Commission in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Commission within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Commission, the General Assembly and the Governor of objections raised.

Availability in Alternative Formats

This proposed rulemaking may be made available in alternative formats upon request. The Commission also will receive comments on this proposed rulemaking in alternative formats. TDD users should use the AT&T Relay Center (800) 854-5984. To make arrangements for alternative formats, contact Joseph Shepherd, ADA Coordinator, at (717) 787-6828.

Contact Person

Interested persons are invited to send comments concerning the proposed amendments within 30 days of publication of this notice to G. Philip Rutledge, Deputy Chief Counsel, Securities Commission, Eastgate Building, 1010 N. Seventh Street, 2nd Floor, Harrisburg, PA 17102-1410, (717) 783-5130. G. Philip Rutledge also is the contact person for an explanation of the proposed amendments.

M. JOANNA CUMMINGS,
Secretary

Fiscal Note: 50-114. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 64. SECURITIES

PART I. SECURITIES COMMISSION

Subpart B. REGISTRATION OF SECURITIES

CHAPTER 202. EXEMPT SECURITIES

§ 202.070. Securities issued in connection with employe benefit plans.

(a) An issuer may rely on the exemption in section 202(g) of the act (70 P.S. § 1-202(g)) if [one] any of the following [applies] apply:

(1) **The securities are being issued in connection with a stock option, purchase, savings, pension, profit-sharing or similar compensatory benefit plan or compensatory contract for employes.**

(2) **The securities are being issued in good faith reliance that the transaction [would qualify] qualifies for an exemption under Securities and Exchange Commission Rule 701 (17 CFR 230.701) (relating to exemption for offers and sales of securities pursuant to certain compensatory benefit plans and contracts relating to compensation) as made effective April 7, 1999, in SEC Release 33-7645.**

[(2)] (3) **The securities [have] being issued meet the following conditions:**

(i) **Have** been registered under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

(ii) **Are issued in a transaction that meets the requirements of subsections (c) and (e) of Securities and Exchange Commission Rule 701 (17 CFR 230.701(c) and (e)).**

(b) The exemption contained in section 202(g) of the act [(70 P.S. § 1-202(g))] may not be available for a transaction whose primary purpose is avoidance of the provisions of section 201 of the act (70 P.S. § 1-201) [or a transaction made in violation of the antifraud provision of Part IV of the act (70 P.S. §§ 1-401—1-409) and Subpart D (relating to fraudulent and prohibited conduct).]

(c) **A nonmaterial amendment to an employe benefit plan does not affect the applicability of section 202(g) of the act (70 P.S. § 1-202(g)) and this section to the plan. For purposes of this subsection, by way of illustration and not of limitation, an amendment which merely extends the term of an employe benefit plan shall be deemed a nonmaterial amendment]**.

CHAPTER 203. EXEMPT TRANSACTIONS

§ 203.101. Mortgages.

* * * * *

(b) The exemption **contained** in section 203(j) may not be available for a transaction whose primary purpose is avoidance of the provisions of section 201 of the act [(70 P.S. § 1-201) or a transaction made in violation of the antifraud provisions of Part IV of the act (70 P.S. §§ 1-401—1-409) and Subpart D (relating to fraudulent and prohibited practices)].

§ 203.171. Liquidations, dividends and distributions.

The phrase "bona fide distribution" as used in section 203(q) of the act (70 P.S. § 1-203(q)) does not include a dividend or other distribution made for the purpose of avoiding the registration provisions of section 201 of the act (70 P.S. § 1-201) [or made in violation of the antifraud provisions of the act (70 P.S. §§ 1-401—1-409) or Subpart D (relating to fraudulent and prohibited practices)].

§ 203.185. Offers prior to effectiveness of registration by qualification exempt.

* * * * *

(b) The exemption contained in this section may not be available for a transaction whose primary purpose is avoidance of the provisions of section 201 of the act (70 P.S. § 1-201) [or a transaction made in violation of the antifraud provisions of the act (70 P.S. §§ 1-401—1-409) or Subpart D (relating to fraudulent and prohibited practices)].

§ 203.186. Employe takeovers.

* * * * *

(b) The exemption contained in this section may not be available for a transaction whose primary purpose is avoidance of the provisions of section 201 of the act [(70 P.S. § 1-201) or a transaction made in violation of the antifraud provisions of Part IV the act (70 P.S. §§ 1-401—1-409) and Subpart D (relating to fraudulent and prohibited practices)].

§ 203.192. SEC Rule 801 and 802 offerings exempt.

Under section 203(r) of the act (70 P.S. § 1-203(r)), the Commission finds it neither necessary nor ap-

propriate for the protection of investors to require registration under section 201 of the act (70 P. S. § 1-201) for the offer and sale of securities by an issuer which are exempt from registration under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa) pursuant to Rule 801 or 802 promulgated by the United States Securities and Exchange Commission (17 CFR 230.801 or 230.802) (relating to exemption in connection with a rights offering; and exemption for offerings in connection with an exchange offer or business combination for the securities of foreign private issuers).

CHAPTER 205. REGISTRATION BY COORDINATION

§ 205.021. Registration by coordination.

(a) Except as specified in [this section] subsection (b), registration by coordination may be initiated by filing with the Commission within the specified time period:

* * * * *

(2) A properly executed Uniform Application to Register Securities (Form U-1) [prepared by the Committee on State Regulation of Securities of the Section on Corporation, Banking and Business Law of the American Bar Association] and relevant exhibits thereto.

* * * * *

(b) In [order to effect the purposes of the act, the Commission requires, as a condition of registration, that for classes of] addition to filing the information and form required in subsection (a), issuers in offerings [specified in subsection (c), issuers] being made in reliance on SEC Regulation A promulgated under section 3(b) of the Securities Act of 1933 (15 U.S.C.A. § 77c(b)) shall execute and file with the Commission within the specified time period the form, designated by the Commission as Form [205] R, which follows [this section] subsection (d).

(c) [Except as to classes of offerings set forth in subsection (d), the filing of Form 205 is required for the following classes of offerings:

(1) Offerings which do not involve a firm underwriting commitment by a broker-dealer for the aggregate amount of securities to be offered to the public.

(2) Offerings made under Regulation A promulgated under section 3(b) of the Securities Act of 1933 (15 U.S.C.A. § 77c(b) (1980)).

(3) Offerings made by or on behalf of issuers which have not been in existence for the 3-year period preceding the date of filing of the registration statement or offering circular.

(d) Filing of Form 205 is not required for classes of offerings in which the issuer:

(1) Has filed a registration statement with the Commission designated as Form S-2 or S-3 by the SEC.

(2) Is a wholly-owned subsidiary of an entity whose securities are exempt from registration under section 202(f) of the act (70 P. S. § 1-202(f)).

(3) Is a wholly-owned subsidiary of a reporting company, as that term is defined in section 102(q) of the act (70 P. S. § 1-102(q)).

(4) Has filed a registration statement with the Commission designated as Form F-7, F-8, F-9 or F-10 by the Securities and Exchange Commission (SEC).

(5) Has filed a registration statement with the Commission for pass-through certificates evidencing undivided interests in trusts consisting of, or debt securities secured by, specific categories of receivables which securities, as a condition of issuance, are to be rated in one of the three highest rating categories by one or more nationally recognized statistical rating organizations.

(6) Is an open-end or closed-end investment company, face amount certificate company or unit investment trust, as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80b-21).

(e)] The 10-day registration statement filing requirement in section 205(c)(2)(ii) of the act (70 P. S. § 1-205(c)(2)(ii)) shall be reduced to 5 days for the following offerings:

(1) [Five days for a class of] An offering for which a registration statement has been filed with the Commission designated as Form S-2 or S-3 by the SEC.

(2) [Five days for a class of] An offering for which a registration statement has been filed with the Commission designated as Form F-7, F-8, F-9 or F-10 by the SEC.

(3) [Five days for a registration statement filed] An offering for pass-through certificates evidencing undivided interests in trusts consisting of, or debt securities secured by, specific categories of receivables which securities, as a condition of issuance, are to be rated in one of the top three rating categories by one or more Nationally recognized statistical rating organizations.

[(f) Pricing information shall be deemed to have been filed with the Commission and the requirement of section 205(c)(2)(iii) of the act met if the Commission is notified of the maximum offering price at which the securities may be sold and the maximum proposed underwriting discounts and commissions. The maximum proposed offering price shall be the price used to determine the maximum filing fee to be paid under section 602 of the act (70 P. S. § 1-602).

(g) An applicant required to file Form 205 [(d) During the period of the offering, the issuer shall take steps necessary to ensure that all material information contained in its Form [205] R remains current and accurate in all material respects. [In the event that] If a material statement made in the form, or [in attachments] any attachment thereto, becomes materially incorrect or inaccurate, the [applicant] issuer shall file an amendment [on Form AM] with the Commission in accordance with § 609.011 (relating to amendments filed with the Commission) within [10] 5 business days of the occurrence of the event which required the filing of the amendment.

[(h) For the purpose of subsection (c)(3), an issuer shall be deemed to have been in existence for less than 3 years if the issuer was organized within 3 years prior to the date of filing Form 205 with the Commission. A corporation shall be deemed to have

been in existence for less than 3 years if the issuer was incorporated or reincorporated within 3 years prior to the date of filing with the Commission, unless the reincorporation was effected solely for the purpose of change of corporate name or state of incorporation.]

(Editor's Note: As part of the proposed rulemaking, the Commission proposes to delete the text of Form 205, which appears at 64 Pa. Code pages 205-3—205-7, serial pages (262433)—(262437). The following Form R is new. It has been printed in regular type to enhance readability.)

PSC FORM R TDD/AT&T Relay Center 1-800-654-5894
 EFF: _____

SUPPLEMENT TO FORM U-1

PENNSYLVANIA SECURITIES COMMISSION
 EASTGATE OFFICE BUILDING, 2ND FLOOR, 1010 N. 7TH Street
 HARRISBURG, PA 17102-1410
 (717) 787-5401 OR (1-800-600-0007 in PA)

APPLICATION UNDER THE
 THE PENNSYLVANIA SECURITIES ACT OF 1972
 TO REGISTER SECURITIES UNDER:
 SECTION 205 - REGISTRATION BY COORDINATION OR
 SECTION 206 - REGISTRATION BY QUALIFICATION

Under Regulation 603.011, a document is not deemed filed with the Pennsylvania Securities Commission ("Commission ") unless complete and properly executed in all material respects.

WHO MUST FILE: Issuers making application to register securities in Pennsylvania under Section 205 or Section 206 of the Pennsylvania Securities Act of 1972 ("Act").

WHEN AND WHERE TO FILE: Form R must be filed at the Commission's Harrisburg Office at the above address. For Registration by Coordination, the Form should be filed with the Commission at the same time the Issuer makes a filing with the Securities and Exchange Commission ("SEC"). For Registration by Qualification, no offers or sales of securities may be made in Pennsylvania until the registration statement is declared effective by the Commission.

NOTE: Under 64 Pa. Code § 604.011, a facsimile transmission of any materials to the Commission does not constitute a filing with the Commission.

GENERAL INSTRUCTIONS

1. One manually signed copy, and one photocopy of this Form, each with all attachments, shall be filed with the Commission. If mailed, it is advisable to send it by registered or certified mail, postage prepaid, return receipt requested.
2. Typewrite or print all answers in the space provided. Answer each item completely. An answer of "not applicable" is inappropriate. If the space is insufficient, attach a schedule to the Form and make reference to each item included in the schedule.
3. This Form must be manually signed by the issuer. If the issuer is a corporation, it should be signed in the name of the corporation by an executive officer duly authorized; if a partnership, it should be signed in the name of the partnership by a general partner; and if an unincorporated association or other organization not a partnership, this Form should be signed in the name of such organization by a person responsible for the direction or management of its affairs.
4. In the event that, at any time from the date of the filing of the Form with the Commission until the conclusion of the offering, any material statement made in the Form or in any attachment thereto becomes incorrect or inaccurate in any material respect, the issuer shall file an amendment with the Commission within 5 business days of the occurrence of the event which required the filing of such amendment.
5. An issuer may incorporate by reference information contained in any document attached hereto or previously filed with the Commission. Any such reference should be to *the page and paragraph number or other specified portion* of the document where the information is located.
6. The appropriate filing fee required in Section 602(b.1)(ii) or (iii) must accompany the filing of this Form. Checks are to be payable to the "Commonwealth of Pennsylvania."

FILING FEE FOR SECTION 205:

Under Section 602(b.1)(ii) of the Act, the filing fee for a registration by coordination is based upon the maximum aggregate offering price at which such securities are to be offered in Pennsylvania during the effective period of the registration statement:

- (A) Less than \$10,000,000 \$500
- (B) \$10,000,000 or more \$750

FILING FEE FOR SECTION 206:

Under Section 602(b.1)(iii) of the Act, the filing fee for a registration by qualification is \$350 plus 1/20 of 1% of the maximum aggregate offering price at which securities are to be offered in Pennsylvania, during the effective period of the registration up to a maximum filing fee of \$2,150.

7. Your attention is directed to the Commission's Prospectus Guidelines for preparation of a prospectus; all items contained therein should be covered to the extent applicable.
8. Submit herewith as part of this Form the following documents in addition to documents requested in Number 8 of Form U-1 (documents on file may be incorporated by reference).
 - (a) Five copies of a prospectus prepared in accordance with the applicable prospectus guidelines. This includes the copy required by Form U-1.
 - (b) An opinion of counsel as to whether the securities which are the subject of this offering will be, when sold and paid for in accordance with this offering, validly issued and outstanding, fully-paid and non-assessable and, if debt securities, will constitute a binding obligation.
 - (c) Copies of any voting trust agreement among or affecting the management of Issuer or otherwise described in the prospectus, to the extent known by and available to Issuer.
 - (d) Copies of every material contract, whether or not made in the ordinary course of business, if:
 - (i) It is specifically referred to in the prospectus.
 - (ii) The issuer's business is substantially dependent thereon (such as a license or requirements contract).
 - (iii) It involves acquisition or sale of assets for consideration exceeding 15% of all fixed assets of Issuer and its subsidiaries.
 - (iv) It is a lease for a significant part of the property owned and/or occupied by Issuer.
 - (v) It is with the underwriter.
 - (e) The consent of each person named in the prospectus as an expert, or on whose opinion or certification any information was included therein, to the use of such person's name and opinion or certification.
 - (f) For an offering made pursuant to Section 504(d) of the Act and Regulation 504.060 promulgated thereunder, provide in columnar form the name and address of each Pennsylvania purchaser, the date of sale, and the dollar amount of securities purchased.
9. Your attention is further directed to the following applicable provisions of the Act:
 - (a) Advertisements (Section 606(c), Regulation 606.031);
 - (b) Financial reports to security holders (Section 606(a), Regulation 606.011);
 - (c) Investor withdrawal rights (Section 207(m)(1), Regulation 207.130);
 - (d) Record keeping requirements (Section 209(a), Regulation 209.010(a));
 - (e) Post-effective reporting requirements (Section 209(c), Regulation 209.010(b) & (c)).
 - (6) Increases in offering amount (Section 207(l)).
 - (7) Escrow of promotional shares and escrow of proceeds (Section 207(g), Regulations 207.071 and 207.072).
10. Please remove this instruction sheet before filing this Form.

EACH PERSON COMPLETING THIS FORM OR PROVIDING INFORMATION TO BE INCLUDED IN THIS FORM SHOULD BE FAMILIAR WITH THE PENALTIES CONTAINED IN THE ACT, AND ALL REGULATIONS ADOPTED THEREUNDER FOR MAKING FALSE OR INCOMPLETE STATEMENTS IN CONNECTION WITH THE SALE OF A SECURITY OR IN ANY FILING WITH THE COMMISSION.

PSC FORM R
SUPPLEMENT TO FORM U-1

EFF: _____

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA SECURITIES COMMISSION
APPLICATION TO REGISTER SECURITIES UNDER
THE PENNSYLVANIA SECURITIES ACT OF 1972

(CHECK ONLY ONE)
SECTION 205 - REGISTRATION BY COORDINATION []
SECTION 206 - REGISTRATION BY QUALIFICATION []

1. Legal Status of the Issuer

(A) Exact name of Issuer: _____

(B) State and Date of incorporation or formation: _____
State Date

2. Addresses

(A) Address of principal office of Issuer: _____
Number and Street

City State Zip Code Telephone No.

(B) Address of principal office of Issuer in Pennsylvania (if other than listed in (A)):

Number and Street

City State Zip Code Telephone No.

(C) Name and address of person to whom correspondence regarding this filing should be sent:

Name Title Number and Street

City State Zip Code Telephone No.

(D) Name and address of counsel to Issuer (if other than listed in (C)):

Name Title Number and Street

City State Zip Code Telephone No.

3. Information about the Executive Officers of the Issuer

(A) State the names and addresses of persons holding any of the following positions with the Issuer:

- (i) General partner
- (ii) Promoter (as defined in Section 102(o) of the Act)
- (iii) Manager (if a limited liability company)
- (iv) President
- (v) Chief executive officer
- (vi) Chief operating officer
- (vii) Chief financial officer
- (viii) Director of the Issuer who owns 5% or more of any class of voting equity securities of the Issuer (exclusive of any beneficial interest in a voting shareholder which is an institutional investor as defined in Section 102(k) of the Act and Regulation 102.111).

(B) Indicate if any person described in (A) currently is registered as an agent under Section 301 of the Act or as a principal of a broker-dealer registered under Section 301 of the Act.

NO _____ YES _____

If YES, provide the individual's name, employer and Central Registration Depository number.

4. Prior Disciplinary History

(A) Indicate if any person described in Item 3(A) has been convicted of any crime or made the subject of any sanction described in Section 305(a)(ii)-(ix) of the Act.

NO _____ YES _____ If YES, describe fully.

(B) Indicate if any person described in Item 3(A) has been the subject of a Commission order issued under Section 512 (Statutory Bars) or Section 513 (Rescission Offer) of the Act or an order of a court of competent jurisdiction under Section 509(c) of the Act (Civil Contempt).

NO _____ YES _____ If YES, describe fully.

5. Previous Sales of Securities in Pennsylvania

(A) By the Issuer

Describe all sales of securities made in Pennsylvania during the past two years that directly or indirectly benefitted the Issuer. Include securities issued in exchange for property, services, or other securities and new securities resulting from the modification of outstanding securities. In each case, state:

- (i) The date of sale and description of the securities sold;
- (ii) Underwriting or selling fees or commissions paid and to whom paid;
- (iii) Section of the Act or regulation relied upon for the offer and sale of securities.

NO _____ YES _____

(B) By a person related to the Issuer

Within the period of two years prior to the date of this Form, did any person described in Item 3(A) hold a position as a general partner, promoter (as defined in Section 102(o) of the Act), manager (if a limited liability company), president, chief executive officer, chief operating officer, chief financial officer or a director with a 5% or more ownership of any class of voting equity securities of the issuer (exclusive of any beneficial interest in a voting shareholder which is an institutional investor as defined in Section 102(k) of the Act and Regulation 102.111) with *another* person, not the Issuer, at the time when that person sold securities in Pennsylvania for which a filing with the Commission was required?

NO _____ YES _____

If YES, provide the following information:

- (i) Name of the other person that sold the securities;
- (ii) The position held with the other person;
- (iii) Section of the Act or regulation relied upon for the offer and sale of securities;
- (iv) If the proceeds from the sale were paid directly or indirectly to, or used directly or indirectly for, the benefit of the Issuer, please describe in detail.

6. If an independent accountant has been engaged as the principal accountant to audit the most recent financial statement of Issuer or, where Issuer is a partnership, the general partner(s) of Issuer, and such accountant was not the principal accountant for the previous fiscal year's certified financial statements, state the date upon which the successor accountant was engaged and whether preceding such engagement there were any disagreements with the predecessor accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing procedure, which disagreements, if not resolved to the satisfaction of the predecessor accountant would have caused him to make reference in connection with his opinion to the subject matter of the disagreement.

In response to Items 7—16, please provide the following information or refer to the page of the prospectus where complete information concerning each item may be found.

7. (A) If any non-cash consideration is to be paid for the securities offered, describe fully and indicate the method of valuation.

(B) State whether any adverse order, judgement or decree has been entered, or any proceeding is pending, before the United States Securities and Exchange Commission or any court in connection with the securities included within this registration statement, or other securities of the same kind or class.

(C) State the names of all underwriters and broker-dealers proposing to sell or offer these securities for sale in Pennsylvania. (If all such names are not known at the time of filing this Form, a supplemental list may be filed prior to or after effectiveness; provided that no person may participate in this offering as an underwriter or dealer in Pennsylvania until notice of such fact has been filed with the Commission.)

(D) With respect to any person receiving compensation who is not a broker-dealer registered under Section 301 of the Act, explain why the person is not a promoter as that term is defined in Section 102(o) of the Act.

8. State the class of person to whom this offering will be restricted, if any. State also whether any promoter, officer, director or controlling persons or other person occupying a similar position or performing a similar function, including the spouse, minor children and relatives of such person living in the same household has committed himself or herself to purchase any securities in this offering. If so, describe the nature of such commitment.
9. Itemize below all expenses proposed to be incurred in this offering other than underwriting discounts, including without limitation, legal, accounting and engineering fees, printing and engraving costs, expert and transfer agent fees, state and Federal taxes, and other registration fees. Indicate the proportion of such expenses to be borne by each person selling shares other than the Issuer.
10. If any expert named in the prospectus as having prepared or certified any part thereof or any counsel named therein was employed for such purpose on a contingent fee basis, or, at the time of such preparation or certification has ownership or beneficial interest in Issuer or any of its parents, affiliates or subsidiaries, or was affiliated with the Issuer as a promoter, voting trustee, director, officer, employe or underwriter, describe the nature of such contingent fee, interest or affiliation.
11. List all parents, subsidiaries and other entities affiliated with the Issuer, indicating as to each the state of incorporation or formation and the percentage of voting securities owned or other basis of control exercised by the Issuer's immediate parent or general partner(s). Furnish a diagram where necessary for a clear understanding of relationships between entities. Indicate, where applicable: (i) entities for which separate financial statements are being filed, (ii) entities included in group financial statements filed for unconsolidated subsidiaries, and (iii) entities for which no financial statements are filed, indicating the reason therefor.
12. If, within the last five years, the Issuer or, where the Issuer is a partnership, the general partner(s) of the Issuer or any of its/their majority-owned subsidiaries or affiliated entities which have a common general partner with the Issuer has acquired or disposed of a material amount of assets from or to a promoter, officer, director or other person who owns beneficially more than ten percent of any class of securities of the Issuer, furnish the following information: (i) Identity of such promoter, officer, director or ten percent beneficial owner from whom the assets were acquired or to whom they were sold; (ii) Date and manner of the acquisition or disposition and a brief description of the assets; (iii) The nature and amount of the consideration given or received therefrom; and (iv) Method used in valuing the consideration.
13. If, within the past two years, there has been any material default in the payment of principal, interest, sinking or purchase fund installment, or any other material default (any of which were not cured within thirty days of occurrence), with respect to any indebtedness of the Issuer or, where the Issuer is a partnership, the general partner(s) of the Issuer, or any of its/their wholly-owned subsidiaries or affiliated entities which have a common general partner with the Issuer identify the indebtedness and state the nature of the default.
14. Provide the following information as to all securities of the Issuer sold within the past two (2) years by the Issuer or proposed to be issued to a promoter, officer, director or other person who owns beneficially ten percent of any class of securities of the Issuer whether they were reacquired by the Issuer or were new issues; securities issued in exchange for property, services or other securities; and new securities resulting from the modification of outstanding securities:
 - (A) Name of each such promoter, officer, director or ten percent beneficial owner;
 - (B) Date of sale, type, class and amount of securities sold;
 - (C) Aggregate and per share price of securities sold; as to any securities sold for other than cash, state the aggregate amount of consideration received by Issuer and the method for valuing such consideration;
 - (D) Nature of the transaction;
 - (E) State whether the securities were: (i) legended and stop-transfer instructions given in connection therewith, or (ii) escrowed, and if so, the terms of the applicable escrow agreement.
15. Furnish information as to all direct remuneration paid by the Issuer and its subsidiaries (on an annualized basis) to each executive officer of the Issuer during its last fiscal year or proposed to be paid under any plan or arrangement during its next fiscal year. The term "executive officer" means the president, general partner, secretary, treasurer, any vice-president in charge of a principal business function (such as sales, administration or finance) and any other person occupying a similar status or performing similar functions for the Issuer.
16. Furnish information as to all qualified and non-qualified options to purchase any securities from Issuer or any of its subsidiaries which were granted or proposed to be granted to or exercised by any executive officer, promoter, director or affiliate of Issuer during the preceding five years. The term "executive officer" shall be as defined in Item 15. The term "options" as used in this item includes all options, warrants or rights to acquire such securities.

17. Issuer undertakes:

- (A) To send its financial statements, which are audited or reviewed in accordance with generally accepted accounting principles as provided by Section 606(a) of the Act and the regulations adopted thereunder, to each holder of the class of securities sold in this offering not less than annually within 120 days after the close of Issuer's fiscal year.
- (B) To keep and maintain the books and records required by Section 209 and the regulations adopted thereunder and will authorize the person having custody of such books and records to make them available to the Commission.

18. Affirmation

By executing this Form on behalf of the Issuer, the signatory affirms that:

- (A) The undersigned is familiar with the provisions of Section 205 or Section 206 of the Act and the regulations adopted thereunder.
- (B) The statements made in this Form, including all attachments hereto, are not incomplete in any material respect or false or misleading with respect to any material fact.

IN WITNESS WHEREOF, this Form has been duly executed on _____ (Insert Date)

 (NAME OF ISSUER)

By: _____

 (Title)

§ 206.010. Registration by qualification.

(a) Except as specified in [this section] subsection (b), registration by qualification shall be initiated by filing with the Commission:

* * * * *

(2) A properly executed Uniform Application to Register Securities (Form U-1) and relevant exhibits [, prepared by the Committee on State Regulation of Securities of the Section on Corporation, Banking and Business Law of the American Bar Association] .

* * * * *

(b) In [order to effect the purposes of the act, the Commission requires, as a condition of registration, that for Classes of] addition to the information and form required in subsection (a), issuers in the following offerings [specified in subsection (c), issuers] shall execute and file with the Commission [the form, designated by the Commission as Form 206, which follows this section.] Form R as set forth in § 205.021 (relating to registration by coordination):

- (1) Offerings made in reliance on section 3(a)(4) of the Securities Act of 1933 (15 U.S.C.A. § 77c(a)(4).
- (2) Offerings made in reliance on section 3(a)(11) of the Securities Act of 1933.
- (3) Offerings made in reliance on Rule 504 of SEC Regulation D promulgated under section 3(b) of the Securities Act of 1933.
- (4) Offerings made in reliance on SEC Regulation A promulgated under section 3(b) of the Securities Act of 1933.

(c) [Except as to classes of offerings set forth in subsection (d), the filing of Form 206 is required for the following classes of offerings:

- (1) Offerings which do not involve a firm underwriting commitment by a broker-dealer for the aggregate amount of securities to be offered to the public.
- (2) Offerings made under an exemption from registration under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).
- (3) Offerings made by or on behalf of issuers which have not been in existence for the 3-year period preceding the date of the filing of the registration statement with the Commission.
- (d) Filing of Form 206 is not required for classes of offerings in which the issuer:
 - (1) Is an open-end or closed-end investment company, face amount certificate company or unit investment trust as those persons are classified in the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80b-21).
 - (2) Is a wholly-owned subsidiary of an entity whose securities are exempt from registration under section 202(f) of the act (70 P. S. § 1-202(f)).
 - (3) Is a wholly-owned subsidiary of a reporting company, as that term is defined in section 102(q) of the act (70 P. S. § 1-102(q)).
 - (4) Has filed a registration statement with the Commission designated as Form S-2 or S-3 by the Securities and Exchange Commission (SEC).
 - (5) Has filed a registration statement with the Commission designated as Form F-7, F-8, F-9 or F-10 by the SEC.
 - (6) Has filed a registration statement with the Commission for pass-through certificates evidencing undivided interests in trusts consisting of, or debt securities secured by, specific categories of receivables which securities, as a condition of issuance, are to be rated in one of the three highest

rating categories by one or more Nationally recognized statistical rating organizations.

(e) Financial statements used in connection with an offering under section 206 shall meet the requirements of section 609(c) of the act (70 P. S. § 609(c)) and [the regulations adopted thereunder] Chapter 609 (relating to regulations, forms and orders) or as the Commission shall, by order, require.

[(f) An] (d) During the period of the offering, the issuer required to file Form [206] R shall take steps necessary to ensure that all material information contained in its Form [206] R remains current and accurate. If a material statement made in the form or [in attachments] any attachment thereto becomes incorrect or inaccurate, the issuer shall file an amendment [on Form AM] with the Commission in accordance with § 609.011 (relating to amendments filed with the Commission) within [10] 5 business days of the occurrence of the event which required the filing of the amendment.

[(g) For the purpose of subsection (c)(3), an issuer shall be deemed to have been in existence for less than 3 years if the issuer was organized within 3 years prior to the date of filing Form 206 with the Commission. A corporation shall be deemed to have been in existence for less than 3 years if the issuer was incorporated or reincorporated within 3 years prior to the date of filing with the Commission, unless the reincorporation was effected solely for the purpose of change of corporation name or state of incorporation.]

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete Form 206, which appears at 64 Pa. Code pages 206-3—206-9 (serial pages (200077)—(200082) and (252153).)

Subpart C. REGISTRATION OF BROKER-DEALERS, AGENTS, [AND] INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES AND NOTICE FILINGS BY FEDERALLY COVERED ADVISERS

CHAPTER 301. REGISTRATION REQUIREMENT

§ 301.201. (Reserved).

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete § 301.021, which appears at 64 Pa. Code pages 301-2 to 301-5 (serial pages (252888) to (252891).)

CHAPTER 302. EXEMPTIONS

§ 302.063. Financial institutions exempt from broker-dealer and agent registration.

* * * * *

(b) For purposes [in] of this section, the following terms [shall] have the following meanings:

* * * * *

Networking arrangement or brokerage affiliate arrangement—A contractual arrangement between a broker-dealer registered under section 301 of the act and a financial institution whereby the broker-dealer effects transactions in securities for the account of customers of the financial institution and the general public, which

transactions are effected on, or emanate from, the premises of a financial institution [where retail deposits are taken].

CHAPTER 303. REGISTRATION PROCEDURE

§ 303.012. Investment adviser registration procedure.

(a) An application for initial registration as an investment adviser shall contain the information requested in and shall be made on the Uniform Application for Investment Adviser Registration (Form ADV), or a successor form. The applicant shall complete and file with the Commission or with a central registration depository designated by order of the Commission one copy of the form accompanied by the [requisite filing fee, exhibits and the statement of financial condition required by subsection (b) or (c)] filing fee in section 602(d.1) of the act (70 P. S. § 1-602(d.1)), the compliance assessment in section 602.1(a)(4) of the act and any exhibits required by this section.

(b) [Except as] As set forth [in paragraphs (1) and (2), each] in this section, the following statements of financial condition shall accompany an application for initial registration as an investment adviser [shall be accompanied by a statement of financial condition of the applicant prepared in accordance with generally accepted accounting principles and accompanied by a standard compilation report, standard review report or standard audit report compiled, reviewed or examined by an independent certified public accountant or public accountant. The statement of financial condition shall be as of the end of the applicant's most recent fiscal year, or the preceding fiscal year if the statement of financial condition for the most recent fiscal year is unavailable, and if the application is filed within 14 months of the end of the preceding fiscal year. In addition, if the date of the most recent compiled, reviewed or audited statement is more than 45 days prior to the date of filing, the applicant also shall file a statement of financial condition, which may be unaudited and may be prepared by management, as of a date within 45 days of filing.]:

(1) [In the case of an] An applicant [who] that has custody of client funds or securities or an applicant that requires payment of advisory fees 6 months or more in advance and in excess of \$500 per client shall file an audited balance sheet of the applicant prepared in accordance with generally accepted accounting principles and accompanied by a standard audit report containing an unqualified opinion of an independent certified public accountant or an independent public accountant. The accountant shall submit, as a supplementary opinion, comments based upon the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and the procedures for safeguarding securities and funds and shall indicate corrective action taken or proposed. The balance sheet required by this paragraph shall be as of the end of the applicant's most recent fiscal year. If that balance sheet is as of a date more than 45 days prior to the date of filing the application, the applicant also shall file a subsequent balance sheet prepared in accordance with generally accepted accounting principles as of a

date within 45 days of the date of filing. This balance sheet may be unaudited and may be prepared by management of the applicant. If the applicant is a certified public accountant or a public accountant or whose principals include one or more certified public accountants or public accountants, the applicant, in lieu of filing [a compilation, review or] an audit report, may file a report modeled after the management responsibility letter contained in Paragraph 9600.22 of the American Institute of Certified Public Accountant's Technical Information Service and signed by a certified public accountant or public accountant who either is the applicant or one of the principals of the applicant.

(2) [In the case of an applicant who has custody or possession of any funds or securities in which any client has any beneficial interest, the application shall be accompanied by a statement of financial condition of the applicant prepared in accordance with generally accepted accounting principles and accompanied by an audit report containing an unqualified opinion of an independent certified public accountant or independent public accountant. The audited statement of financial condition shall be as of the end of the applicant's most recent fiscal year, or the preceding fiscal year if the statement of financial condition for the most recently ended fiscal year is unavailable and if the application is filed within 14 months of the end of the preceding fiscal year. In addition, if the date of the most recent audited statement of financial condition is more than 45 days prior to the date of filing, the applicant also shall file an unaudited statement of financial condition as of a date within 45 days of the date of filing. The accountant shall submit as a supplementary opinion, comments based upon the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and procedures for safeguarding securities and funds, and shall indicate corrective action taken or proposed.] An applicant that has discretionary authority over client funds or securities, but not custody, shall file a balance sheet which need not be audited but must be prepared in accordance with generally accepted accounting principles. The balance sheet required by this paragraph shall be as of the end of the applicant's most recent fiscal year. If that balance sheet is as of date more than 45 days prior to the date of filing the application, the applicant also shall file a subsequent balance sheet, which shall be prepared in accordance with generally accepted accounting principles as of a date within 45 days of filing the application. Each balance sheet required by this paragraph may be unaudited and prepared by management of the applicant. Each balance sheet required by this paragraph also shall contain a representation by the applicant that the balance sheet is true and accurate.

(3) An applicant whose proposed activities do not come within paragraph (1) or (2) need not file a statement of financial condition.

* * * * *

§ 303.014. [Associated person] Investment adviser representative registration procedures.

(a) An application for initial registration as an [associated person] investment adviser representative of an investment adviser shall contain the information

requested in and shall be made on the Uniform Application for Securities Industry Registration or Transfer (Form U-4), or a successor form. The [associated person] investment adviser representative and the investment adviser shall complete and file with the Commission or a central registration depository designated by order of the Commission one copy of Form U-4 and exhibits thereto accompanied by the [requisite] filing fee [in] required by section 602(d.1) of the act (70 P. S. § 1-602(d.1)), the compliance assessment required by section 602.1(a)(1) (70 P. S. § 1-602.1(a)(1)) and [passing] the results evidencing passage of the examinations required by § 303.032 (relating to qualification of and examination requirement for investment advisers and [associated persons] investment adviser representatives).

(b) [Every investment adviser for whom associated persons are to be registered shall obtain from the associated person and maintain the following information with respect to each associated person. While this information is required to be maintained by the investment adviser, it otherwise is not required to be filed with the Commission on Form U-4.

(1) The name, address, date of birth, social security number and the starting date of employment or other association with the investment adviser.

(2) A complete educational background and a complete statement of the associated person's principal business, occupation or employment for the preceding 10 years, including the reason for leaving each prior employment.

(3) A record of a denial of registration, disciplinary action taken or sanction imposed by a Federal or state agency, by a National securities exchange or a National securities association, or by a foreign country governing or regulating any aspect of the business of securities, commodities or banking.

(4) A record of convictions for a felony or misdemeanor, except minor traffic offenses, of which the associated person has been the subject.

(c) Every investment adviser shall ensure that each applicant for registration as an associated person is familiar with the sections of the act and regulations governing associated persons and investment advisers. Further, the investment adviser shall have taken appropriate steps to verify the items and attachments contained in Form U-4.

(d) [An [associated person] investment adviser representative and an investment adviser shall take necessary steps to ensure that material information contained in Form U-4 remains current and accurate. If a material statement made in the Form U-4 becomes incorrect or incomplete, the [associated person] investment adviser representative and the investment adviser shall file with the Commission an amendment to Form U-4 within 30 days of the occurrence of the event which requires the filing of the amendment.

§ 303.015. Notice filing for Federally covered advisers.

(a) The notice required by section 303(a)(iii) of the act (70 P. S. § 1-303(a)(iii)) shall be the Uniform Application for Investment Adviser Registration

(Form ADV) as filed with the United States Securities and Exchange Commission.

(b) One executed Form ADV shall be filed annually with the Commission or a central registration depository designated by order of the Commission. The filing fee required by section 602(d.1) of the act (70 P. S. § 602(d.1)) shall accompany the filing of Form ADV.

§ 303.021. [Successor broker-dealer and investment adviser registration procedures] Registration and notice filing procedures for successors to a broker-dealer, investment adviser or Federally covered adviser.

(a) [An application for registration under section 301 of the act (70 P. S. § 1-301) of a broker-dealer or investment adviser to be formed or organized may be made by a broker-dealer or investment adviser to whose business the broker-dealer or investment adviser to be formed or organized is to be the successor.] The following applies with respect to broker-dealers:

(1) When a broker-dealer is formed or proposed to be formed for the purpose of succeeding to, and continuing the business of, a broker-dealer registered under section 301 of the act (70 P. S. § 1-301) and as a broker or dealer under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 77o) (successor broker-dealer) based solely on a change in the predecessor's date or state of incorporation, form of organization or composition of a partnership, the successor broker-dealer shall comply with the requirements of SEC Rule 15b1-3(a) promulgated under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk), except that the successor broker-dealer shall file the amendments to Form BD with the Commission.

(2) When a broker-dealer is formed or proposed to be formed for the purpose of succeeding to, and continuing the business of, a broker-dealer registered under section 301 of the act and as a broker or dealer under section 15(b) of the Securities Exchange Act of 1934 (successor broker-dealer) for reasons other than a change in the predecessor's date or state of incorporation, form of organization or composition of a partnership, the successor broker-dealer shall comply with SEC Rule 15b1-3(b) promulgated under the Securities Exchange Act of 1934, except that the successor shall file Form BD with the Commission.

(b) [If the successor to the business of a broker-dealer registered under the act is filing for successor registration under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk) and SEC Rule 15b1-3 promulgated thereunder and files with the Commission the prescribed amendments to Form BD within the time period set forth in SEC Rule 15b1-3, the successor application shall become effective simultaneously with successor registration under the Securities Exchange Act of 1934. The amendments to Form BD shall be accompanied by an unaudited statement of financial condition of the successor which is prepared in accordance with generally accepted accounting principles and dated within 30 days of the filing date.] The following applies to investment advisers:

(1) When an investment adviser is formed or proposed to be formed for the purpose of succeeding to, and continuing the business of, an investment adviser registered under section 301 of the act (successor investment adviser) based solely on a change in the predecessor's date or state of incorporation, form of organization or composition of a partnership, the successor investment adviser may file an initial application for registration by amending Form ADV of the predecessor and, under section 303(b) of the act (70 P. S. § 1-303(b)), succeed to the unexpired portion of the predecessor's term of registration.

(2) When an investment adviser is formed or proposed to be formed for the purpose of succeeding to, and continuing the business of, an investment adviser registered under section 301 of the act for reasons other than a change in the predecessor's date or state of incorporation, form of organization or composition of a partnership, the successor investment adviser shall file Form ADV with the Commission. Upon registration, the successor investment adviser, under section 303(b) of the act, shall succeed to the unexpired portion of the predecessor's term of registration.

(c) [If the successor to the business of an investment adviser registered under the act is filing for successor registration under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21) and SEC Rule 203-1 promulgated thereunder and files with the Commission the prescribed amendments to Form ADV within the time period set forth in SEC Rule 203-1, the successor application shall become effective simultaneously with successor registration under the Investment Advisers Act of 1940. The amendments to Form ADV shall be accompanied by an unaudited statement of financial condition of the successor which is prepared in accordance with generally accepted accounting principles and dated within 30 days of the filing date.] When a Federally covered adviser is formed or proposed to be formed for the purpose of succeeding to, and continuing the business of, another Federally covered adviser (successor Federally covered adviser), the successor Federally covered adviser shall file with the Commission either Form ADV or an amendment to Form ADV as required under SEC Release No. IA-1357 (December 28, 1992) and, under section 303(b) of the act, shall succeed to the unexpired portion of the predecessor's notice period.

§ 303.032. [Qualification of examination requirements] Examinations requirements for investment advisers and [associated persons] investment adviser representatives.

(a) *Examination requirements.* An individual may be not registered as an investment adviser or investment adviser representative under the act unless the person has [all of] met one of the following qualifications. The person has:

(1) Received, on or after January 1, 2000, and within 2 years prior to the date of filing an application with the Commission, a passing grade on [each of the following:] The Uniform Investment Adviser Law Examination (Series 65), or successor examination.

[(i) The securities examination for registered representatives or supervisors (Series 2,7,8 or 24),

or successor examination, administered by the National Association of Securities Dealers, Inc., within 2 years prior to the date of filing an application for registration, has previously passed the Series 2,7,8 or 24, or the examination requirement has been waived by the Commission and has not had a lapse in employment as an investment adviser or associated person or principal or agent of a broker-dealer for a period exceeding 2 years.

(ii) The Uniform Investment Adviser Law Examination (Series 65) or the Uniform Combined State Law Examination (Series 66) or successor examination, administered by the National Association of Securities Dealers, Inc., within 2 years prior to the date of filing an application for registration, has previously passed the Series 65 or Series 66 or the examination requirement has been waived by the Commission and has not had a lapse in employment as an investment adviser or associated person or principal or agent of a broker-dealer for a period exceeding 2 years.]

(2) [Been engaged in business as a principal of a broker-dealer or investment adviser or as an employe of a broker-dealer or investment adviser in other than a clerical capacity or has occupied some other position satisfactory to the Commission in the securities, banking, finance or other related employment on a substantially full-time basis during the 2-year period immediately prior to the filing of the application or during 3 of the 5 years immediately preceding the filing.] Received, on or after January 1, 2000, and within 2 years prior to the date of filing an application with the Commission, a passing grade on the General Securities Representative Non-Member Examination (Series 7) administered by the National Association of Securities Dealers, Inc. and the Uniform Combined State Law Examination (Series 66) or successor examinations.

(b) [An individual may not be registered as an associated person unless the person has met the following requirements:] *Grandfathering*.

(1) [Satisfied the examination requirements of subsection (a)(1).] Compliance with subsection (a) is waived if the individual meets the following requirements:

(i) Prior to January 1, 2000, the individual had received a passing grade on the Series 2, 7, 8 or 24 examination for registered representatives or supervisors administered by the National Association of Securities Dealers, Inc. and the Series 65 or Series 66 examinations.

(ii) The individual has not had a lapse in employment as an investment adviser, investment adviser representative or principal or agent of a broker-dealer for any consecutive period exceeding 2 years prior the date of filing an application with the Commission.

(2) [Satisfied the experience requirement of subsection (a)(2).] An individual need not comply with subsection (a) if the individual meets the following requirements:

(i) Prior to January 1, 2000, the individual was registered as an investment adviser or investment adviser representative in any state requiring the

licensing, registration or qualification of investment advisers or investment adviser representatives.

(ii) The individual has not had a lapse in registration as an investment adviser or investment adviser representative in another state for any consecutive period exceeding 2 years prior to the date of filing an application with the Commission.

(c) *Waivers of exam requirements.* Compliance with subsection (a) is waived if:

(1) The individual meets the following requirements:

(i) Has no disciplinary history which requires an affirmative response to the Disclosure Information section of The Uniform Application for Securities Industry Registration or Transfer (Form U-4).

(ii) Has been awarded any of the following designations which, at the time of filing of the application with the Commission, is current and in good standing:

(A) Certified Financial Planner (CFP) awarded by the International Board of Standards and Practices for Certified Financial Planners, Inc.

(B) Chartered Financial Consultant (ChFC) or Master of Science and Financial Services (MSFS) awarded by the American College, Bryn Mawr, Pennsylvania.

(C) Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts.

(D) Personal Financial Specialists (PFS) awarded by the American Institute of Certified Public Accountants.

(E) Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

(2) The individual is licensed as a certified public accountant, is currently in good standing and has no disciplinary history that requires an affirmative response to the Disclosure Information section of Form U-4.

(3) The individual is licensed as an attorney, is currently in good standing and has no disciplinary history that requires an affirmative response to the Disclosure Information section of Form U-4.

(4) The individual has received an order from the Commission waiving compliance with subsection (a).

§ 303.042. Investment adviser capital requirements.

(a) [Except as set forth in paragraphs (1)—(3), an] Every investment adviser registered or required to be registered under section 301 of the act (70 P. S. § 1-301) shall maintain [a minimum net capital of \$5,000 or a minimum tangible net worth of \$12,500] at all times the following net worth requirements:

(1) An investment adviser [who is also registered as a broker-dealer under section 301 of the act (70 P. S. § 1-301) shall maintain a minimum net capital of \$5,000] that has its principal place of business in a state other than this Commonwealth shall maintain the net worth required by the state where the investment adviser maintains its principal place of business if the investment adviser currently is

licensed in that state and is in compliance with that state's net worth requirements.

(2) [An] Except as provided in subsection (e), an investment adviser [who holds custody of clients' funds or securities and who is not registered as a broker-dealer shall maintain a minimum net capital of \$50,000 or a minimum tangible net worth of \$125,000] that has its principal place of business in this Commonwealth and also is registered as a broker-dealer under section 301 of the act shall maintain at all times a minimum net capital of \$25,000.

(3) An investment adviser [who is vested with discretionary authority with respect to clients' investments and who is not registered as a broker-dealer shall maintain a minimum net capital of \$20,000 or a minimum tangible net worth of \$50,000] that has its principal place of business in this Commonwealth and has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000.

(4) An investment adviser that has its principal place of business in this Commonwealth and has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain at all times a minimum net worth of \$10,000. An investment adviser will not be deemed to be exercising discretion and subject to the requirements of this paragraph when it places trade orders with a broker-dealer under a third party trading agreement if the following requirements are met:

(i) The investment adviser has executed a separate investment adviser contract exclusively with its clients that acknowledges that a third party agreement will be executed to allow the investment adviser to effect securities transactions for the client in the client's broker-dealer account.

(ii) The investment adviser contract specifically states that the client does not grant discretionary authority to the investment adviser and the investment adviser, in fact, does not exercise discretion with respect to the account.

(iii) A third party trading agreement is executed between the investment adviser, the client and the broker-dealer which specifically limits the investment adviser's authority in the client's broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

(5) An investment adviser that has its principal place of business in this Commonwealth and accepts prepayment of advisory fees of more than 6 months in advance and more than \$500 per client shall maintain at all times a positive net worth.

(b) [Unless otherwise exempted, as] As a condition of the right to continue to transact business in this Commonwealth, an investment adviser registered [or required to be registered] under the act shall [immediately] notify, by the close of business on the next business day, the Commission if the investment adviser's total net [capital or tangible net] worth is less than the minimum required net [capital or minimum required tangible net] worth. Within 24 hours

after transmitting the notice, the investment adviser shall file a report of its financial condition including the following:

* * * * *

(2) A computation of net [capital or tangible net] worth [(See subsection (c))].

* * * * *

(6) A statement [of the approximate] as to the number of client accounts.

(c) For the purpose of this section, the following terms have the following meanings:

[(1) *Net capital*—Shall have the meaning set forth in 17 CFR 240.15c3-1 (relating to net capital requirements for brokers or dealers), promulgated under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—798kk).

(2) *Net worth*—An excess of assets over liabilities, as determined by generally accepted accounting principles.

(3) *Tangible net worth*—The net worth of an investment adviser registered or required to be registered under the act reduced by the following:

(i) Prepaid expenses except items properly classified as current assets under generally accepted accounting principles.

(ii) Deferred charges.

(iii) Goodwill, franchises, organizational expenses, unamortized debt discount and expense and other assets of an intangible nature.

(iv) Home, furnishings and automobile—less indebtedness secured by these assets but only to the extent that the indebtedness does not exceed the carrying value of the assets—and personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and advances or loans to partners in the case of a partnership.]

Custody—A person is deemed to have custody of client funds or securities if the person directly or indirectly holds clients funds or securities, has any authority to obtain possession of them or has the ability to appropriate them.

Net capital—The meaning set forth in 17 CFR 240.15c3-1 (relating to net capital requirements for brokers or dealers), promulgated under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk).

Net worth—The excess of assets over liabilities as determined by generally accepted accounting principles reduced by the following:

(i) Prepaid expenses except items properly classified as current assets under generally accepted accounting principles.

(ii) Deferred charges.

(iii) Goodwill, franchises, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense and all other assets of an intangible nature.

(iv) Home furnishings, automobiles and other personal items not readily marketable in the case of an individual.

(v) Advances or loans to stockholders and officers in the case of a corporation; members and managers in the case of a limited liability company; and advances or loans to partners in the case of a partnership.

Principal place of business—The meaning set forth in 17 CFR 275.203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

(d) For investment advisers registered or required to be registered under the act [**who maintain a minimum tangible net worth requirement rather than a minimum net capital requirement**], the Commission may require that a current appraisal be submitted [**in order**] to establish the worth of an asset being calculated under the [**tangible**] net worth formulation.

(e) Subsection (a)(2) does not apply to an investment adviser that has its principal place of business in this Commonwealth and also is registered as a broker-dealer under section 15 of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o) if the broker-dealer is one of the following:

(1) Subject to, and in compliance with, SEC Rule 15c3-1.

(2) A member of a National securities exchange whose members are exempt from SEC Rule 15c3-1 under subsection (b)(2) thereof and the broker-dealer is in compliance with all rules and practices of the exchange imposing requirements with respect to financial responsibility and the segregation of funds or securities carried for the account of customers.

§ 303.051. Surety bonds.

(a) [**An issuer who employs agents in connection with any security or transaction not exempted by section 202 or 203 of the act (70 P.S. § 1-202 or § 1-203) shall furnish and maintain for the entire registration period a surety bond in the amount of \$10,000 issued by a corporate surety authorized to transact business in this Commonwealth.**] The following applies with respect to the filing of a surety bond with the Commission by an investment adviser:

(1) An investment adviser that has its principal place of business in this Commonwealth and does not meet the minimum net worth requirements of § 303.042 (relating to investment adviser capital requirements) may, by order of the Commission, have and maintain a surety bond in the amount of the net worth deficiency rounded up to the nearest \$5,000. The surety bond shall be [**submitted to**] filed with the Commission on Uniform Surety Bond Form (Form U-SB) or successor form thereto[.]; **shall be subject to the claims of all clients of the investment adviser regardless of the client's state of residence; and shall be issued by a person licensed to issue surety bonds in this Commonwealth.**

(2) An investment adviser that has its principal place of business in a state other than this Commonwealth shall comply with paragraph (1) unless the investment adviser meets the following qualifications:

(i) Is registered as an investment adviser in that state.

(ii) Is in compliance with the applicable net worth and bonding requirements of the state in which it maintains its principal place of business.

(3) For purposes of this section, the term "principal place of business" has the same meaning as set forth in 17 CFR 275.203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

* * * * *

(b) A broker-dealer [**or investment adviser**] registered under the act **but not registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk)** may, by order of the Commission, be permitted to have and maintain for the registration period a surety bond in the amount[, **of the type, and in the form described in subsection (a) in order to facilitate compliance with the broker-dealer minimum net capital requirements as set forth in § 303.041 (relating to broker-dealer capital requirements) or the investment adviser minimum net capital or minimum net worth requirements set forth in § 303.042 (relating to investment adviser capital requirements)**] of the net capital deficiency rounded up to the nearest \$5,000. The surety bond shall:

(1) Be filed with the Commission on Form U-SB or successor form thereto.

(2) Be subject to the claims of all clients of the broker-dealer regardless of the client's state of residence.

(3) Be issued by a person licensed to issue surety bonds in this Commonwealth.

(c) [**The Commission may require an issuer,**] Upon request of the Commission, a broker-dealer or investment adviser [**to demonstrate evidence of the existence of a surety bond at the time of initial registration and at another time the Commission may request**] shall provide evidence of the existence of a surety bond.

[(d) The Commission may, upon written application, exempt an issuer from the requirements of this section, or modify its application if the Commission finds that, because of the special nature of the person's business, financial condition, and the safeguards established by it for the protection of investors' funds, it is not necessary or appropriate in the public interest or for the protection of investors that the person be subject to this section.]

CHAPTER 304. POST-REGISTRATION PROVISIONS

§ 304.012. Investment adviser required records.

(a) Every investment adviser registered [**or required to be registered**] under the act shall make and keep [**the books, ledgers and records required to be maintained as described in Rules 204-2 and 204-3 (17 CFR 275.204-2 and 275.204-3) adopted under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).**] true, accurate and current the following books, ledgers and records:

(1) A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

(3) A memorandum of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; and shall show the account for which entered, the date of entry, and the bank, broker-dealer by or through whom executed when appropriate. Orders entered under the exercise of discretionary power shall be so designated.

(4) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser.

(5) All bills or statements (or copies of), paid or unpaid, relating to the investment adviser's business as an investment adviser.

(6) All trial balances, financial statements, net worth computation and internal audit working papers relating to the investment adviser's business as an investment adviser. For purposes of this subsection, the term "financial statements" means a balance sheet prepared in accordance with generally accepted accounting principles, an income statement and a cash flow statement. The net worth computation means the net worth required by § 303.042 (relating to investment adviser capital requirements), if any.

(7) Originals of all written communications received and copies of all written communications sent by the investment adviser relating to one or more of the following:

(i) Any recommendation made or proposed to be made and any advice given or proposed to be given.

(ii) Any receipt, disbursement or delivery of funds or securities.

(iii) The placing or execution of any order to purchase or sell any security, except that an investment adviser:

(A) May not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser.

(B) With respect to any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service sent by the investment adviser to more than 10 persons (including transmission by electronic means), may not be required to keep a record of the names and addresses of the persons to whom it was sent. However, if the notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of the notice, circular or advertisement a memorandum describing the list and its source.

(8) A list or other record of all accounts which list identifies the accounts in which the investment

adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.

(9) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser.

(10) A copy in writing of each agreement entered into by the investment adviser with any client, and all other written agreements otherwise relating to the investment adviser's business as an investment adviser.

(11) A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication including by electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment adviser), and if the notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication including by electronic media recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation.

(12) Records of transactions as follows:

(i) A record of every transaction in a security in which the investment adviser or investment adviser representative of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership except the following:

(A) Transactions effected in any account over which neither the investment adviser nor any investment adviser representative of the investment adviser has any direct or indirect influence or control.

(B) Transactions in securities which are direct obligations of the United States. The record shall state:

(I) The title and amount of the security involved; the date and nature of the transaction (that is purchase, sale or other acquisition or disposition).

(II) The price at which it was effected.

(III) The name of the broker-dealer or bank with or through whom the transaction was effected.

(ii) The record may also contain a statement declaring that the reporting or recording of any transaction will not be construed as an admission that the investment adviser or investment adviser representative has any direct or indirect beneficial ownership in the security.

(iii) A transaction shall be recorded within 10 days after the end of the calendar quarter in which the transaction was effected.

(iv) For purposes of this paragraph, the following terms have the following meanings:

Control—The power to exercise a controlling influence over the management or policies of a company, unless the power is solely the result of an official position with the company. A person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control the company.

Investment adviser representative—A partner, officer or director of the investment adviser; any employe who participates in any way in the determination of which recommendations shall be made; any employe of the investment adviser who, in connection with assigned duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations:

(I) Any person in a control relationship to the investment adviser.

(II) Any affiliated person of a controlling person.

(III) Any affiliated person of an affiliated person.

(v) An investment adviser shall implement adequate procedures and use reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(13) Records of transactions by investment advisers primarily engaged in a business other than advising clients as follows:

(i) Notwithstanding paragraph (12), when the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record shall be maintained of every transaction in a security in which the investment adviser or an investment adviser representative of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except under the following conditions:

(A) Transactions effected in any account over which neither the investment adviser nor any investment adviser representative of the investment adviser has any direct or indirect influence or control.

(B) Transactions in securities which are direct obligations of the United States. The record shall state:

(I) The title and amount of the security involved.

(II) The date and nature of the transaction (that is, purchase, sale, or other acquisition or disposition).

(III) The price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected.

(ii) The record may also contain a statement declaring that the reporting or recording of any transaction will not be construed as an admission that the investment adviser or investment adviser representative has any direct or indirect beneficial ownership in the security.

(iii) A transaction shall be recorded within 10 days after the end of the calendar quarter in which the transaction was effected.

(iv) An investment adviser is "primarily engaged in a business or businesses other than advising investment advisory clients" when, for each of its most recent 3 fiscal years or for the period of time since organization, whichever is lesser, the invest-

ment adviser derived, on an unconsolidated basis, more than 50% of the following:

(A) Its total sales and revenues.

(B) Its income (or loss) before income taxes and extraordinary items, from the other business or businesses.

(v) For purposes of this paragraph, the following terms have the following meanings:

Control—The power to exercise a controlling influence over the management or policies of a company, unless the power is solely the result of an official position with such company. A person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control the company.

Investment adviser representative—When used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, the term means any partner, officer, director or employe of the investment adviser who participates in any way in the determination of which recommendations shall be made; any employe who, in connection with assigned duties, obtains information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations:

(I) A person in a control relationship to the investment adviser.

(II) An affiliated person of a controlling person.

(III) An affiliated person of an affiliated person.

(vi) An investment adviser shall implement adequate procedures and use reasonable diligence to obtain promptly reports of all transactions required to be recorded.

(14) A copy of each written statement and each amendment or revision, given or sent to any client or prospective client of the investment adviser in accordance with § 404.011 (relating to investment adviser brochure rule), and a record of the dates that each written statement, and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(15) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser shall maintain the following:

(i) Evidence of a written agreement to which the adviser is a party related to the payment of the fee.

(ii) A signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor.

(iii) A copy of the solicitor's written disclosure statement if required by § 404.013 (relating to cash payment for client solicitation).

(iv) For purposes of this paragraph, the term "solicitor" means any person or entity who, for

compensation, directly or indirectly solicits any client for, or refers any client to, an investment adviser.

(16) The accounts, books, internal working papers and other records or documents that are necessary to form the basis for, or demonstrate the calculation of, the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication including, but not limited to, electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment adviser). However, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this paragraph.

(17) A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employe, and regarding any written customer or client complaint.

(18) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to the client.

(19) Written procedures to supervise the activities of employes and investment adviser representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

(20) A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any State or Federal agency or self-regulatory organization and that pertains to the registrant or its investment adviser representatives as that term is defined in paragraph (12), which file should contain, but is not limited to, the applications, amendments, renewal filings and correspondence.

(b) [As a condition of the right to continue to transact business, each registered investment adviser shall immediately notify the Commission if the investment adviser shall fail to make and keep current the books and records required by this section. Within 24 hours after this notice, each investment adviser shall file with the commission a report stating what steps have been and are being taken to fully comply with this section.] If an investment adviser subject to subsection (a) has custody or possession of securities or funds of any client, the records required to be made and kept by subsection (a) shall also include:

(1) A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for all accounts and all other debits and credits to the accounts.

(2) A separate ledger account for each client showing all purchases, sales, receipts and deliveries

of securities, the date and price of each purchase and sale, and all debits and credits.

(3) Copies of confirmations of all transactions effected by or for the account of any client.

(4) A record for each security in which any client has a position, which record shall show the name of each client having any interest in each security, the amount or interest of each client, and the location of each security.

(c) [Every investment adviser registered or required to be registered under the act shall make, keep and preserve either a separate file of written complaints of customers and action taken by the investment adviser in response thereto, or a separate record of the complaints and a clear reference to the files containing the correspondence connected with the complaint as maintained by the investment adviser. A "complaint" shall be deemed to include a written statement of a customer or persons acting on behalf of a customer or a written notation of a verbal communication alleging a grievance involving the purchase or sale of securities, the solicitation or execution of a transaction, the disposition of securities or funds of the customer, or the rendering of investment advice.] Every investment adviser subject to subsection (a) that renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) Records showing separately for each client the securities purchased and sold, and the date, amount and price of each purchase and sale.

(2) For each security in which any client has a current position, information from which the investment adviser can promptly furnish the name of each the client, and the current amount or interest of the client.

(d) [The term "customer" of an investment adviser as used in this section includes persons to whom the investment adviser has given investment advice for which the investment adviser has received compensation.] The books or records required by this section may be maintained by the investment adviser in a manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(e) [The records required to be maintained under this chapter shall be retained and preserved for inspection by the Commission for a period of 5 years, the period to be measured from the date of the last entry therein or from the date of receipt of the communication or other information contained therein. The retention and preservation of records required in this section may be upon microfilm, computer disks or tapes or other similar recording process if adequate facilities are maintained for the examination of the facsimiles.] Every investment adviser subject to subsection (a) shall preserve the following records in the manner prescribed:

(1) The books and records required to be made under subsection (a), (b) and (c)(1) (except for

books and records required to be made under subsection (a)(11) and (a)(16)), shall be maintained and preserved in an easily accessible place for at least 5 years from the end of the fiscal year during which the last entry was made on record, the first 2 years being in the principal office of the investment adviser.

(2) Partnership articles and any amendments, articles of incorporation, charters, minute books and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least 3 years after termination of the enterprise.

(3) Books and records required to be made under subsection (a)(11) and (18) shall be maintained and preserved in an easily accessible place for at least 5 years, the first 2 years being in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication including by electronic media.

(4) Books and records required to be made under subsection (a)(19) and (22) shall be maintained and preserved in an easily accessible place for at least 5 years, the first 2 years being in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication including by electronic media.

(5) Notwithstanding other record preservation requirements of this section, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services:

(i) Records required to be preserved under subsections (a)(3), (7)—(10), (14), (15) and (17)—(19), (b) and (c).

(ii) Records or copies required under subsection (a)(11) and (16) which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address or telephone number.

(f) An investment adviser subject to subsection (a), before ceasing to do business as an investment adviser, shall arrange and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and shall notify the Commission in writing of the exact address where the books and records will be maintained during the period.

(g) The requirements for the storage of records are as follows:

(1) Records required to be maintained and preserved under this section may be immediately produced or reproduced by photograph on film or, as provided in paragraph (2), on magnetic disk, tape

or other computer storage medium, and shall be maintained and preserved for the required time in that form. If records are produced or reproduced by photographic film or computer storage medium, the investment adviser shall meet the following conditions:

(i) Arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record.

(ii) Be ready at all times to provide, and promptly provide, any facsimile enlargement of film or computer printout or copy of the computer storage medium which the Commission by its examiners or other representatives may request.

(iii) Store separately from the original one other copy of the film or computer storage medium for the time required.

(iv) With respect to records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records so as to reasonably safeguard records from loss, alteration or destruction.

(v) With respect to records stored on photographic film, at all times have available for the Commission's examination of its records under section 304(a) of the act (70 P. S. § 1-304(a)) facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

(2) An investment adviser may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the adviser's business, are created by the adviser on electronic media or are received by the adviser solely on electronic media or by electronic data transmission.

(h) For purposes of this section, the following terms have the following meanings:

Client—A person to whom the investment adviser has given investment advice for which the investment adviser has received compensation.

Investment supervisory services—The giving of continuous advice as to the investment of funds on the basis of the individual needs of each client. Discretionary power does not include discretion as to the price at which or the time when a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

Principal place of business—The meaning set forth in 17 CFR 275.203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

(i) Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 (17 CFR 240.17a-3) (relating to records to be made by certain exchange members, brokers and dealers) and 17a-4 (17 CFR 240.17a-4) (relating to records to be preserved by certain exchange members, brokers and dealers) under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk), which is substantially the same as the book or other record required to be made, kept, maintained and preserved under this section, shall be deemed

to be made, kept, maintained and preserved in compliance with this section.

(j) This section does not apply to an investment adviser registered under section 301 of the act that meets the following conditions:

(1) Has its principal place of business in a state other than this Commonwealth.

(2) Is licensed as an investment adviser in the state where it has its principal place of business.

(3) Is in compliance with the record keeping requirements of the state in which it has its principal place of business.

§ 304.022. Investment adviser required financial reports.

(a) [Every registered investment adviser shall file annually with the Commission a statement of its financial condition as of the end of its fiscal year.] Except as provided in subsection (b), the following investment advisers registered under section 301 of the act (70 P. S. § 1-301) shall file the following reports of financial condition with the Commission within 120 days of the investment adviser's fiscal year end:

(1) An investment adviser that has custody of client funds or securities or requires prepayment of advisory fees 6 months or more in advance and in excess of \$500 per client shall file with the Commission an audited balance sheet as of the end of its fiscal year. The balance sheet shall be prepared in accordance with generally accepted accounting principles and contain an unqualified opinion of an independent certified public accountant or independent public accountant. The accountant shall submit, as a supplementary opinion, comments based on the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and procedures for safeguarding securities and funds, and shall indicate corrective action taken or proposed. If the investment adviser is a certified public accountant or a public accountant or whose principals include one or more certified public accountants or public accountants, the investment adviser, in lieu of filing an audit report, may file a report modeled after the management responsibility letter contained in paragraph 9600.22 of the American Institute of Certified Public Accountants' Technical Information Service signed by a certified public accountant or public accountant or one of the principals of the investment adviser.

(2) An investment adviser who has discretionary authority over client funds or securities, but not custody, shall file with the Commission a balance sheet as of the end of its fiscal year. The balance sheet need not be audited but shall be prepared in accordance with generally accepted accounting principles. The balance sheet shall contain a representation by the investment adviser that it is true and accurate.

(b) [Except as set forth in subsection (c), the annual statement of financial condition filed under this section shall be prepared in accordance with generally accepted accounting principles and may be unaudited.] The requirements of subsection (a) do not apply to an investment adviser registered

under section 301 of the act whose principal place of business is in a state other than this Commonwealth if the investment adviser meets the following conditions:

(1) Is registered in the state in which it maintains its principal place of business.

(2) Is in compliance with the financial reporting requirements of the state in which it maintains its principal place of business.

(3) Has not taken custody of client assets at any time during the preceding 12 month period.

(c) [With respect to an investment adviser who has custody or possession of funds or securities in which a client has a beneficial interest, the annual statement of financial condition filed under this section shall be prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report containing an unqualified opinion of an independent certified public accountant or independent public accountant. The accountant shall submit as a supplementary opinion, comments based upon the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and procedures for safeguarding securities and funds, and shall indicate corrective action taken or proposed.

(d) The annual statement of financial condition required by this section shall be filed within 120 days following the end of the investment adviser's fiscal year.] For purposes of this section, the following terms have the following meanings:

Principal—The chair, president, chief executive officer, general manager, chief operating officer, chief financial officer, vice president or other officer in charge of a principal business function (including sales, administration, finance, marketing, research and credit), secretary, treasurer, controller and any other natural person who performs similar functions.

Principal place of business—The meaning set forth in 17 CFR 275-203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

§ 304.052. Investment adviser compensation.

No investment adviser registered [or required to be registered] under the act may charge or receive commissions or other compensation in connection with the giving of investment advice unless the compensation is fair and reasonable and is determined on an equitable basis[,] and adequately disclosed to each [customer] client in writing [provided that the charges, commissions or other compensation consistent with rates set by a national securities exchange, when applied to transactions on that exchange, or by the Securities and Exchange Commission or national securities association registered under the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a—78kk), may not be deemed unreasonable].

CHAPTER 305. DENIAL, SUSPENSION, CONDITIONING AND REVOCATION OF REGISTRATION

§ 305.011. Supervision of agents, investment adviser representatives and employees.

(a) [Every broker-dealer and investment adviser registered or required to be registered under the

act shall exercise diligent supervision over the securities activities of its agents and employes. As evidence of compliance with the requirement to supervise the procedures and systems, the following shall be implemented by the broker-dealer or investment adviser:

(1) Every agent or employe shall be subject to the supervision of a supervisor.

(2) Written procedures, a copy of which shall be kept in each business office, shall be established, maintained and enforced and shall set forth the procedures adopted to comply with the following duties imposed by this section:

(i) The review and written approval by the designated supervisor of the opening of each new customer account.

(ii) The frequent examination of customer accounts to detect and prevent irregularities or abuses.

(iii) The prompt review and written approval of the handling of customer complaints.

(iv) The prompt review and written approval by the designated supervisor of all correspondence pertaining to the solicitation and execution of all securities transactions.

(v) The review and written approval by the designated supervisor of the delegation by a customer of discretionary authority with respect to his account and the frequent examination of discretionary accounts to prevent irregularities or abuses.

(3) Each office location shall be periodically inspected to insure that the written procedures are enforced.]

Every broker-dealer and investment adviser registered under section 301 of the act (70 P. S. § 1-301) shall exercise diligent supervision over the securities activities and securities related activities of its agents, investment adviser representatives and employes.

(1) Each broker-dealer and investment adviser, in exercising diligent supervision, shall establish and maintain procedures, and a system for applying and enforcing those procedures, which would reasonably be expected to timely detect and prevent any violations of statutes, rules, regulations or orders described in section 305(a)(v) and (ix) of the act (70 P. S. § 1-305(a)(v) and (ix)), the Conduct Rules of the National Association of Securities Dealers, Inc., or any applicable fair practice or ethical standard promulgated by the United States Securities and Exchange Commission or by a National securities exchange registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78kk).

(2) Final responsibility for proper supervision shall rest with the broker-dealer and investment adviser.

(b) Every issuer who employes agents [in connection with a security or transaction not exempted by section 202 or 203 of the act (70 P. S. § 1-202 or 1-203)] registered under section 301 of the act shall be subject to the supervision requirements of subsection (a) with respect to those agents.

(c) As evidence of compliance with the supervisory obligations imposed by this section, every

broker-dealer and investment adviser shall implement written procedures, a copy of which shall be kept in each location at which the broker-dealer or investment adviser conducts business, and shall establish, maintain and enforce those procedures designed to timely detect and prevent any violations of law described in subsection (a). These written procedures, at a minimum, shall address:

(1) The supervision of every agent, investment adviser representative, employe and supervisor by a designated qualified supervisor.

(2) Methods to be used to determine that all supervisory personnel are qualified by virtue of character, experience and training to carry out their assigned responsibilities.

(3) Methods to be used to determine the good character, business repute, qualifications and experience of any person prior to making application for registration of that person with the Commission or hiring that person, or both.

(4) The review and written approval by the designated supervisor of the opening of each new customer account.

(5) The frequent examination of customer accounts to detect and prevent violations, irregularities or abuses.

(6) The prompt review and written approval of the handling of customer complaints.

(7) The prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions.

(8) The review and written approval by the designated supervisor of the delegation by a customer of discretionary authority with respect to the customer's account and frequent examination of discretionary accounts to prevent violations, irregularities or abuses.

(9) The participation of each agent and investment adviser representative either individually or collectively, no less than annually, in an interview or meeting conducted by persons designated by the broker-dealer or investment adviser at which compliance matters relevant to the activities of the agents and investment adviser representatives are discussed. Written records shall be maintained reflecting the interview or meeting.

(10) The periodic inspection of each location in this Commonwealth from which business is conducted to ensure that the written procedures and systems are enforced.

(i) The obligation of diligent supervision required by this section may require that one or more locations in this Commonwealth receive more than one inspection per year and that one or more of these inspections be unannounced.

(ii) It is the responsibility of the broker-dealer or investment adviser to determine the required number of inspections each location is to receive each year to ensure that the written procedures and systems are enforced and the supervisory obligations imposed by this section are being honored.

(iii) Written records shall be maintained reflecting each inspection conducted.

§ 305.019. Dishonest and unethical practices.

* * * * *

(b) Under section 305(a)(ix) of the act (70 P. S. § 1-305(a)(ix)), the Commission may deny, suspend, condition or revoke a broker-dealer, agent, investment adviser or [associated person] investment adviser representative registration or censure a broker-dealer, agent, investment adviser or [associated person] investment adviser representative registrant if [that person] the registrant or applicant, or [an] in the case of any broker-dealer or investment adviser, any affiliate thereof, has engaged in dishonest or unethical practices in the securities business or has taken unfair advantage of a customer.

(c) The Commission, for purposes of [issuing an order under] section 305(a)(ix) of the act, will consider the actions in paragraphs (1)—(3) to constitute dishonest or unethical practices in the securities business or taking unfair advantage of a customer. The conduct described in paragraphs (1)—(3) is not exclusive. Engaging in other conduct inconsistent with the standards in subsection (a), such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices or taking unfair advantage of a customer or former customer in any aspect of a tender offer also constitutes grounds for denial, suspension, conditioning or revocation of any registration or application for registration of a broker-dealer, agent, investment adviser or [associated person registration] investment adviser representative.

(1) Broker-dealers. Includes the following actions:

* * * * *

(xxii) Failing to comply with investor suitability standards imposed as a condition of the registration of securities under section 205 or 206 of the act (70 P. S. § 1-205 or § 1-206) in connection with the offer, sale or purchase of a security in this Commonwealth.

(2) Agents. Includes the following actions:

* * * * *

(vi) Engaging in conduct specified in paragraph (1)(ii)—(vi), (ix), (x), (xiv)—(xvii) [and], (xxi) and (xxii).

(3) Investment advisers and investment adviser representatives. Includes the following actions:

(i) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of a security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.

(ii) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed under oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

* * * * *

(viii) Misrepresenting to an advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative or an employe of the investment adviser or misrepresenting the nature of the advisory services being offered or fees to be charged for the service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.

(ix) Providing a report or recommendation to an advisory client prepared by someone other than the investment adviser or investment adviser representative without disclosing that fact. This prohibition does not apply to a situation where the investment adviser or investment adviser representative uses published research reports or statistical analyses to render advice or where an investment adviser or investment adviser representative orders [such a] the report in the normal course of providing advice.

* * * * *

(xi) Failing to disclose to clients in writing before advice is rendered a material conflict of interest relating to the investment adviser [or its employes], the investment adviser representative or an employe of the investment adviser which could reasonably be expected to impair the rendering of unbiased and objective advice including:

* * * * *

(B) Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to the advice will be received by the investment adviser [or its employes], the investment adviser representative or any employe of the investment adviser.

* * * * *

(xv) Taking an action, directly or indirectly, with respect to those securities or funds in which a client has a beneficial interest, [where] when the investment adviser has custody or possession of the securities or funds when the adviser's action is subject to, and does not comply with [the requirements of Rule 206(4)-2 under the Investment Advisers Act of 1940] § 404.014 (relating to investment adviser custody or possession of funds or securities of customers).

* * * * *

(xvii) Failing to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to section 204A of the Investment Advisers Act of 1940 (15 U.S.C.A. § 80b-4a) and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder.

(xviii) Entering into, extending or renewing any advisory contract contrary to the provisions of section 205 of the Investment Advisers Act of 1940 (15 U.S.C.A. § 80b-5) and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder. This applies to all investment advisers and investment adviser representatives registered under section 301 of the act (70 P. S. § 1-301) notwithstanding whether the investment adviser is exempt from registration with the United States Securities and Exchange Commis-

sion under section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C.A. § 80b-3).

(xix) To indicate, in an advisory contract, any condition, stipulation or provision binding any person to waive compliance with any provision of the act.

(xx) Engaging in any act, practice or course of business which is fraudulent, deceptive or manipulative or contrary to the provisions of section 206(4) of the Investment Advisers Act of 1940 (15 U.S.C.A. § 80b-6(4)) and the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder. This applies to all investment advisers and investment adviser representatives registered under section 301 of the act notwithstanding whether the investment adviser is exempt from registration with the United States Securities and Exchange Commission under section 203(b) of the Investment Advisers Act of 1940.

(xxi) Engaging in conduct or committing any act, directly, indirectly or through or by another person, which would be unlawful for the person to do directly under the act or a rule, regulation or order issued thereunder.

§ 305.061. [Application to withdraw] Withdrawal of registration or notice filing.

* * * * *

(c) To withdraw a notice filing, a Federally covered adviser shall file Form ADV-W or successor form thereto.

(d) An application to withdraw as an [associated person] investment adviser representative of an investment adviser or Federally covered adviser or from registration as an agent of a broker-dealer or issuer shall contain the information requested in and shall be made on Uniform Termination Notice for Securities/Futures Industry Registration, (Form U-5) or a successor form. Form U-5 shall be filed by the broker-dealer, issuer [or], investment adviser or Federally covered adviser with whom the agent or [associated person] investment adviser representative was employed within 30 days from the date of termination.

(e) Filings required by subsections (a)—(d) shall be filed with the Commission or with a central registration depository designated by order of the Commission.

Subpart D. FRAUDULENT AND PROHIBITED PRACTICES

CHAPTER 404. PROHIBITED ACTIVITIES; INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

§ 404.010. Advertisements by investment advisers and investment adviser representatives.

(a) It shall constitute a fraudulent, deceptive, or manipulative act, practice or course of [business] conduct within the meaning of section 404 of the act (70 P. S. § 1-404), for any investment adviser or investment adviser representative, directly or indirectly, to publish, circulate or distribute any advertisement:

(1) Which refers, directly or indirectly, to any testimonial of any kind by any customer concerning the investment adviser or investment adviser representative concerning any advice, analysis, report or other service

rendered to the customer by the investment adviser or investment adviser representative.

(2) Which refers, directly or indirectly, to past specific recommendations of the investment adviser or investment adviser representative which were or would have been profitable to any person; provided, however, that this [shall] does not prohibit an advertisement which sets forth or offers to furnish a list of all recommendations made by [such] the investment adviser or investment adviser representative for the 12 month period immediately preceding the date of the publication of the advertisement, and which:

* * * * *

(ii) Contains the following cautionary legend prominently displayed on the first page thereof in print or type as large as the largest print or type used in the body or text stating: "IT SHOULD NOT BE ASSUMED THAT RECOMMENDATIONS MADE IN THE FUTURE WILL BE PROFITABLE OR WILL EQUAL THE PERFORMANCE OF THE SECURITIES IN THIS LIST."

* * * * *

(4) Which contains any statement to the effect that any report, analysis [,] or other service will be furnished free or without charge, unless [such] the report, analysis [,] or other service actually is or will be furnished absolutely without any condition or obligation [, directly or indirectly].

(5) Which contains any untrue statement of a material fact, or which is otherwise false or misleading in any material respect, including the failure to disclose compensation (including free or discounted securities) received directly or indirectly in connection with making a recommendation concerning a specific security [; or].

(6) Which recommends the purchase or sale of any security unless the investment adviser or investment adviser representative simultaneously offers to furnish to any person upon request a tabular presentation of:

(i) The total number of shares or other units of [such] the security held by the investment adviser or investment adviser representative for its own account or for the account of officers, directors, trustees, partners or affiliates of the investment adviser or for discretionary accounts of the investment adviser or investment adviser representative maintained for [customers] clients.

* * * * *

(b) For the purpose of this [chapter] section, the term "advertisement" shall include any notice, circular, letter or other written communication addressed to more than one person, or any notice or other announcement in any publication, [or] by radio or television, or by electronic means, which offers:

* * * * *

(c) For the purpose of this section, the term "client" means a person to whom the investment adviser or investment adviser representative has given investment advice for which the investment adviser or investment adviser representative has received compensation.

§ 404.011. Investment adviser brochure disclosure.

(a) Failure of an investment adviser to provide each advisory client or prospective advisory client

the disclosure required by this section shall constitute a fraudulent, deceptive or manipulative act, practice or course of business, within the meaning of section 404 of the act (70 P. S. § 1-404).

(b) Unless otherwise provided in this section, an investment adviser registered under section 301 of the act (70 P. S. § 1-301) shall furnish each advisory client and prospective advisory client with a written disclosure statement which may be a copy of Part II of its Form ADV or written documents containing at least the information required by Part II of Form ADV.

(c) Except as provided in subsection (d), an investment adviser:

(1) Shall deliver the disclosure described in subsection (b) to an advisory client or prospective advisory client and meet the following conditions:

(i) Not less than 48 hours prior to entering into any investment advisory contract with the client or prospective client.

(ii) At the time of entering into the contract, if the advisory client has a right to terminate the contract without penalty within 5 business days after entering into the contract.

(2) Annually and without charge, shall deliver, or offer in writing to deliver, upon written request to each of its advisory clients the disclosure described in subsection (b). Any statement requested in writing by an advisory client under this paragraph shall be mailed or delivered within 7 days of the receipt of the request.

(d) Delivery of the disclosure described in subsection (b) need not be made to advisory clients receiving advisory services solely pursuant to a contract for impersonal advisory services requiring a payment of less than \$200.

(e) If an investment adviser renders substantially different types of investment advisory services to different advisory clients, any information required by Part II of Form ADV may be omitted from the disclosure to be furnished to an advisory client or prospective advisory client if the information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(f) Nothing in this section relieves an investment adviser from any obligation under the act or this title or other Federal or State law to disclose any information to its advisory clients or prospective advisory clients not specifically set forth in this section.

(g) For the purpose of this section, the following terms have the following meanings:

Client—A person to whom the investment adviser has given investment advice and for which the investment adviser has received compensation.

Contract for impersonal advisory services—A contract relating solely to the provision of investment advisory services meeting one of the following conditions:

(i) By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts.

(ii) Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security.

(iii) Any combination of the foregoing services.

Entering into—In reference to an investment advisory contract, the term does not include an extension or renewal without material change of the contract which is in effect immediately prior to the extension or renewal.

§ 404.012. Wrap fee brochure disclosure.

(a) Failure by an investment adviser that sponsors a wrap fee program to provide each client or prospective client of a wrap fee program the disclosure required by this section shall constitute a fraudulent, deceptive or manipulative act, practice or course of business, within the meaning of section 404 of the act (70 P. S. § 1-404).

(b) The investment adviser shall, in lieu of the written disclosure statement required by § 404.011 (relating to investment adviser brochure disclosure), furnish each client or prospective client of a wrap fee program, a separate written disclosure statement containing at least the information required by Schedule H of Form ADV. Any information included in the disclosure statement that is not specifically required by Part II of Form ADV should be limited to information concerning wrap fee programs for which the investment adviser is required to furnish disclosure statements under this section.

(c) If an investment adviser sponsors or organizes more than one wrap fee program, the investment adviser may omit from the disclosure statement furnished to clients and prospective clients of a particular wrap fee program or programs any information required by Schedule H of Form ADV that is not applicable to clients or prospective clients of that wrap fee program or programs.

(d) An investment adviser need not furnish the written disclosure statement required by subsection (b) to clients and prospective clients of a wrap fee program if another investment adviser is required to furnish and does furnish the written disclosure statement to all clients and prospective clients of the wrap fee program.

(e) The wrap fee disclosure statement shall be attached to Part II of Form ADV and filed with the Commission. If the investment adviser prepared separate wrap fee brochures for clients of different programs, each brochure shall be filed with the Commission. An investment adviser shall deliver the statement required by this section to a client or prospective client meeting the following conditions:

(1) Not less than 48 hours prior to entering into a wrap fee program contract with a client or prospective client.

(2) At the time of entering into any wrap fee program contract, if the advisory client has the right to terminate the contract without penalty within 5 business days after entering into the contract.

(f) If information contained in the wrap fee disclosure statement becomes inaccurate in a material manner, the investment adviser shall promptly file an amendment to Form ADV with the Commission correcting the information. An investment adviser

may update the wrap fee disclosure statement by using a supplement or "sticker" that indicates what information is being added or updated and states the new or revised information, as long as the resulting brochure is readable.

(g) For purposes of this section, the following terms have the following meanings:

Portfolio management—The process of determining or recommending securities transactions for any portion of a client's portfolio.

Sponsor—An investment adviser that is compensated under a wrap fee program for administering, organizing or sponsoring the program, or for selecting or providing advice to clients regarding the selection of other investment advisers in the program.

Wrap fee program—A program under which any client is charged a specified fee or fees not based directly upon transactions in a client's account for investment advisory services (which may include portfolio management or advice concerning the selection of other investment advisers) and execution of client transactions.

§ 404.013. Cash payment for client solicitation.

(a) Failure of an investment adviser to comply with this section concerning cash payments for client solicitation shall constitute a fraudulent, deceptive or manipulative act, practice or course of business, within the meaning of section 404 of the act (70 P. S. § 1-404).

(b) An investment adviser may not pay a cash fee, directly or indirectly, to a solicitor with respect to solicitation activities unless the following conditions are met:

(1) The investment adviser is registered under the act.

(2) The solicitor, unless exempted, is registered under the act.

(3) The cash fee is paid pursuant to a written agreement to which the investment adviser is a party.

(4) The written agreement required by paragraph (3) shall:

(i) Describe the solicitation activities to be engaged in by the solicitor on behalf of the investment adviser and the compensation to be received therefor.

(ii) Contain an undertaking by the solicitor to perform its duties under the agreement in a manner consistent with the instructions of the investment adviser and the act and this title.

(iii) Require that the solicitor, at the time of any solicitation activities for which compensation is paid or to be paid by the investment adviser, provide the client with a current copy of the following:

(A) The investment adviser's written disclosure statement required by § 404.011 or § 404.012 (relating to investment adviser brochure rule; and wrap fee brochure).

(B) A separate written disclosure document which contains the following:

(I) The name of the solicitor.

(II) The name of the investment adviser.

(III) The nature of the relationship, including any affiliation, between the solicitor and the investment adviser.

(IV) A statement that the solicitor will be compensated for his solicitation services by the investment adviser.

(V) The terms of the compensation arrangement, including a description of the compensation paid or to be paid to the solicitor.

(VI) The amount, if any, for the cost of obtaining his account the client will be charged in addition to the advisory fee, and the differential, if any, among clients with respect to the amount or level of the advisory fees charged by the investment adviser if the differential is attributable to the existence of any arrangement pursuant to which the investment adviser has agreed to compensate the solicitor for soliciting clients for, or referring clients to, the investment adviser.

(5) The investment adviser receives from the client prior to, or at the time of, entering into any written or oral investment advisory contract with the client, a signed and dated acknowledgment of receipt of the investment adviser's written disclosure statement required by § 404.011 (relating to investment adviser brochure disclosure) and the solicitor's written disclosure document required by paragraph (4)(iii)(B).

(c) For purposes of subsection (b)(4), this section does not apply to an investment adviser when the cash fee is paid to a solicitor:

(1) With respect to solicitation activities for the provision of impersonal advisory services only.

(2) Who is one of the following:

(i) A partner, officer, director or employe of the investment adviser.

(ii) A partner, officer, director or employe of a person which controls, is controlled by, or is under common control with the investment adviser. The status of the solicitor as a partner, officer, director or employe of the investment adviser or other person, shall be disclosed to the client at the time of the solicitation or referral.

(d) Nothing in this section relieves a person of fiduciary or other obligations to which the person may be subject under the law.

(e) For purposes of this section, the following terms have the following meanings:

Client—A prospective client.

Impersonal advisory services—Investment advisory services provided solely by means of one of the following:

(i) Written materials or oral statements which do not purport to meet the objectives or needs of the specific client.

(ii) Statistical information containing no expressions of opinions as to the investment merits of particular securities.

(iii) Any combination of the services in subparagraphs (i) and (ii).

Solicitor—A person or entity who, for compensation, directly or indirectly, solicits any client for, or refers any client to, an investment adviser.

§ 404.014. Investment adviser custody or possession of funds or securities of clients.

(a) Failure of an investment adviser not registered as a broker dealer that has custody or possession of funds or securities in which a client has a beneficial interest to comply with this section constitutes a fraudulent, deceptive or manipulative act, practice or course of business, within the meaning of section 404 of the act (70 P. S. § 1-404).

(b) An investment adviser registered under section 301 of the act (70 P. S. § 1-301) that has custody or possession of funds or securities in which any client has any beneficial interest shall:

(1) Notify the Commission in writing that the investment adviser has or may have custody. The notification shall be given on Form ADV.

(2) Segregate the securities of each client marked to identify the particular client having the beneficial interest therein and hold in safekeeping in some place reasonably free from risk of destruction or other loss.

(3) Deposit all client funds in one or more bank accounts containing only client's funds.

(4) Maintain the accounts described in paragraph (3) in the name of the investment adviser as agent or trustee for the clients.

(5) Maintain a separate record for each account described in paragraph (3) showing the name and address of the bank where the account is maintained, the dates and amounts of deposits in and withdrawals from the account and the exact amount of each client's beneficial interest in the account.

(6) Immediately after accepting custody or possession of funds or securities from a client, notify the client in writing of the place where and the manner in which the funds and securities will be maintained and subsequently, if and when there is a change in the place where or the manner in which the funds or securities are maintained, the investment adviser will give written notice thereof to the client.

(7) At least once every 3 months, send each client an itemized statement showing the funds and securities in the investment adviser's custody at the end of each period and all debits, credits and transactions in the client's account during the period.

(8) At least once every calendar year, engage an independent certified public accountant or independent public accountant to verify all client funds and securities by actual examination at a time chosen by the accountant without prior notice to the investment adviser. A report stating that an accountant has made an examination of the client funds and securities, and describing the nature and extent of the examination, shall be filed with the Commission within 30 days after each examination.

(c) For purposes of this section, a person will be deemed to have custody if the person directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them.

§ 404.020. [Investment adviser custody or possession of funds or securities of customers] (Reserved).

[It shall constitute a fraudulent, deceptive or manipulative act, practice or course of business, within the meaning of section 404 of the act (70 P. S. § 1-404), for any investment adviser not registered as a broker-dealer to have custody or possession of any funds or securities in which any customer has any beneficial interest unless the investment adviser has complied with the requirements described in Rule 206(4)-2 (17 CFR 275.206(4)-2) adopted under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).]

SUBPART F. ADMINISTRATION

CHAPTER 602. FEES

§ 602.060. Charges for Commission publications.

Under section 602(f) of the act (70 P. S. § 1-602(f)), the Commission has fixed the following charges for publications, issued under its authority:

(1) [PSC Monthly Bulletin and Annual Report Service: \$35 per annual subscription.

(2)] Compendium of Commission and Staff Positions, Summary of Significant Commission Orders and Compilation of Staff No-Action Letters (Compendium), including annual supplement service for the calendar year in which Compendium was purchased: \$95.

[(3)] (2) * * *

[(4)] (3) * * *

CHAPTER 603. ADMINISTRATIVE FILES

§ 603.031. Public inspection of records.

* * * * *

(b) The Commission may withhold from public inspection[, for time as in its judgment is necessary, public records the disclosure of which the Commission determines would be unfairly prejudicial to a person or his personal safety or detrimental to the public interest as determined by a court of competent jurisdiction] those records which it determines are excluded from the definition of public records in section 1 of the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. § 66.1(2)), known as the Right-to-Know Law.

* * * * *

(f) The Commission has determined to treat confidential the Social Security Number, the date of birth and home address of a person registered or applying for registration as an agent or an investment adviser representative that appears on the Uniform Application for Securities Industry Registration or Transfer (Form U-4) or successor form thereto required to be filed with the Commission under § 303.013 or § 303.014 (relating to agent registration procedures; and investment adviser representative registration procedures). This informa-

tion will not be available for public inspection under any provision of the act.

[Pa.B. Doc. No. 00-743. Filed for public inspection May 5, 2000. 9:00 a.m.]

STATE BOARD OF AUCTIONEER EXAMINERS

[49 PA. CODE CH. 1]

Application Fees

The State Board of Auctioneer Examiners (Board) proposes to amend § 1.41 (relating to fees) by revising those fees which are not related to license renewals but reflect the cost of processing applications and providing services. The proposed changes are to read as set forth in Annex A.

A. Effective Date.

This amendment will take effect when published as final rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority.

Section 6(a) of the Auctioneer and Auction Licensing Act (act) (63 P. S. § 734.6(a)), requires the Board to establish fees by regulation. The same provision requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to match expenditures.

C. Background and Purpose.

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures. General operating expenses of the Board are funded through biennial license renewal fees which are paid by all licensees. Expenses of the Board which are related to processing individual applications or providing certain services directly to individual licensees or applicants are excluded from general operating revenues. These expenses are funded through fees which are based on the cost of providing the service. These application and service fees are the focus of this proposed rulemaking.

A recent systems audit of the operations of this and other boards within the Bureau of Professional and Occupational Affairs analyzed the fees for services to licensees and applicants to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based on the following formula:

$$\begin{array}{r} \text{number of minutes to perform the function} \\ \times \\ \text{pay rate of personnel performing the function} \\ + \\ \text{a proportionate share of administrative overhead.} \end{array}$$

The Board's fee schedule in § 1.41 was last amended in 1998 when the Board adopted biennial renewal fee increases to balance a projected deficit in the Board's anticipated revenues and expenses. However, the fee structure of § 1.41 incorporated that established by the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-203) which established fees only for examination, licenses and renewals. The present auctioneer law was enacted in 1983 and among other things gave the Board authority to regulate auction houses and companies and approved schools. As a result of the

systems audit referred to previously, the Board identified activities resulting from regulatory requirements for these entities.

In this proposal, the Board would establish six new fees identified in the Bureau audit as attributable to requests by individual licensees for services or Board approval or action required by the act or regulation. By establishing these fees the Board proposes that these licensees will pay their proportionate share of the cost to provide the service and reserve renewal revenue for general operating and enforcement expenses.

The Board mandates prescribed programs of study in § 1.11 (relating to approved course of study). The Board now proposes a fee to cover the costs of the approval process in reviewing a course for which an applicant wants to receive credit, when the course is outside the prescribed course of study.

The Board also proposes a fee for applications to change sponsor. Sponsors are licensed auctioneers who agree to supervise apprentice auctioneers under section 5(b) of the act (63 P. S. § 734.5(b)), an apprentice auctioneer license is valid only when that apprentice has a sponsoring auctioneer; the apprentice must submit a transfer form and obtain a reissued license each time the apprentice secures a new sponsor.

Sections 9 and 10(d) of the act (63 P. S. §§ 734.9 and 734.10(d)), require auction house and auction company licensees to notify the Board of change in ownership, name and location of the auction house or company. The Board now proposes a fee to process these applications for changes in auction house or company licenses.

Section 11 of the act (63 P. S. § 734.11) provides for licensure of nonresidents upon their compliance with the conditions for licensure required of Commonwealth residents. The Board currently does not charge a fee for the time involved in reviewing nonresident qualifications to determine eligibility to sit for the licensing exam. The Board now proposes a fee for this service.

Currently the Board charges no fees for the actual cost of processing the following: an application to approve course; an application to change sponsor; an application to change auction house or auction company license; nonresident examination eligibility review; certification of scores, permit or registration; and verification of license registration, permit or approval.

Verification of scores, permit or registration involves a brief and simple electronic search of the Board's computerized licensure records for the subject licensee. This process takes about 5 minutes. Certification of scores, permit or registration is a more labor intensive function which may require Board staff to search electronically and manually through extensive computer, microfilm and paper files to compile various pieces of information regarding the subject's education, examination and/or training. That information is then compiled into one document. The certification process takes about 45 minutes.

The Bureau's costs calculations allowed the Board to establish fees for the services identified in this proposal, which fees would allocate costs to those who use the service or submit the application.

The Board proposes a new fee of \$45 to cover the cost of processing applications to approve a course; a \$15 fee to cover the cost of processing applications to change sponsors and a \$15 fee to cover the cost of processing an application to change auction house or auction company license. In addition, the Board proposes a new fee of \$25

to cover the cost of performing nonresident examination eligibility review; a new fee of \$25 to cover the cost of processing certifications of scores, permits or registration; and a new fee of \$15 to cover the cost of processing verification of license, registration, permit or approval. The Board currently incurs staff costs in administrative overhead in providing these services without fee.

The following table outlines the new application fees:

<i>Application or Service</i>	<i>Current Fee</i>	<i>Proposed Fee</i>
Application to approve course	\$0	\$45
Application to change sponsor	\$0	\$15
Application to change auction house or auction company license	\$0	\$15
Nonresident exam eligibility review	\$0	\$25
Certification of scores, permit or registration	\$0	\$25
Verification of license, or approval	\$0	\$15

D. Compliance with Executive Order 1996-1.

In accordance with Executive Order 1996-1 (February 1, 1996), in drafting and promulgating the proposal, the Board considered the amendment as both required by law and the least restrictive means of covering the costs of services requested by licensees and applicants.

E. Fiscal Impact and Paperwork Requirements

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a very modest fiscal impact on those members of the private sector who apply for services from the Board. This amendment will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

F. Sunset Date.

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review.

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2000, the Board submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and to the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of the material is available to the public upon request.

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

H. Public Comment.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Linda Dinger, Administrative Assistant, State Board of Auctioneer Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-644 (Application Fees) when submitting comments.

RALPH M. STEWART,
Chairperson

Fiscal Note: 16A-644. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 1. STATE BOARD OF AUCTIONEER EXAMINERS
FEES**

§ 1.41. Schedule of fees.

Applicants shall pay the following fees:

[(1)] Examination fee for auctioneer license	\$87
[(2)] Application fee for auctioneer license .	\$50
[(3)] Biennial renewal fee for auctioneer license	\$200
[(4)] Application fee for apprentice auctioneer license.	\$30
[(5)] Biennial renewal fee for apprentice auctioneer license.	\$100
[(6)] Application fee for auction house and auction company.	\$200
[(7)] Special license to conduct auction	\$200
Application fee to approve course	\$45
Application fee to change sponsor	\$15
Application fee to change auction house or auction company license.	\$15
Nonresident exam eligibility review	\$25
Certification of scores, permit or registration	\$25
Verification of license, registration, permit or approval	\$15

[Pa.B. Doc. No. 00-744. Filed for public inspection May 5, 2000, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Biennial Renewal Fees

The State Board of Nursing (Board) proposes to amend §§ 21.5, 21.147 and 21.253 (relating to fees) by revising

biennial renewal fees to read as set forth in Annex A. The proposed amendments would increase the biennial license renewal fee for registered nurses from \$21 to \$45, for licensed practical nurses from \$16 to \$40, and for certified registered nurse practitioners (CRNPs) from \$26 to \$50.

A. Effective Date

The new fees would be effective on final publication in the *Pennsylvania Bulletin* and will apply to the biennial renewals commencing after July 1, 2000.

B. Statutory Authority

The proposed amendments are authorized under section 11.2(a), (b) and (d) of The Professional Nursing Law (63 P. S. § 221.2(a), (b) and (d)) and section 17.5(a) and (b) of the Practical Nurse Law (63 P. S. § 667.5(a) and (b)). Section 11.2(a), (b) and (d) of The Professional Nursing Law and section 17.5(a) and (b) of the Practical Nurse Law require the Board to fix the fees required for renewal of licenses and certificates by regulation. In addition, these provisions require the Board to increase fees by regulation to meet or exceed projected expenditures if the current revenues raised by fees, fines and civil penalties are not sufficient to meet projected expenditures and to increase fees in an amount to insure that adequate revenues are raised to meet the required enforcement efforts.

C. Background and Need for Amendments

As noted previously, the Board's licensure laws require that the Board fund enforcement and operating expenses through biennial renewal fees, fines and penalties. The biennial renewal fees fund nearly all of the Board's costs.

In accordance with these laws, the Board in conjunction with the Department of State's Budget and Financial Management Office and its Revenue Office has reviewed biennially the actual expenditures and revenue history of the Board against its projected expenses and revenue. For the past 4 biennial renewal periods, the Board's license renewal fees, which were established by regulation in 1992, were sufficient to meet expenditures.

At its September 28, 1999, Board meeting, the Board reviewed a summary of the Board's revenues and expenses since the last biennial cycle. The summary, prepared by the Offices of Revenue and Budget and presented in the following table format, demonstrated that the Board must raise fees to meet or exceed projected expenditures and thereby comply with section 11.2(a) and (b) of The Professional Nursing Law and section 17.5(a) and (b) of the Practical Nurse Law.

	<i>FY98-99</i> <i>(Actual)</i>	<i>FY99-00</i> <i>(Projected)</i>
Beginning Balance	\$429,038.32	(\$802,116.45)
Revenue	\$2,713,548.01	\$3,510,613.00
Prior Year returned Funds	\$93,297.22	\$43,650.20
Total Revenue	\$3,235,883.55	\$2,752,146.75
Expenses	\$4,038,000.00	\$4,486,000.00
Remaining Balance	(\$802,116.45)	(\$1,733,853.25)

As the foregoing indicates, the Board last recorded a positive revenue/expenditure balance on June 30, 1998, of \$429,038.32. As of June 30, 1999, the Board had a negative revenue/expenditure balance and experienced a deficit of \$802,116.45. The Budget Office projects a 1999-2000 fiscal year deficit of \$1,733,853.25.

During the fiscal year ending June 30, 1999, Board costs showed a substantial increase over the prior fiscal

year in Board administration costs and investigation and hearing costs. Board administration included the costs of making licensing information available on the Internet (\$37,000) and a new phone system (\$60,000), which greatly enhance customer service; new software and computers (\$16,000), which are an investment in the future of the Board; and newsletter mailing (\$118,206.40). Additionally, the Board experienced a fire in 1994. Since that time, the Board has been absorbing the increased costs of obtaining new equipment and leasing office space without a corresponding increase in biennial renewal fees. The following chart shows the increase in disciplinary actions relating to the law enforcement and hearing costs centers.

	<i>Fy 92-93</i>	<i>Fy 98-99</i>	<i>Increase</i> <i>(% increase)</i>
Cases opened	327	596	269 (82.27%)
Cases closed	281	604	323 (114.95%)
Disciplinary actions	76	176	100 (131.58%)

The following is a summary of expenditure charges for fiscal year June 30, 1998, to June 30, 1999:

BPOA Administration	\$348,774.20
Commissioner's office	\$256,959.70
Law Enforcement	\$358,841.24
Board Member Expenses	\$46,405.61
Test Administration	\$200.00
Hearing Expenses	\$139,732.47
Central Support Services	\$746,420.07
Board Administration	\$1,120,566.14
Professional Health Monitoring Program	\$271,608.77
Public Information Office	\$4,522.54
Legislative and Regulatory Analysis	\$60,647.56
Legal Office	\$595,189.82
Rolled Expenditures	\$44,481.67
Total Board Costs	\$3,994,349.80

D. Description of Proposed Amendments

The proposed amendments would increase the biennial renewal fee for practical nurses, professional nurses and CRNPs. The following table outlines the affected biennial renewal fees and proposed changes:

<i>License</i>	<i>Current Fee</i>	<i>Proposed Fee</i>
Licensed Practical Nurse	\$16	\$40
Registered Nurse	\$21	\$45
CRNP	\$26	\$50

The Budget Office anticipates that the proposed new fees will enable the Board to recapture the current deficit and meet its estimated expenditures for the 2000-2002 biennial cycle.

The proposed new fees will affect a total licensee population of 257,986 (197,171 registered nurses, 4,422 CRNPs and 56,393 licensed practical nurses). The Board estimates these fees will generate \$13,175,515 in biennial revenue. If the proposal is effectuated, the revenue would be used to recapture projected deficits totaling \$2.8 million by the end FY 00-01 and to fund anticipated expenditures from FY 01-02 through FY 03-04 of \$12.7 million.

E. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulations the Board considered the regulations as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

F. Fiscal Impact

The proposed amendments will increase the biennial renewal fees for licensed practical nurses, registered nurses and CRNPs. Licensed practical nurses, registered nurses and CRNPs will pay an additional \$24 for biennial renewal. The proposed amendments should have no other fiscal impact on the private sector, the general public or political subdivisions.

G. Paperwork Requirements

The proposed amendments will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendments should not create additional paperwork for the private sector.

H. Sunset Date

The Professional Nursing Law and the Practical Nurse Law require that the Board monitor its revenue and cost on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 20, 2000, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee for review and comment. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

J. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Ann Steffanic, Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference

No. 16A-5113 (Biennial Renewal Fees), when submitting comments.

SUSANNE M. KELLY, BSN, RN,
Chairperson

Fiscal Note: 16A-5113. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.5. Fees.

(a) The following fees are charged by the Board:

	* * * * *
Biennial renewal of license	\$[21] 45
	* * * * *

Subchapter B. PRACTICAL NURSES

GENERAL PROVISIONS

§ 21.147. Fees.

(a) The following fees are charged by the Board:

	* * * * *
Biennial renewal of license	\$[16] 40
	* * * * *

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

The following fees are charged by the Board:

	* * * * *
Biennial renewal of certification	\$[26] 50
	* * * * *

[Pa.B. Doc. No. 00-745. Filed for public inspection May 5, 2000, 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 25, 2000.

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-21-00	Lafayette Ambassador Bank Easton Northampton County	2045 City Line Rd. Bethlehem Lehigh County	Approved
4-21-00	Parkvale Savings Bank Monroeville Allegheny County	12095 Perry Highway Wexford Allegheny County	Approved
4-21-00	S & T Bank Indiana Indiana County	4251 Old William Penn Highway Murrysville Westmoreland County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-21-00	Harris Savings Bank Harrisburg Dauphin County	<i>Into:</i> Camp Hill Mall Camp Hill Cumberland County <i>From:</i> 1832 Market Street Camp Hill Cumberland County	Approved
4-24-00	Harris Savings Bank Harrisburg Dauphin County	<i>Into:</i> Camp Hill Mall Camp Hill Cumberland County <i>From:</i> Market Street Camp Hill Cumberland County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

DAVID E. ZUERN,
Secretary

[Pa.B. Doc. No. 00-746. Filed for public inspection May 5, 2000, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Consolidated Plan; 1999 Annual Performance Report Availability

By this notice, the Department of Community and Economic Development (Department) makes available for public review, the 1999 Annual Performance Report (APR)

for the Commonwealth of Pennsylvania's Consolidated Plan. The 1999 APR reports on activities that were outlined in the Consolidated Plan for Federal fiscal years 1995 through 1999 as well as the Action Plan for 1999. The report describes progress in achieving the Commonwealth's 5-year strategy, including resources made available and activities completed in Federal fiscal year 1998. This report will be submitted to the United States Department of Housing and Urban Development by May 22, 2000.

Copies of the draft APR will be available for public comment from May 6—21, 2000 at the following locations.

The final APR will be made available again at the same locations, following approval by HUD.

County Commissioners—A copy will be sent to the Chairperson of each County Board of Commissioners.

The Tri-County Branch of the Pennsylvania Association of the Blind (on audio cassette):

Patricia Summers, Coordinator
Harrisburg, Area Radio Reading Service
1800 N. Second Street
Harrisburg, PA 17102
Telephone: (717) 238-2531

Pennsylvania Department of Community and Economic Development Regional Offices:

Southwest Regional Office 413 State Office Building 300 Liberty Avenue Pittsburgh, PA 15222 Telephone: (412) 565-5002	Northeast Regional Office 201 Samters Building 101 Penn Avenue Scranton, PA 18503 Telephone: (717) 963-4571
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Northwest Regional Office Third Floor, Rothrock Building 121 West 10th Street Erie, PA 16501 Telephone: (814) 871-4241	Southeast Regional Office 908 State Office Building Broad & Spring Garden Streets Philadelphia, PA 19130 Telephone: (215) 560-2256
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Northcentral and
Southcentral Regional
Offices
576 Forum Building
Harrisburg, PA 17120
Telephone: (717) 787-2412

Pennsylvania's 27 District Libraries:

B.F. Jones Memorial Library, Aliquippa
Allentown Public Library, Allentown
Altoona Area Public Library, Altoona
Centre County Library, Bellefonte
Bethlehem Area Public Library, Bethlehem
Clarion Free Library, Clarion
Conococheague District Library, Chambersburg
Bucks County Free Library, Doylestown
Easton Area Public Library, Easton
Erie County Library, Erie
Dauphin County Library, Harrisburg
Cambria County Library, Johnstown
Lancaster County Library, Lancaster
Delaware County Library, Brookhaven
Monessen Public Library, Monessen
New Castle Public Library, New Castle
Montgomery County-Norristown Public Library,
Norristown
Free Library of Philadelphia, Philadelphia
Carnegie Library of Pittsburgh, Pittsburgh
Pottsville Free Public Library, Pottsville
Reading Public Library, Reading
Scranton Public Library, Scranton
Warren Public Library, Warren
Citizens Library, Washington
Chester County Library, Exton
Osterhout Free Library, Wilkes-Barre
James V. Brown Library, Williamsport

Submit written comments concerning the APR to: Gary R. Thomas, Compliance Manager, Office of Community Development and Housing, Department of Community and Economic Development, 513 Forum Building, Harris-

burg, PA 17120, fax (717) 234-4560. Written comments must be received by May 21, 2000.

Persons with a hearing disability who wish to review the Annual Performance Report should notify the Department and accommodations will be made. Text Telephone (TT) calls can be placed through the Pennsylvania Relay System at (800) 654-5984. Calls will be relayed to the Department's number.

SAMUEL A. MCCULLOUGH,
Secretary

[Pa.B. Doc. No. 00-747. Filed for public inspection May 5, 2000, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Franklin and Marshall College for Approval of Amendment of its Articles of Incorporation

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Franklin and Marshall College for a Certificate of Authority approving the institution's amendment to and the restating of its Articles of Incorporation in their entirety.

In accordance with 24 Pa.C.S. § 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 protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

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. 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 the previously-listed telephone number to discuss how the Department may best accommodate their needs.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 00-748. Filed for public inspection May 5, 2000, 9:00 a.m.]

Application of Philadelphia College of Bible for Approval of Change of Status

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Philadelphia College of Bible for a Certificate of Authority approving the institution's change of status to that of a university.

In accordance with 24 Pa.C.S. § 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 protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Interested parties desiring to initiate hearing procedures must file a notice of intervention, petition to intervene or protest, and a request for hearing, within 30

days after publication of this notice in the *Pennsylvania Bulletin*.

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. 00-749. Filed for public inspection May 5, 2000, 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 standard 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 Administrator has waived the right to review or object to this proposed permit action under the waiver provision to CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid service or other accommodations to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (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 0043974. Sewage, **Valley Forge Sewer Authority**, 333 Pawling Road, Phoenixville, PA 19460-2656.

This application is for amendment of an NPDES permit to discharge treated sewage from the Valley Forge Sewer Authority WWTP in Schuylkill Township, **Chester County**. This is an existing discharge to the Schuylkill River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 9.2 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	15.0		30.0
(11-1 to 4-30)	20.0		40.0
Total Residual Chlorine			
(year 1)	monitor/report		monitor/report
(years 2—5)	0.5		monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 001, based on an average flow of 9.2 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Mercury	monitor/report	monitor/report	
Total Copper	monitor/report	monitor/report	
Total Lead	monitor/report	monitor/report	
Total Zinc	monitor/report	monitor/report	
Free Cyanide	monitor/report	monitor/report	
Total Arsenic	monitor/report	monitor/report	
Total Cadmium	monitor/report	monitor/report	
Hexavalent Chromium	monitor/report	monitor/report	
Total Selenium	monitor/report	monitor/report	
Total Silver	monitor/report	monitor/report	

The EPA waiver is not in effect.

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.

PA 0007919. Industrial waste, SIC: 2621, **Plainwell, Inc.**, P. O. Box 6000, Pittston, PA 18640.

This proposed action is for renewal of an NPDES permit to discharge treated process wastewater sewage into Susquehanna River in Ransom Township, **Lackawanna County**.

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

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

Outfall 101

Process Wastewater: 1.86 mgd:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD ₅	2260	3841	
TSS	2528	3792	
pH	6—9 standard units at all times		
Oil and Grease	15 mg/l	30 mg/l	

Outfall 201

Sewage: .012 mgd

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
TSS	30		60

NOTICES

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (lbs/day)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as geometric mean 2,000/100 ml as geometric mean		
Total Residual Chlorine	1.2		2.8
pH	6 to 9 standard units at all times		

Outfalls 005

Precipitator Overflow

pH 6 to 9 standard units at all times

Outfalls 001, 002, 003, 004

Uncontaminated Stormwater

The EPA waiver is not in effect.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PA 0032883, Amendment No. 1, SIC: 4952, Sewage, **Borough of Duncansville**, P. O. Box 308, Duncansville, PA 16635.

This application is for amendment of an NPDES permit for an existing discharge of treated sewage to Blair Gap Run, in Allegheny Township, **Blair County**.

The receiving stream is classified for trout stocking 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 United Water Company located near Harrisburg. The discharge is not expected to impact any potable water supply.

The proposed changes to effluent limits for Outfall 001 for a design flow of 1.217 mgd are:

- The requirements for copper are changed from a numerical limit to a monitor and report.
- The requirement to conduct a Toxics Reduction Evaluation is deleted.

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 0082791, SIC Code 4953, Industrial waste, **Chester County Solid Waste Authority (Lanchester Landfill)**, 7224 Division Highway, Narvon, PA 17555.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to the Conestoga River, in Caernarvon Township, **Lancaster County**.

The receiving stream is classified for warm water fisheries, 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 Lancaster Municipal Water Authority located in Lancaster City, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.107 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	85	170	212
Total Suspended Solids	100	200	250
NH ₃ -N (5-1 to 10-31)	17	34	42
(11-1 to 4-30)	51	102	126
Total Phosphorus	4.4	9	11
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 3,000/100 ml as a geometric average	
pH		6.0 to 9.0	
Total Residual Chlorine	0.5	—	1.6
Total Iron	43.5	87	109
Dissolved Iron	8.7	17.4	21.8
p-chloro-m-cresol		monitor	
Dichlorobromomethane		monitor	

The proposed effluent limits for Outfall 100 for a design flow of 0.087 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD ₅	37	140	175
Total Suspended Solids	27	88	110
NH ₃ -N	4.9	10	12.5
a-terpineol	0.016	0.033	0.041
Benzoic acid	0.071	0.12	0.018
P-Cresol	0.014	0.025	0.035
Phenol	0.015	0.026	0.038
Total Zinc	0.11	0.2	0.28
Total Iron	3.5	—	7.0
pH		6.0 to 9.0	

The proposed effluent limits for Outfall 101 for a design flow of 0.02 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
NH ₃ -N		monitor	
Total Iron		monitor	
Dissolved Iron		monitor	
Total Aluminum		monitor	
pH		monitor	

The proposed effluent limits for Outfalls 002 through 008 for stormwater are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Organic Carbon		monitor	
Chemical Oxygen Demand		monitor	
Total Dissolved Solids		monitor	
NH ₃ -N		monitor	
NO ₂ + NO ₃		monitor	
Dissolved Iron		monitor	
pH		monitor	
Total Zinc		monitor	
Total Copper		monitor	
Total Chromium		monitor	
Total Cadmium		monitor	
Total Lead		monitor	
Total Aluminum		monitor	
Total Arsenic		monitor	
Total Cyanide		monitor	
Total Iron		monitor	
P-Cresol		monitor	
a-terpineol		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.

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

PA 0004979. Industrial waste, SIC: 2821, 2869 and 2818, **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225.

This application is for renewal of an NPDES permit to discharge treated process water, cooling water, stormwater, leachate and untreated cooling water stormwater from Neville Chemical in Neville Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ohio River (Main Channel and Back Channel), classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Robinson Township Authority, located at Mile 8.8—Ohio River, 2.43 miles below the discharge point.

Outfall 001: new discharge, design flow of 0.216 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature (°F)				110	

Outfall 002: new discharge, design flow of 0.005 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
Oil and Grease			15		30

Outfall 101: existing discharge, design flow of 0.154 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
BOD ₅	29.075	77.164	26.000	69.000	
TSS	46.967	150.964	42.000	135.000	
Acenaphthene	0.028	0.076	0.022	0.059	
Acenaphthylene	0.028	0.076	0.022	0.059	
Acrylonitrile	0.123	0.311	0.096	0.242	
Anthracene	0.028	0.076	0.022	0.059	
Benzene	0.048	0.175	0.037	0.136	
Benzo(a)Anthracene	0.028	0.076	0.022	0.059	
3,4-Benzo-Fluoranthene	0.038	0.078	0.023	0.061	
Benzo(k)Fluoranthene	0.028	0.076	0.022	0.059	
Benzo(a)Pyrene	0.030	0.078	0.023	0.061	
Bis(2-Ethylhexyl)phthalate	0.132	0.358	0.103	0.279	
Carbon Tetrachloride	0.023	0.049	0.018	0.038	
Boron	268.00	318.00	monitor and report		
Chlorobenzene	0.019	0.036	0.015	0.028	
Chloroethane	0.134	0.344	0.104	0.268	
Chloroform	0.027	0.059	0.021	0.046	
2-Chlorophenol	0.040	0.126	0.031	0.098	
Chrysene	0.028	0.076	0.022	0.059	
Di-N-Butylphthalate	0.035	0.073	0.027	0.057	
1,2-Dichlorobenzene	0.099	0.209	0.077	0.163	
1,3-Dichlorobenzene	0.040	0.057	0.031	0.044	
1,4-Dichlorobenzene	0.019	0.036	0.015	0.028	
1,1-Dichloroethane	0.028	0.076	0.022	0.059	
1,2-Dichloroethane	0.087	0.271	0.068	0.211	
1,1-Dichloroethylene	0.021	0.032	0.016	0.025	
1,2-trans-Dichloroethylene	0.027	0.069	0.021	0.054	
2,4-Dichlorophenol	0.050	0.144	0.039	0.112	
1,2-Dichloropropane	0.197	0.295	0.153	0.230	
1,3-Dichloropropylene	0.037	0.057	0.029	0.044	
Diethylphthalate	0.104	0.261	0.081	0.203	
2,4-Dimethylphenol	0.023	0.046	0.018	0.036	
Dimethylphthalate	0.024	0.060	0.019	0.047	
4,6-Dinitro-o-Cresol	0.100	0.356	0.078	0.277	
2,4-Dinitrophenol	0.091	0.158	0.071	0.123	
2,4-Dinitrotoluene	0.145	0.366	0.113	0.285	
2,6-Dinitrotoluene	0.328	0.823	0.255	0.641	
Ethylbenzene	0.041	0.139	0.032	0.108	
Fluoranthene ²	0.032	0.087	0.025	0.068	
Fluorene	0.028	0.076	0.022	0.059	
Fluoride	1273.00	1651.00	monitor and report		
Hexachlorobenzene	0.019	0.036	0.015	0.028	
Hexachlorobutadiene	0.026	0.063	0.020	0.049	
Hexachloroethane	0.027	0.069	0.021	0.054	
Methyl Chloride	0.110	0.244	0.086	0.190	
Methylene Chloride	0.051	0.114	0.040	0.089	
Naphthalene	0.028	0.076	0.022	0.059	
Nitrobenzene	0.038	0.087	0.027	0.068	
Fluoroborate	monitor and report				
2-Nitrophenol	0.053	0.089	0.041	0.069	
4-Nitrophenol	0.092	0.159	0.072	0.124	
Phenol	0.019	0.033	0.015	0.026	
Phenanthrene	0.028	0.076	0.022	0.059	
Pyrene	0.032	0.086	0.025	0.067	
Tetrachloroethylene	0.028	0.072	0.022	0.056	
Toluene	0.033	0.103	0.026	0.080	

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Chromium	1.426	3.558	1.110	2.770	
Total Copper	1.862	3.341	1.450	3.380	
Total Cyanide	0.539	1.541	0.420	1.20	
Total Lead	0.411	0.886	0.320	0.690	
Total Nickel	2.171	5.112	1.690	3.980	
Total Zinc	1.349	3.352	1.050	2.610	
1,2,4-Trichlorobenzene	0.087	0.180	0.068	0.140	
1,1,1-Trichloroethane	0.027	0.069	0.021	0.054	
1,1,2-Trichloroethane	0.027	0.069	0.021	0.054	
Trichloroethylene	0.027	0.069	0.021	0.054	
Vinyl Chloride	0.134	0.344	0.104	0.268	
pH	not less than 6.0 nor greater than 9.0				

Outfall 201: existing discharge to Outfall 003. Design discharge flow of 2.76 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
Temperature	110°F				
Benzene	monitor and report				
Toluene	monitor and report				
Xylenes	monitor and report				
Vinyl Chloride	monitor and report				
Styrene	monitor and report				
Chlorobenzene	monitor and report				
Ethylbenzene	monitor and report				
Naphthalene	monitor and report				
pH	not less than 6.0 nor greater than 9.0 standard units				

Outfall 004: existing discharge to the Ohio River—Main Channel. Design discharge flow of 0.432 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
TSS			30	60	
Acetone	monitor and report				
Benzene			0.032	0.064	
Cis-1,2-Dichloroethylene			0.004	0.008	
Ethylbenzene			0.035	0.070	
Methylene Chloride			0.065	0.13	
Naphthalene			0.548	1.09	
Toluene			0.028	0.056	
P-Xylene			0.057	0.114	
Total Iron				7	
pH	not less than 6.0 nor greater than 9.0				

Part C: Other requirements

Part C.12 requires permittee to submit a Pollution Reduction Report (Outfall 201).

The EPA waiver is not in effect.

PA 0090344. Sewage. **Ohio Township Sanitary Authority**, 1719 Roosevelt Road, Pittsburgh, PA 15237.

This application is for renewal of an NPDES permit to discharge treated sewage from Windy Knoll STP in Ohio Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale to Toms Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: ARCO Chemical Company, BV Plant, on the Ohio River.

Outfall 001: existing discharge, design flow of 0.10 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
Suspended Solids	10	15		20
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	3.0	4.5		6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
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 0091898. Sewage, **United Mobile Homes, Inc.**, 125 Wyckoff Road, P. O. Box 335, Eatontown, NJ 07724.

This application is for renewal of an NPDES permit to discharge treated sewage from the Edgewood Estates Mobile Home Park Sewage Treatment Plant in Kiskiminetas Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Rattling Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority (Freeport) on the Allegheny River.

Outfall 001: existing discharge, design flow of 0.05 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			4
(11-1 to 4-30)	3.7			7.4
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)	0.03			0.06
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0096423. Sewage, **Turkeyfoot Valley Area School District**, R. D. 1, Box 78, Confluence, PA 15424-9616.

This application is for renewal of an NPDES permit to discharge treated sewage from the Turkeyfoot Valley Area School District Sewage Treatment Plant in Lower Turkeyfoot Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Casselman 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 Ohiopyle Borough Municipal Waterworks.

Outfall 001: existing discharge, design flow of 0.0117 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
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine				
(1st month—36th month)	monitor and report			
(37th month—expiration)	1.0			2.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA 0006181. Industrial waste, SIC: 3399. **Engineered Materials Corp.**, 921 Clark Street, Brockway, PA 15824.

This application is for renewal of an NPDES Permit, to discharge noncontact cooling water and Group 1 stormwater to Little Toby Creek in Beockway Borough, **Jefferson 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 Western PA Water Company on the Clarion River located at Clarion, approximately 42.4 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.0144 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
Temperature	monitor and report		
pH		6.0 to 9.0 at all times	

The EPA waiver is in effect.

PA 0045039. Sewage. **DCNR Bureau of State Parks (Oil Creek State Park)**, R. R. 1 Box 207, Oil City, PA 16301-9733.

This application is for renewal of an NPDES Permit to discharge treated sewage to Oil Creek in Cornplanter Township, **Venango 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 Emlenton Municipal Water Authority on the Allegheny River located at Emlenton, approximately 41 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 0.0019 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
CBOD ₅	25		50
Total Suspended Solids	30		60
Fecal Coliform (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		
Total Residual Chlorine	0.5		1.2
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

PA 0223000. Sewage. **Kalyumet Campground**, R. R. 1, Box 672, Lucinda, PA 16235.

This application is for a new NPDES Permit to discharge treated sewage to Callihan Run in Highland Township, **Clarion County**. This is a minor 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 PA-American Water Company-Clarion intake on the Clarion River located at Clarion, approximately 10 miles below point of discharge.

The proposed effluent limits, based on a design flow of 0.01 mgd, are:

Outfall No. 001 (after the chlorine contact tank)

<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	1.4	3.3
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0210528-Amendment No. 1. Sewage. **Welcome Home Centers, Inc.**, Rt. 417 West, P. O. Box 189, Allegany, NY 14706.

This application is for a transfer of an NPDES Permit to discharge treated sewage to the Unnamed Tributary to Wolf Run in Washington Township, **Jefferson 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 Hawthorn Water Authority on Redbank Creek located at Hawthorn, approximately 36 miles below point of discharge.

The proposed effluent limits, based on a design flow of 0.000528 mgd, are:

Outfall No. 001 (after the chlorine contact tank)

<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) (10-1 to 4-30)	200/100 ml as a geometric average 21,200/100 ml as a geometric average	
Total Residual Chlorine		monitoring only
pH		6.0—9.0 at all times

The EPA waiver is in effect.

PA 0210161. Industrial waste, SIC: 4941. **Pennsylvania-American Water Company—Butler District**, 207 Oneida Valley Road, Butler, PA 16001.

This application is for renewal of an NPDES Permit, for an existing discharge of Allegheny River water to supplement storage volume in the Boydstown Oneida and Thorn Run Reservoirs in Oakland Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: HQ-WWF, 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 PA American Water Company's Boydstown-Oneida and Thorn Run Reservoirs located in Oakland Township, Butler County.

The proposed discharge limits for Outfall No. 001 based on a design flow of 6.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.011	0.029
Lead	XX	
Mercury	XX	
Zinc	XX	

XX—Monitor and Report

The EPA waiver is in effect.

PA 010656. Industrial waste, SIC: 1311, 4922. **CNG Transmission Corporation**, Division V Wastewater Treatment Facility, P. O. Box 97, Luthersburg, PA 15848.

This application is for renewal of an NPDES Permit, to discharge treated industrial waste to Stump Creek in Henderson Township, **Jefferson County**. This is a 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 Western Pennsylvania Water Company—Kittanning District on the Allegheny River at Kittanning, approximately 76 miles below the point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.01008 mgd are:

Outfall 002: existing discharge, design flow of 0.06 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)				0.01008	
Oil and Grease			15		30
TSS			30		60
Total Iron			3.5		7.0
MBAS			12		24
Zinc			0.395		0.79
Barium	13	25.9	154	308	385
Phenolics				monitor and report	
Benzene				monitor and report	
Osmotic Pressure (mOs/kg)				monitor and report	
Acrylamide (monomer)				monitor and report	

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Alkalinity				monitor and report	
Acidity				less than alkalinity	
pH				6.0 to 9.0 at all times	

The EPA waiver is in effect.

PA 0093131. Sewage. **AK Steel Corporation-APCC**, R. D. 1, Slippery Rock, PA 16057.

This application is for a renewal of an NPDES Permit to discharge treated sewage to the Unnamed Tributary to Slippery Rock Creek in Slippery Rock Township, **Butler 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 Camp Allegheny intake on Slippery Rock Creek located in Wayne Township, Lawrence County, approximately 18 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 0.011 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31)	4	8
(11-1 to 4-30)	12	24
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	1.4	3.3
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 0223069. Sewage. **Coolspring-Jackson Lake Latonka Joint Authority**, 420 Latonka Drive, Mercer, PA 16137.

This application is for a new NPDES Permit to discharge treated sewage to Cool Spring Creek in Coolspring Township, **Mercer County**. This is a new discharge.

The receiving water is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Beaver Falls Municipal Authority intake on the Beaver River located at Eastvale, approximately 45 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 0.15 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	40	50
TSS	30	45	60
Ammonia-Nitrogen (5-1 to 10-31)	8		16
(11-1 to 4-30)	24		48
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	10,600/100 ml as a geometric average		
Ultraviolet Light Intensity	monitor and report		
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

PA 0094200. Sewage. **Bear Creek Watershed Authority**, 259 Argyle Street, Petrolia, PA 16050.

This application is for renewal of an NPDES Permit to discharge treated sewage to the Bear Creek in Parker Township, **Butler 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 Butler District Pennsylvania-American Water Company on the Allegheny River located at river mile 69.6 and is located 16.2 miles below point of discharge.

The proposed effluent limits for Outfall No. 001 based on a design flow of 0.0432 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
TSS	30	45	60
Ammonia-Nitrogen (5-1 to 10-31)	13		26
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 3,300/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0—9.0 at all times	

The proposed effluent limits for Outfall No. 002 based on a design flow of 0.0299 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
TSS	30	45	60
Ammonia-Nitrogen (5-1 to 10-31)	13		26
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0—9.0 at all times	

The proposed effluent limits for Outfall No. 003 based on a design flow of 0.0411 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 (5-1 to 10-31) (11-1 to 4-30)	20 25	40 40	40 50
TSS	30	45	60
Ammonia-Nitrogen (5-1 to 10-31) (11-1 to 4-30)	4 12.0		8 24
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0—9.0 at all times	

The proposed effluent limits for Outfall No. 004 based on a design flow of 0.0411 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
TSS	30	45	60
Ammonia-Nitrogen (5-1 to 10-31) (11-1 to 4-30)	5.5 16.0		11 33
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0104060. Sewage. **John E. McCoan**, R. D. 1, Box 1000, Clarendon, PA 16313.

This application is for renewal of an NPDES Permit, to discharge treated sewage to Unnamed Tributary to West Branch Tionesta Creek in Mead Township. This is a **Warren County** discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation.

The proposed discharge limits for Outfall No. 001 based on a design flow of 400 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	monitor and report	
pH	6.0—9.0 at all times	

The EPA waiver is not in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements. 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 Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed 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.

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0050482	Freedom's Foundation at Valley Forge 1601 Valley Forge, PA 19482	Chester County Schuylkill Township	UNT to Schuylkill River	TRC
PA0053783	Avon Grove School District 375 South Jennersville Road West Grove, PA 19390	Chester County New London Township	UNT to West Branch of White Clay Creek	TRC
PA0042129	US Army Reserve 99th Regional Support Command HQ, 99th RSC 5 Lobaugh Street Oakdale, PA 15071-5001	Montgomery County Worcester Township	Dry Swale of Stony Creek	TRC

Southcentral Regional Office: Water Management Program, 909 Elmerton Avenue—2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0081523	Blair Chalet R. R. 1 Box 379 Hollidaysburg, PA 16648-9516	Blair County Blair Township	Beaverdam Branch Juniata River	TRC
PA0084034	West Perry School District R. R. 1 Box 7A Ellittsburg, PA 17024	Perry County Shermans Dale Township	Shermans Creek	TRC
PA0080730	West Perry School District R. R. 1 Box 7A Ellittsburg, PA 17024	Perry County Blain Borough	Conoco 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 or protests. Each commentator will be notified in writing of the time and place if a hearing or conference concerning the plan or action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 783-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

WQM Permit No. 0900405. Sewerage. **Warwick Township Water and Sewer Authority**, 1733 Township Greene, P. O. Box 315, Jamison, PA 18929. Applicant is requesting approval for the construction and operation of two new reactor tanks to expand the Country Crossing WWTP located in Warwick Township, **Bucks County**.

WQM Permit No. 1500411. Sewerage. **Octorara Area School District**, P. O. Box 500, Route 41 and Highland Road, Atglen, PA 19310. Applicant is requesting approval to replace four intermittent sand filters with a package type rapid sand filter to serve the Octorara Area School District located in West Fallowfield Township, **Chester County**.

WQM Permit No. 2300407. Sewerage. **Knights Bridge Corporation**, 112 Chesley Drive, Suite 200, Media, PA 19063-1762. Applicant is requesting approval to amend the existing permit to expand the Knight's Bridge STP facility from 45,000 to 90,000 gpd located in Chadds Ford Township, **Delaware County**.

WQM Permit No. 1500410. Sewerage. **East Goshen Municipal Authority**, 1580 Paoli Pike, West Chester, PA 19380. Applicant is requesting approval to install a low-pressure water supply system to serve as a supply for

the irrigation pond to serve Applebrook Golf Course located in East Goshen Township, **Chester County**.

WQM Permit No. 4600413. Sewerage. **Upper Gwynedd Towamencin Municipal Authority**, 2225 Kribel Road, Lansdale, PA 19446. Applicant is requesting approval to install approximately 1,250 feet of 20" ductile iron pipe and approximately 80 feet of 8" ductile iron pipe sanitary sewer and 8 manholes located in Towamencin Township, **Montgomery County**.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

A. 3500402. Sewerage. **Spring Brook Township Sewer Authority**, P. O. Box 1100, Moscow, PA 18444. Application to construct a new pumping station, located in Spring Brook Township, **Lackawanna County**. Application received in the Regional Office April 17, 2000.

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. 2800402. Sewage, submitted by **Carl R. Gochenauer**, 3361 Keefer Road, Chambersburg, PA 17201, Hamilton Township, **Franklin County** to construct a small flow treatment system to serve a single family residence was received in the Southcentral Region on April 14, 2000.

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

A. 0200204. Industrial waste, **J. A. Jones/Traylor Brothers, Inc.**, J. A. Jones Drive, Charlotte, NC 28287. Application for the construction and operation of a Wastewater Treatment Facility to serve the Leetsdale Concrete Casting Facility located in Leetsdale Borough, **Allegheny County**.

A. 0400402. Sewerage, **Melanie B. Kelly**, 2 Emerald Lane, Ambridge, PA 15003. Application for the construction and operation of a small flow sewage treatment plant to serve the Kelly Residence located in Harmony Township, **Beaver County**.

A. 1185402-A2 Sewerage, **Ebensburg Borough Municipal Authority**, 300 West High Street, Ebensburg, PA 15931. Application for the modification and operation of a sewage treatment plant to add a sulfur dioxide injection facility to serve the Ebensburg Wastewater Treatment Plant located in Cambria Township, **Cambria County**.

A. 5600401. Sewerage, **James R. Latshaw, II**, 307 West Church Street, Somerset, PA 15501. Application for the construction and operation of a small flow sewage treatment plant to serve the Latshaw Residence located in Black Township, **Somerset County**.

WQM Permit No. 1700201. Industrial waste. **Hart Resource Technologies, Inc.**, P. O. Box 232, Creekside, PA. Application to construct and operate an industrial wastewater treatment facility in Pike Township, **Clearfield County**. Application received in the Regional Office: March 27, 2000.

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

WQM Permit No. 1600401. Sewage, **Richard A. Baumcratz**, R. R. 1, Box 272, Lucinda, PA 16235. This

project is for the construction of a Single Residence Sewage Treatment Plant in Knox Township, **Clarion County**.

WQM Permit No. 4300404. Sewage, **Richard J. Larson**, R. R. 3, Box 54, Sugar Grove, PA 16350. This project is for the construction of a Single Residence Sewage Treatment Plant in Sugar Grove Township, **Warren County**.

WQM Permit No. 2000406. Sewage, **Adam H. and Rebecca W. Detweiler**, 2761 Leach Road, Atlantic, PA 16111. This project is for the construction of a Single Residence Sewage Treatment Plant in East Fallowfield Township, **Crawford County**.

WQM Permit No. 2000407. Sewage, **Richard L. VanBuren**, 17352 State Highway 98, Meadville, PA 16335. This project is for the construction of a Single Residence Sewage Treatment Plant in Hayfield Township, **Crawford County**.

WQM Permit No. 1000402. Sewage, **Christopher J. Holden**, 238 Dinnerbell Road, Butler, PA 16002. This project is for the construction of a Single Residence Sewage Treatment Plant in Penn Township, **Butler 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. The proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

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

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be 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 office noted above the application.

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

NPDES Permit PAS106110. Stormwater. **Kettler Brothers, Inc.**, 9426 Stewartown Road, Gaithersburg, MD 20879 has applied to discharge stormwater from a construction site located in Jefferson Township, **Somerset County** to Crise Run, HQ-CWF; Gross Run, HQ, CWF; Jones Mill, EV; and Kooser Run, HQ-CWF.

SAFE DRINKING WATER

Application 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, (570) 826-2511.

4899506. Public water supply. **East Allen Township Municipal Authority**, Charles Wert, Chairperson, 3444 Nor-Bath Blvd., Northampton, PA 18067. This proposal involves the permitting of an existing unpermitted community water system consisting of wells, manganese, sequesting, a booster pump station with finished water storage and disinfection. It is located in East Allen Township, **Northampton County**. *Engineer: Ronald Madison, Hanover Engineering Assoc., Inc.*

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—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 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 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 the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department 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:

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

PPL Utilities—Former Penn Fuel Gas Manufactured Gas Plant (Jim Thorpe), Mahoning Township, **Carbon County**. Michael Hasel, Environmental Professional, Environmental Management Division, PPL Utilities, Two North 9th Street (GENTW8), Allentown, PA 18101-1179 submitted a Notice of Intent to Remediate concerning the remediation of site soils, groundwater, surface water and sediment found or suspected to have been contaminated with metals, phenolic compounds, cyanide, polycyclic aromatic hydrocarbons, and BTEX (benzene, toluene, ethylbenzene and xylenes) constituents. The applicant proposes to remediate the site to meet both the Statewide health and site-specific standards. A summary of the notice was reportedly published in Lehighon's *The Times News* on April 25, 2000.

Rossville Chromatex, Borough of West Hazleton, **Luzerne County**. Lawrence F. Roach, P.G., Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110 submitted a Notice of Intent to Remediate (on behalf of his client, Rossville Chromatex, One Rotary Drive, W. Hazleton, PA 18201) concerning the remediation of site soils found or suspected to have been contaminated with no. 2 fuel oil constituents. The applicant proposes to remediate the site to meet both the Statewide health and site-specific standards. A summary of the notice was reportedly published in the *Standard Speaker* on April 5, 2000.

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

Industrial Center of McKeesport, City of McKeesport, **Allegheny County**. Mark Urbassik, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 and RIDC of Southwestern Pennsylvania Growth Fund, Suite 500, 425 Sixth Avenue, Pittsburgh, PA 15219 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PCBs, lead, heavy metals, BTEX and PAHs. The applicant proposes to remediate the site to meet the Site Specific Standard. A

summary of the Notice of Intent to Remediate was reported to have been published in the *McKeesport Daily News* on April 7, 2000.

SOLID AND HAZARDOUS WASTE HAZARDOUS WASTE, TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

Permit No. PAD087561015. Class 2 permit modification application to expand the facility's storage capacities with a second containment building, an 8,000 gallon liquid storage tank, and modifications to Container Storage Areas 1 and 3, was received from **International Metals Reclamation Company, Inc.**, 245 Portersville Road, Ellwood City, PA 16117, located in Ellwood City Boro, **Lawrence County**. Application was accepted in the Regional Office on April 13, 2000.

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.

Notice is hereby given that the Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with Department 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 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.

54-313-013: Air Products & Chemicals, Inc. (P. O. Box 351, R. R. 1, Tamaqua, PA 18252) for operation of a paint spray booth in Rush Township, **Schuylkill County**.

35-322-001B: Keystone Sanitary Landfill, Inc. (P. O. Box 249, Dunmore, PA 18512) for operation of a landfill gas flare in Throop Borough, **Lackawanna County**.

40-320-009: Berwick Industries, Inc. (Bomboy Lane and Ninth Street, Berwick, PA 18603) for operation of a printing operation in Salem Township, **Luzerne County**.

35-301-039: Finch Hill Veterinary Clinic (101 Petrilak Road, Greenfield Township, PA 18407) for operation of a crematory incinerator in Greenfield Township, **Lackawanna County**.

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

22-03028: Linda Corson (785 Route 322, Dauphin, PA 17018) for a Natural Minor operating permit for a pet crematorium in Middle Paxton Township, **Dauphin County**.

36-05093: Martin Limestone (P. O. Box 550, Blue Ball, PA 17506-0550) for a Synthetic Minor operating permit for a drum mix asphalt plant in East Cocalico Township, **Lancaster County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

19-317-022A: Perdue Specialty Feeds, Inc. (P. O. Box 1537, Salisbury, MD 21802) for operation of a fish food pellet dryer and associated air cleaning device (a high efficiency cyclone) in Catawissa Borough, **Columbia County**.

17-305-044: M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717) for operation of a coal crushing, stockpiling and loading facility at the Black Hills #2 Strip Mine in Bell Township, **Clearfield County**. The facility is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

41-305-011: Fisher Mining Co. (40 Shoate Circle, Montoursville, PA 17754) for operation of a coal preparation plant in Pine Township, **Lycoming County**. The plant is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title

V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

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

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 any 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 thirty days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

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

23-00030: Swarthmore College (500 College Avenue, Swarthmore, PA 19081-1397) located in Swarthmore Borough, **Delaware County**. The facility's major emission points include 14 boilers and 10 emergency generators which emit major levels of Nitrogen Oxides (NOx).

09-00037: CMS Gilbreth (3001 State Road, Croydon, PA 19021) located in Bristol Township, **Bucks County**. The facility's major emission points include flexographic and rotogravure printing pressures, electroplating operations, and air pollution control devices which emit major levels of volatile organic compounds (VOCs).

46-00036: Ford Electronics & Refrigeration LLC (2750 Morris Road, Lansdale, PA 19446) located in Worcester Township, **Montgomery County**. The facility's major emission points include six wave soldering machines, five selective soldering machines, a coil soldering—servo and an in-line package machine which emit major levels of volatile organic compounds (VOCs) and nitrogen oxides (NOx).

46-00041: Jefferson Smurfit Corporation (U. S.) (1035 Longford Road, Phoenixville, PA 19460) located in Upper Providence Township, **Montgomery County**. The facility's major emission points include six sheetfed, nonheatset, offset lithographic presses, two boilers, an emergency generator and a finishing department which emit major levels of VOCs.

46-00089: SPRA-FIN, Inc. (177 Wissahickon Avenue, North Wales Borough) located in Upper Gwynedd Township, **Montgomery County**. The facility's major emission points include 3-spray booths which emit major levels of volatile organic compounds (VOCs).

46-00010: Montenay Montgomery, L. P. (1155 Conshohocken, Road, Conshohocken, PA 19428) located in Plymouth Township, **Montgomery County**. The facility's major emission points include municipal waste combustors, which emit major levels of nitrogen oxides (NOx) and carbon monoxide (CO).

23-00017: PECO Energy Co. (One Industrial Highway, Eddystone, PA 19022-1585) located in Eddystone Borough, **Delaware County**. The facility's major emission points include fossil fuel fired boilers, and auxiliary electrical generating equipment, which emit major levels of nitrogen oxides (NOx), carbon monoxide (CO), particulate matter (PM), and sulfur oxides (SOx).

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

13-00014: Silberline Manufacturing Company (Lincoln Drive, Tamaqua, PA 18252) in Lansford Borough, **Carbon County**. The facility's major sources of emissions are from manufacturing of aluminum pigments process, storage tanks and boilers that primarily emit volatile organic compound (VOC).

54-00041: Silberline Manufacturing Co. (Lincoln Drive, Tamaqua, PA 18252) in Rush Township, **Schuylkill County**. The facility's major sources of emissions are from manufacturing of aluminum pigments process, storage tanks and boilers that primarily emit volatile organic compound (VOC).

48-00015: Lehigh Heavy Forge Corp. (1275 Daly Avenue, Bethlehem, PA 18015-2042) in City of Bethlehem, **Northampton County**. The facility's major sources of emissions are from steel forging furnaces, space heaters, burning and scarfing operation and machine shops that primarily emit nitrogen oxides (NOx).

PLAN APPROVALS

Applications received and intent to issue Plan Approvals 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.

35-322-005A: Keystone Sanitary Landfill, Inc. (P. O. Box 249, Dunmore, PA 18512) for modification of the operation by increasing the daily acceptance rate in Throop and Dunmore Boroughs, **Lackawanna County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

19-317-023B: Heinz Pet Products (6670 Low Street, Bloomsburg, PA 17815-8607) for installation of an air cleaning device (a packed bed scrubber) on an existing wastewater treatment plant dissolved air flotation tank in South Centre Township, **Columbia County**. The dissolved air flotation tank currently emits an unknown quantity of malodorous air contaminants including reduced sulfur compounds which the proposed scrubber is intended to significantly reduce. Any plan approval issued, as well as any subsequent operating permit amendment, will contain appropriate conditions pertaining to the operation and maintenance of the dissolved air flotation tank and associated scrubber as well as appropriate recordkeeping and reporting conditions to ensure compliance.

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

PA-37-013B: Southdown, Inc. (2001 Portland Park, Wampum, PA 16157-9109) for construction of a portland

cement storage dome (100,000 ton capacity), including three baghouses in Wampum, **Lawrence County**. This construction is subject to Federal NSPS 40 CFR Part 60, Subpart F, and NESHAP 40 CFR Part 63, Subpart LLL, Southdown, Wampum, is a Title V facility.

PA-20-258A: Andover Industries (R. D. 2, Dunham Road, Meadville, PA 16335) for construction of a new paint line and RTO in Vernon Township, **Crawford County**.

PA-43-170C: Werner Co. (93 Werner Rd., Greenville, PA 16125) for construction of a homogenizing furnace in Sugar Grove Township, **Mercer County**. This is a Title V facility.

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 these 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, 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 require-

ments for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

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

Coal Applications Received:

11950201. Permit Renewal for reclamation only, **Ridge Energy Company** (R. D. 2, Box 429, Clymer, PA 15728), for continued restoration of a bituminous surface mine in West Carroll Township, **Cambria County**, affecting 18.0 acres, receiving stream unnamed tributary to West Branch Susquehanna River and West Branch Susquehanna River, application received April 18, 2000.

32950202. Permit Renewal, **Cambria Reclamation Corporation** (7201 Hamilton Boulevard, Allentown, PA 18195-1501) for continued operation of a bituminous surface mine in Center Township, **Indiana County**, affecting 286.0 acres, receiving stream unnamed tributaries to Yellow Creek and Yellow Creek, application received April 20, 2000.

32950201. Permit Renewal, **Cambria Reclamation Corporation** (7201 Hamilton Boulevard, Allentown, PA 18196-1501), for continued operation of a bituminous surface mine in White and Rayne Townships, **Indiana County**, affecting 256.0 acres, receiving stream McKee Run to Crooked Creek, application received April 20, 2000.

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

03000104. **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application received for commencement, operation and reclamation of a bituminous surface auger mine located in Valley and Kittanning Townships, **Armstrong County**, proposed to affect 444.0 acres. Receiving streams: unnamed tributaries to Cowanshannock Creek, Cowanshannock Creek to the Allegheny River; unnamed tributaries to Mill Run, Mill Run to Cowanshannock Creek to the Allegheny River. Application received: April 14, 2000.

26980105. **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision received to change the post-mining land use from forestland and/or unmanaged natural habitat to pastureland and/or land occasionally cut for hay on the Gallentine Property on an existing bituminous surface auger mine located in Saltlick Township, **Fayette County**. Receiving streams: unnamed tributary to Little Champion Creek to Little Champion Creek to Champion Creek to Indiana Creek to the Youghiogheny River. Revision request received: April 6, 2000.

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

33000101. **Reichard Contracting, Inc.** (R. D. 3, New Bethlehem, PA 16242). Commencement, operation and restoration of a bituminous surface strip, auger and coal preparation plant/processing facility operation in Ringgold Township, **Jefferson County**, affecting 86.0 acres. Receiving streams: Four unnamed tributaries to Painter Run and Painter Run. Application received April 14, 2000.

102543-33000101-E-1. **Reichard Contracting, Inc.** (R. D. 3, New Bethlehem, PA 16242). Application for a stream encroachment to encroach within 25 feet of Painter Run and two unnamed tributaries to Painter Run in Ringgold Township, **Jefferson County**. Receiving streams: four unnamed tributaries to Painter Run and Painter Run. Application received April 14, 2000.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54773017R3. **K & K Coal Company** (133 Valley Furnace Avenue, Port Carbon, PA 17965-1215), renewal of an existing anthracite surface mine operation in East Norwegian and Blythe Townships, **Schuylkill County** affecting 243.1 acres, receiving stream—none. Application received April 18, 2000.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Applications Received

58900303C2. **Kilmer, Cecil** (R. R. 1, Box 1130, Nicholson, PA 18446), renewal of NPDES Permit No. PA059044 in New Milford Township, **Susquehanna County**, receiving stream—unnamed tributary to Beaver Creek. Application received April 14, 2000.

19940301C. **Zeisloft Construction Company** (P. O. Box 338, Bloomsburg, PA 17815), correction to an existing quarry operation in Orange Township, **Columbia County** affecting 8.0 acres, receiving stream—Fishing Creek. Application received April 14, 2000.

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 any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

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

E15-640. Encroachment. **Applebrook Associates**, 200 Eagle Road, #118, Wayne, PA 19087. To perform the following activities associated with the proposed Applebrook Golf Course located on the southwest corner of Paoli Pike and Line Road (West Chester, PA Quadrangle N: 22.5 inches; W: 4.8 inches) in East Goshen Township, **Chester County**.

1. To install and maintain a 255 linear foot long cart bridge over the East Branch of Ridley Creek (HQ-TSF) associated with hole no. 15 (Malvern, PA Quadrangle N: 1.2 inches; W: 4.85 inches)

2. To install and maintain a 84 linear foot long cart bridge over the unnamed tributaries of East Branch Ridley Creek (HQ-TSF) associated with hole no. 16 (Malvern, PA Quadrangle N: 1.1 inches; W: 4.7 inches)

3. To install and maintain a 226 linear foot long cart bridge over the unnamed tributaries to East Branch Ridley Creek (HQ-TSF) associated with hole no. 16 (Malvern, PA Quadrangle N: 0.82 inch; W: 4.55 inches)

4. To install and maintain 311 linear foot long cart bridge over the East Branch Ridley Creek (HQ-TSF) associated with hole no. 14 (Malvern, PA Quadrangle N: 0.6 inch; W: 4.85 inches)

5. To install and maintain a 49 linear foot long cart bridge over an unnamed tributary to East Branch Ridley Creek (HQ-TSF) associated with holes no. 4 and no. 5 (West Chester, PA Quadrangle N: 22.5 inches; W: 4.2 inches)

E15-641. Encroachment. **Brandywine Operating Partnership**, 14 Campus Blvd., Suite 100, Newtown Square, PA 19073. To perform the following activities associated with the Applebrook Commercial site located on the northwest corner of East Boot Road and Clock Tower Drive (West Chester, PA Quadrangle N: 21.8 inches; W: 5.4 inches) in East Goshen Township, **Chester County**.

1. To install and maintain a 101 foot long single span bridge over Ridley Creek (HQ-TSF) associated with construction of drive A (West Chester, PA Quadrangle N: 21.1 inches; W: 5.5 inches)

2. To impact approximately 650, 600 and 350 linear feet of three unnamed tributaries of Ridley Creek (HQ-TSF) and 0.11 acre of adjacent wetlands associated with the construction of drive B, parking lot and detention basin 2B (West Chester, PA Quadrangle N: 21.5 inches; W: 5.4 inches).

The applicant proposes to construct 0.73 acre of replacement wetlands to compensate for wetland lost on the proposed Applebrook Gold Course site (E15-640) which is located immediately to the north of this project.

E51-184. Encroachment. **Fort Mifflin on the Delaware**, Fort Mifflin Road, Philadelphia, PA 19153. To perform the following activities associated with the installation of the public access to the historic site Fort Mifflin on the Delaware River (WWF-MF) (Philadelphia, PA-NJ

Quadrangle N: 0.01 inch; W: 12.1 inches) in the **City and County of Philadelphia**.

1. Installing a 120-foot long, 8-foot wide floating boat dock with a passenger ramp in the Delaware River, including:

- Seven 12—14 inch diameter pipe piles to support the boat dock.

- A 35-foot long, 4-foot wide steel gangway.

- 10×10-foot cantilever access deck.

2. Installing seven 16-inch diameter concrete filled mooring pipe piles in the Delaware River.

3. Installing approximately 400 linear feet of 15-foot wide paved sidewalk along the top of the existing riprap slope protection walls, various fences and electrical utilities to protect and service the public boat dock.

4. Installing an 18-inch diameter corrugated metal pipe (CMP) pedestrian path (Road Crossing) crossing over a nontidal stormwater drainage ditch, and construction of approximately 200 linear feet of gravel or paved pedestrian pathway along the top of the existing concrete and riprap bank stabilization.

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

E22-413. Encroachment. **Triple Crown Corporation**, Mark DiSanto, 5351 Jaycee Avenue, Harrisburg, PA 17112. To place fill in the floodway of a tributary to Fishing Creek at a point approximately 2,000 feet upstream of Richardson Road for the purpose of constructing a warehouse and parking area in Swatara Township, **Dauphin County**.

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

E03-388. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 10-0, P. O. Box 429, Indiana, PA 15701. To remove the existing structures and to construct and maintain a 36-inch diameter stream enclosure for a distance of 525.0 feet in a tributary to Spur Run (WWF). The project is located on S. R. 0066 just south of its intersection with S. R. 2032 (Leechburg, PA Quadrangle N: 11.2 inches; W: 8.7 inches) in Bethel Township, **Armstrong County**.

E63-489. Encroachment. **Flexsys America, L. P.**, 829 Rt. 481, Monongahela, PA 15063. To construct and maintain an addition to the existing building along the left bank of Taylor's Run (WWF) for the purpose of expanding an existing business located on the east side of Taylor's Run Road approximately 300 feet south from the intersection of Taylor's Run Road (S. R. 481) and Front Street (Monongahela, PA Quadrangle N: 10.5 inches; W: 8.5 inches) in Carroll Township, **Washington County**.

E63-486. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 10-0, P. O. Box 429, Indiana, PA 15701. To remove the existing structure and to construct and maintain a prestressed concrete box beam bridge having a normal span of 32.0 feet and an underclearance of 7.5 feet over Enlow Fork (TSF). Also, to conduct channel clearing within 50 feet upstream of the bridge; to construct and maintain a temporary stream crossing; and to construct and maintain an 18-inch diameter outfall in Enlow Fork (TSF). The project is located on S. R. 4013 approximately 500 feet southeast of its intersection with S. R. 3026. Wind Ridge, PA Quad-

range N: 18.7 inches; W: 3.0 inches) in Morris Township, **Greene County** and East Finley Township, **Washington County**.

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

E62-364. Encroachment. **City of Warren**, 318 W. 3rd St., Warren, PA 16365-2388. To maintain a 48-inch-diameter stormwater outfall, gabion basket headwall and scour protection from the Parker Street Storm Sewer to the Allegheny River. The placement of these structures was authorized by Emergency Permit No. EP6200601. This outfall is located along the north bank of the Allegheny River approximately 5,000 feet upstream of the confluence of Conewango Creek and the Allegheny River (Warren, PA Quadrangle N: 15.0 inches; W: 1.1 inches) located in the City of Warren, **Warren County**.

E61-234. Encroachment. **Pa. Electric Co. dba GPU Energy**, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19640-0001. To install an aerial fiber optic utility line and to maintain existing aerial electric utility lines across French Creek (WWF, Nominated 1-A Scenic). The project is located across French Creek approximately 1,300 feet downstream of the SR 322 bridge across French Creek in the City of Franklin (Franklin, PA Quadrangle N: 4.4 inches; W: 10.3 inches) located in the City of Franklin, **Venango County**.

E61-235. Encroachment. **PA. Dept. of Transportation, Engineering District 1-0**, 255 Elm Street, Oil City, PA 16301-1412. To remove the existing Third Street Bridge (SR 3017) and to construct and maintain a three span prestressed concrete adjacent box beam bridge having two equal spans of 115 feet, one span of 53 feet 8 inches and an approximate underclearance of 20 feet across French Creek WWF, Nominated 1-A Scenic on a new alignment. The project is located across French Creek upstream of the existing Third Street Bridge SR 3017 in the Borough of Utica approximately 3 miles west of the intersection of SR 322 and SR 3017 (Utica, PA Quadrangle N: 11.4 inches; W: 11.0 inches) located in the Borough of Utica, **Venango 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).

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

WQM Permit No. 5100201. Industrial Waste. **National Railroad Passenger Corp. (Amtrak)**, 30th and Race Streets, Philadelphia, PA 19104. Applicant is granted approval for the installation of an ion exchange unit to serve Amtrak stormwater industrial treatment plant located in the City of Philadelphia, **Philadelphia County**.

WQM Permit No. 2300401. Sewerage. **Concord Township Sewer Authority**, P. O. Box 171, 689 Smithbridge Road, Concordville, PA 19331. Applicant is granted approval for the construction and operation of a pressure force main to serve eight existing single family homes located in Concord Township, **Delaware County**.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Permit No. 6400401. Sewerage. **Texas Township Municipal Authority**, Old Willow Avenue, Honesdale, PA 18431. Permit for construction of a sanitary sewer collection system to service the Indian Orchard area of Texas Township, **Wayne County**.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

Permit No. PA0070335 Amendment No. 1. Industrial waste. **McConway & Torley Corporation** (Kutztown Foundry Division), 230 Railroad Street, Kutztown, PA 19530 is authorized to discharge from a facility located in Kutztown Borough, **Berks County** to the receiving waters named Sacony Creek.

Permit No. PA0081655. Industrial waste. **Philadelphia Mixres**, 1221 East Main Street, Palmyra, PA 17078 is authorized to discharge from a facility located in Palmyra Borough, **Lebanon County** to the receiving waters named Killinger Creek.

Permit No. PA0080837. Sewerage. **John D. Walter**, Conodoguinet Mobile Estates, P. O. Box 175, Neville, PA 17241 is authorized to discharge from a facility located in Lower Mifflin Township, **Cumberland County** to the receiving waters named Conodoguinet Creek.

Permit No. PA0083453. Industrial waste. **Montour Oil Service Company** (Harrisburg Terminal), 112 Broad Street, Montoursville, PA 17754 is authorized to discharge from a facility located in Swatara Township, **Dauphin County** to the receiving waters named Spring Creek (by storm sewer).

Permit No. PA0082732. Sewerage. **East St. Clair Township Municipal Authority** (Stone Creek STP),

P. O. Box 55, Fishertown, PA 15539 is authorized to discharge from a facility located in East St. Clair Township, **Bedford County** to the receiving waters named Dunning Creek.

Permit No. PA0043257 Amendment No. 1. Sewerage. **New Freedom Borough Authority**, 150 East Main Street, New Freedom, PA 17349 is authorized to discharge from a facility located in Railroad Borough, **York County** to the receiving waters named South Branch Codorus Creek.

Permit No. PA0041581. Sewerage. **Liverpool Municipal Authority**, P. O. Box 357, Liverpool, PA 17045 is authorized to discharge from a facility located in Liverpool Township, **Perry County** to the receiving waters named Susquehanna River.

Permit No. PAG043635. Sewerage—Single Family Residence. **Lee R. Bierly**, 1879 Friedensburg Road, Reading, PA 19606 is authorized to discharge from a facility located in Alsace Township, **Berks County**, to the receiving waters named Antietam Creek.

Permit No. PA0080195. Industrial waste. **Supply Sales Company**, 1411 Lancaster Avenue, Columbia, PA 17512 is authorized to discharge from a facility located in Columbia Borough, **Lancaster County** to the receiving waters named unnamed tributary to Shawnee Run.

Permit No. PA0081451. Sewerage. **Red Lion Area School District** (Clearview Elementary School), 696 Delta Road, Red Lion, PA 17356 is authorized to discharge from a facility located in Chanceford Township, **York County** to the receiving waters named West Branch Toms Run.

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

NPDES Permit No. PA0094404. Sewerage. **Antiochian Orthodox Christian Archdiocese of North America**, P. O. Box 638, Ligonier, PA 15658-0638 is authorized to discharge from a facility located at Antiochian Village STP, Fairfield Township, **Westmoreland County** to receiving waters named Unnamed Tributary of Hendricks Creek.

NPDES Permit No. PA0095303. Sewerage. **Purchase Line School District**, 16559 Route 286 Highway E, P. O. Box 374, Commodore, PA 15729-0374 is authorized to discharge from a facility located at Purchase Line School District Sewage Treatment Plant, Green Township, **Indiana County** to receiving waters named Unnamed Tributary of East Run.

NPDES Permit No. PA0110981. Sewerage. **John J. and Rosalyn M. Keslar**, P. O. Box 63, Rector, PA 15677 is authorized to discharge from a facility located at Jioio's Restaurant STP, Conemaugh Township, **Somerset County** to receiving waters named Bens Creek.

Permit No. 0381204-A4. Industrial waste. **Sithe Northeast Management Company**, 1001 Broad Street, Johnstown, PA 15907. Modification and operation of a Wastewater Treatment Facility, Coal Fired Electric Power Generation Station located in Plum Creek Township, **Armstrong County** to serve Keystone Generating Station, West Valley Disposal Site.

Permit No. 0400201. Industrial waste. **Ron Corigliano**, C & C Marine Maintenance Company, P. O. Box 610, Dunlevy, PA 15432. Construction of barge washing facility located in Georgetown Borough, **Beaver County** to serve Georgetown Landing.

Permit No. 0200402. Sewerage. **Sanitary Authority of Elizabeth Township**, 522 Rock Run Road, Buena Vista, PA 15018. Construction of Interceptor Sewer and Gravity Collection Sewer System located in Elizabeth Township, **Allegheny County** to serve Blythdale and Douglas Run Areas Phases I and II of Arrowhead Lakes Project.

Permit No. 0400402. Sewerage. **Melanie B. Kelly**, 2 Emerald Lane, Ambridge, PA 15003. Construction of Single Residence Sewage Treatment Plant located in Harmony Township, **Beaver County** to serve Kelly Property STP.

Permit No. 3299405. Sewerage. **Conemaugh Township Municipal Water and Sewer Authority**, R. D. 1, Box 206, Saltsburg, PA 15681. Construction of sanitary sewerlines, pump station and sewage treatment plant located in Conemaugh Township, **Indiana County** to serve Conemaugh Township STP.

Permit No. 5600401. Sewerage. **James R. Latshaw II**, 307 West Church Street, Somerset, PA 15501. Construction and operation of a sewage treatment plant located in Black Township, **Somerset County** to serve the Latshaw Single Residence.

Permit No. 5692401-A5. Sewerage. **Somerset Township Municipal Authority**, Somerset Township Water Department, P. O. Box 247, Somerset, PA 15501-0247. Construction of sewage treatment plant modification located in Black Township, **Somerset County** to serve SCI—Somerset Sewage Treatment Plant.

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

NPDES Permit No. PA0032760. Sewerage. **Pennsylvania Department of Transportation, Safety Rest Area Site No. 17 (I-79 North)**, P. O. Box 3060, Harrisburg, PA 17105-3060 is authorized to discharge from a facility located in Deer Creek Township, **Mercer County** to an unnamed tributary to Lake Wilhelm.

NPDES Permit No. PA0032751. Sewerage. **Pennsylvania Department of Transportation, Safety Rest Area Site No. 18 (I-79 South)**, P. O. Box 3060, Harrisburg, PA 17105-3060 is authorized to discharge from a facility located in Deer Creek Township, **Mercer County** to an unnamed tributary to Black Run.

WQM Permit No. 6100402. Sewerage. **Pleasantville Borough**, 114 West Street, P. O. Box 150, Pleasantville, PA 16341-9741. This project is for the construction and operation of dechlorination facilities at the Pleasantville sewage treatment plant in Pleasantville Borough, **Venango County**.

INDIVIDUAL PERMITS

(PAS)

The following approvals for coverage under NPDES Individual Permit for discharge of stormwater from construction activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under 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). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a differ-

ent time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

Southcentral Regional Office: Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PAS-10-H085. Individual NPDES. **Carlisle Evangelical Free Church**, 209 Petersburg Road, Carlisle, PA 17013. To Implement an Erosion and Sedimentation

Control Plan for the construction of a church building and its associated improvements on 10 acres in South Middleton Township, **Cumberland County**. The project is located at the west side of Petersburg Road about 0.5 mile south of I-81 Interchange No. 15 (Carlisle, PA Quadrangle N: 11.1 inches; W: 5.7 inches). Drainage will be to Letort Spring Run. (EV-CWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10E071	Mark R. Denny 110 Dingle Road West Sunbury, PA 16061	Butler County Clay Township	Unnamed Tributary to Muddy Creek (HQ-CWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10A052-3	McMetro Partnership 315 Payday Drive Elizabeth, PA 15037	Allegheny County North Fayette Township Robinson Township	UNT Montour Run Pinkerton Run
PAS10A111	William R. Hofer and Marion Hofer 100 O'Hara Woods Drive Pittsburgh, PA 15238	Allegheny County Fox Chapel Borough Indiana Township	UNT Squaw Run
PAS10W078	BAR Development Company 772 Pine Valley Road Pittsburgh, PA 15239	Washington County North Strabane Township	Little Chartiers Creek
PAS10W079	William B. Stewart and Pamela W. Stewart	Washington County Buffalo Township Canton Township	UNT Buffalo Creek UNT Canton Creek

INDIVIDUAL PERMITS

(PAR)

Approvals to Use NPDES and/or Other General Permits

The following parties have submitted (1) Notices of Intent (NOIs) for Coverage under General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth; (2) NOIs for coverage under General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; or (3) Notifications for First Land Application of Sewage Sludge.

The approval of coverage under these General Permits may be subject to one or more of the following: pollutant or effluent discharge limitations, monitoring and reporting, 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 (Department) has reviewed the NOIs and determined that they comply with administrative requirements of the respective permit application. Also, the Department has evaluated the First Land Application of Sewage Sludge for the sites applying for coverage under PAG-7, PAG-8 and PAG-9 and determined that the sites are suitable for land application of sewage sludge.

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 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

*List of
General Permit Type*

PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-10	General Permit for Discharges Resulting from Hydrostatic Testing of Tanks and Pipelines

General Permit Type—PAG-2

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Luzerne County Wilkes-Barre Township	PAR10R193	Greater Wilkes-Barre Ind. Fund 2 Public Square P. O. Box 5340 Wilkes-Barre, PA 18710-5340	Susquehanna River	(570) 674-7991
Caernarvon Township Berks County	PAR-10-C306	Farren Hill Subdivision Douglas Abbonizio/Farren Dev. Co. 1302 Farrem Ave. West Chester, PA 19380	East Branch of Conestoga River	Berks County CD P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
Susquehanna Township Dauphin County	PAR-10-I230	Bethel AME Church 715 North Sixteenth Street Harrisburg, PA 17103	Paxton Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Londonderry Township Dauphin County	PAR-10-I234	Richard E. and Gwendlyn H. Wright 13 Para Avenue Hershey, PA 17033	Swatara Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Guilford Township Franklin County	PAR-10-M176-1	WCN Properties, Inc. Lot No. 24 and 25 2294 Molly Pitcher Highway Chambersburg, PA 17201	UNT to Conococheague Creek	Franklin County CD 550 Cleveland Avenue Chambersburg, PA 17201 (717) 264-8074
Erie County Millcreek Township	PAR10K154	Millcreek Dump Site Group c/o Demaximis, Inc. 301 Gallaher View Rd. Suite 227 Knoxville, TN 37919	Lake Erie Tributary (CWF)	Erie Conservation Dist. 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Jefferson County Brookville Borough	PAR103334	WRC Community and Health Services (Laurelbrook Landing) R. D. 5, Box 47C Brookville, PA 15825	Unnamed Tributary to Redbank Creek	Jefferson Conservation District R. R. 5, Box 51 Brookville, PA 15825 (814) 849-7463

General Permit Type—PAG-3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Lancaster County Manheim Township	PAR203538	Precision Form, Inc. 148 West Airport Road Lititz, PA 17543	Bachman Run Stream	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Cumberland County Hampden Township	PAR203521	True Temper Hardware P. O. Box 8859 Camp Hill, PA 17011	Cedar Run	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
New Beaver Borough Lawrence County	PAR218313	Doren, Inc. P. O. Box 55 R. R. 2, Route 18 Wampum, PA 16157	Beaver River	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wampum Borough Lawrence County	PAR218317	Universal Refractories, Inc. 915 Clyde Street P. O. Box 97 Wampum, PA 16157-0097	Eckles Run	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cranberry Township Butler County	PAR808349	Federal Express Corporation 1980 Nonconnah Boulevard Memphis, TN 38194-1849	Unnamed Tributary of Brush Creek	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR808351	Mountfort Terminal, Ltd. P. O. Box 1000 Erie, PA 16512-1000	Presque Isle Bay	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Bell Township Jefferson County	PAR808371	Punxsutawney Airport Authority P. O. Box 365 Punxsutawney, PA 15767	Unnamed Tributary to Mahoning Creek Basins	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

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, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Franklin County Hamilton Township	PAG043642	Carl R. Gochenauer 3361 Keefer Road Chambersburg, PA 17201	UNT to Rocky Spring Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bedford County Kimmel Township	PAG043643	Pamela Walter R. R. 1 Claysburg, PA 16625	UNT to Beaverdam Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bedford County West St. Clair Township	PAG043644	F. Steve Wolfehope 568 Lovely Road Alum Bank, PA 15521	Georges Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

NOTICES

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Juniata County Fayette Township	PAG043539	Douglas R. and Jennie L. Elsasser P. O. Box 1 Cocolamus, PA 17014	Cocolamus Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Beaver County Harmony Township	PAG046202	Melanie B. Kelly 2 Emerald Avenue Ambridge, PA 15003	Drainage Swale to Big Sewickley Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Somerset County Black Township	PAG046205	James R. Latshaw II 307 West Church Street Somerset, PA 15501	Coxes Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Lackawannock Township Mercer County	PAG048657	Anita L. Kammerdiener 196 Horvath Farms Road Hermitage, PA 16148	Unnamed Tributary of Magargee Run	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Brokenstraw Township Warren County	PAG048336	John W. McCanna R. R. 1, Box 55 Youngsville, PA 16371-9606	Indian Camp Run	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hempfield Township Mercer County	PAG048353	Nicholas Barbosa, Jr. 371 Fredonia Road Greenville, PA 16125	Unnamed Tributary of Mathay Run	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Warren County	PAG048664	Douglas T. and Chiyo T. Grant P. O. Box 528 Sugar Grove, PA 16350	Unnamed Tributary of Stillwater Creek	DEP—Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
South Annville Township Lebanon County	PAG-08-3504	Annville Township P. O. Box 320 Annville, PA 17003	Berger Farm South Annville Township Lebanon County	DEP—Southcentral Regional Office 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

**SEWAGE FACILITIES ACT
PLAN APPROVAL**

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

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Branch Township, Schuylkill County.

The Plan Revision calls for Branch Township to enter into a joint project with neighboring Cass Township to construct a regional sewer system. A sanitary sewage collection and conveyance system will be constructed to serve approximately 672 Equivalent Dwelling Units (EDUs) in the following areas of Branch Township: Llewellyn, West Terrace, Phoenix Park, Dowdowntown and New Minersville. The sewage from these areas will be conveyed to a 450,000 gallons per day (gpd) treatment plant that will be constructed south of the Village of Llewellyn, with a treated effluent discharge to the West Branch of the Schuylkill River. In addition, a sewage collection system and a 5,000 gpd package sewage treatment plant will be constructed to serve approximately 20 EDUs in the Village of Stein's Mill. Treated effluent from the Stein's Mill plant will be discharged into Muddy Branch Creek.

The plan is approved with the following conditions:

1. The approved project will require NPDES Permits for the proposed effluent discharges. The permit applications must be submitted in the name of the municipality or authority, as appropriate.

2. The approved project will require Water Management Part II Permits for the construction and operation of the proposed sewage facilities. The permit applications must be submitted in the name of the municipality or authority, as appropriate.

Issuance of a Part II Permit will be based upon a technical evaluation of the permit application and supporting documentation. Starting construction prior to obtaining a Part II Permit is a violation of The Clean Streams Law.

3. Other Departmental permits may be required for construction if encroachment to streams or wetlands will result. Information regarding the requirements for such permits or approvals can be obtained from the Department's Soils and Waterways Section by contacting (570) 826-2553.

It is now Branch Township's responsibility to implement the Plan Revision in accordance with the schedule contained therein.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.

Location: State Route 946, 1 mile west of the intersection of 946 and SR 987 in Moore Township, **Northampton County**. *Project Description:* This project proposes the expansion and renovation of the existing Moore Township Elementary School comprising 17.62 acres. The school and its facilities serve 735 students and faculty at this time. An existing activated sludge package treatment plant serves the school. The plant has a permitted discharge of 6,420 gpd of treated effluent to an unnamed tributary of the Hokendauqua Creek. The existing metered water consumption rate of the school population is 4,238 gpd. The treatment plant will undergo renovations

including the addition of flow equalization facilities and a new effluent tank incorporating chlorination, dechlorination, polishing clarifier and a post aeration compartment will be installed. The anticipated student/faculty population after renovation to the school is 970, which will generate a water consumption rate of 5,620 gpd. An existing well provides water to the school.

Northcentral Regional Office: Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-0530.

Location: Troy Township, **Bradford County**. Fallbrook Road southwest of Troy Borough and the area along Rt. 14 north of Rt. 6 to the Troy Township line.

Project Description: This project proposes to extend gravity sewer service to serve 120 existing EDUs. The sewage will be conveyed to and be treated at the existing Troy Borough sewage treatment plant.

The Department's review of the sewage facilities update revision has not identified any significant negative environmental impacts resulting from this proposal.

SAFE DRINKING WATER

Actions taken 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.

Permit No. 4800501. Public water supply. **Easton Suburban Water Authority**, Roy White, P. O. Box 3819, Easton, PA 18043. This proposal involves replacing three existing pumps with two 2.5 mgd pumps, installing new inside/outside piping, installing 1,380 linear feet of 24-inch transmission main and surge control, and installing electrical service, instrumentation, SCADA System, and heating/ventilation improvements at Easton Suburban Water Authority's existing Knox Avenue Pump Station. It is located in the City of Easton, **Northampton County**. Permit issued on March 19, 2000.

Permit No. 5499501. Public water supply. **Eagle Springs Inc.**, Valley View Springs II, Richard J. Withelder, Tremont, PA 17981. This proposal involves the addition of a spring source, Valley View Springs II. It is located in Hegins Township, **Schuylkill County**. Permit issued on February 16, 2000.

Permit No. 5499506. Public water supply. **Mountain Water Authority of Joliett**, Charles Yerges, Treasurer, 23 Joliett Street, Joliett, PA 17981. This proposal involves the addition of Corrosion Control treatment facilities consisting of pH/Alkalinity adjustment with soda ash with provisions for the addition of corrosion inhibitor, zinc orthophosphate. It is located in Porte and Tremont Townships, **Schuylkill County**. Permit issued on March 22, 2000.

Permit No. 3590501T1. Public water supply. **Lakeside Village Mobile Home Park**, Mount Pennbrook, Inc., P. O. Box 974, Moscow, PA 18444, Brian Moore, President. This proposal involves the modification of an existing water supply serving Lakeside Village MHP. Facilities include one well, disinfection station, storage and distribution. It is located in Madison Township, **Lackawanna County**. Permit issued on March 28, 2000.

Permit No. 3546485. Special Permit by Rule. **Elizabethtown Crystal Pure Water Company**, 1016 West Ridge Road, Elizabethtown, PA 17022, Raymond R.

Diener. Approval to operate a vending machine to BG's Value Market in the Northeast Region. Permit issued on April 10, 2000.

Minor Amendment to Tobyhanna Army Depot, c/o Randy Didier, Chief, 11 Hap Arnold Boulevard SDSTO-EM, Tobyhanna, PA 18466. It is located in Tobyhanna Township, **Monroe County**. Permit issued on April 7, 2000.

Minor Amendment to Hazleton City Authority—Water Department, Randy Cahalan, 400 East Arthur Gardner Parkway, Hazleton, PA 18201. It is located in Hazleton City, **Luzerne County**. Permit issued on March 10, 2000.

Operations Permit—Emergency Permit issued to All-Tyme, Inc., on April 10, 2000, located in Honesdale Borough, **Wayne County**.

Operations Permit No. 3480055. Issued to **Citizens Utility Water Company of Pennsylvania**, on April 7, 2000, located in Wind Gap Borough, **Northampton County**.

Operations Permit No. 2409013. Issued to **PAWC (Huntsville WTP)** on March 27, 2000, located in Dallas Township, **Luzerne County**.

Operations Permit No. 3480037. Issued to **Cedar Grove Mobile Home Park**, on April 5, 2000, located in Lower Mount Bethel Township, **Northampton County**.

Operations Permit No. 2450053. Issued to **Tobyhanna Army Depot** on April 12, 2000, located in Tobyhanna Township, **Monroe County**.

Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. 6799506. Public water supply. **James Dorwart**, Fairview Township, **York County**. *Responsible Official*: James Dorwart, 1375 Old Quaker Road, Etters, PA 17319. *Type of Facility*: Issuance of an Operation Permit on April 10, 2000, authorizing use of Well No. 2, at a rate of up to 90 gallons per minute, as a source of supply for the Dorwart Apartments. Treatment will be provided utilizing existing, previously permitted facilities. *Consulting Engineer*: Jerry Stahlman, P.E., Stallman & Stahlman, Inc., 139 E. Market St., York, PA 17401. Permit to Operate Issued: April 10, 2000.

Permit No. 2199504. Public water supply. **Lindenwood—Pressure Booster Station**, Upper Allen Township, **Cumberland County**. *Responsible Official*: Mike Gephart, Sr. Project Engineer, 4211 East Park Circle, P. O. Box 4151, Harrisburg, PA 17111-0151. *Type of Facility*: Booster pump station to serve the Lindenwood development. *Consulting Engineer*: Bony R. Dawood, PE, Dawood Engineering, Inc., P. O. Box 246, Enola, PA 17025. Permit to Construct Issued: April 17, 2000.

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

Permit No. Minor Permit Amendment—Construction. The Department issued a Minor Permit Amendment Construction Permit to **Consumer's Pennsylvania Water Company**, Susquehanna Division, 204 East Sunbury Street, Shamokin, PA 17872-4859, Athens Borough, **Bradford County**. This permit authorizes upgrading of

the Well 19 pump house to ensure a reliable supply of water to the water company's customers.

Permit No. Minor Amendment. The Department issued a Minor Amendment Operation Permit to **Pennsylvania-American Water Company**, Moshannon District, 800 Hershey Park Drive, P. O. Box 888, Hershey, PA 17033-0888, Graham Township, **Clearfield County**. This permit authorizes operation of the wastewater clarifier at the Shady Acres finished water storage tank which was recently rehabilitated.

Permit No. Minor Amendment. The Department issued a Minor Amendment Operation Permit to **Pennsylvania-American Water Company**, Moshannon District, 800 Hershey Park Drive, P. O. Box 888, Hershey, PA 17033-0888, Rush Township, **Centre County**. This permit authorizes operation of the wastewater clarifier at the Philipsburg filter plant which was recently modified.

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

Permit No. 6199501. Public water supply. **General Authority of the City of Franklin**, 430 Thirteenth Street, Franklin, PA 16323 has been issued a permit for the construction of a corrosion control treatment facility at the Elk Street Extension and 9th Street plants in the City of Franklin, **Venango County**. *Type of Facility*: Community Water Supply. *Consulting Engineer*: Olgierd K. Wodzianski, P.E., Wodzianski & Smith Inc. Engineers, 1322 Elk Street, Franklin, PA 16323. *Permit to Construct Issued*: April 17, 2000.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Proposed Consent Order and Agreement

Filmore Site

Millcreek Township, Erie County

Under section 1113 of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), notice is hereby provided that the Department of Environmental Protection (Department) has agreed to a Consent Order and Agreement (CO&A) with Benjamin F. Kimmel concerning the resolution of his liability for the Filmore Site (Site). The Site is located at the end of Filmore Avenue in Millcreek Township, Erie County, PA.

In the past, hazardous substances were disposed at the Site and these substances contaminated the environment at the Site. The Department has incurred more than \$500,000 in response costs at the Site. The Department estimates that it will cost up to \$1.8 million dollars more to abate the release and threatened release of hazardous substances at the Site. As an owner of a portion of the Site subsequent to hazardous substance disposal and initial releases at the Site, and during the time of the release and threatened release of hazardous substances at the Site, Benjamin F. Kimmel is a "responsible person" as defined in section 103 of HSCA (35 P. S. § 6020.103). Under the terms of the CO&A, Benjamin Kimmel shall pay a total of \$45,000 to the Hazardous Sites Cleanup Fund in settlement of his share of responsibility for the cleanup of the Site. Benjamin F. Kimmel will also convey title of the portion of the Site that he owes to the Department, under the terms of the CO&A. The Department anticipates that the response action will be conducted at the Site during the 2000 construction season. This response will help mitigate the threat to human

health and the environment posed by the hazardous substances there.

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

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

Notice of Prompt Interim Response

Chemigraphics Site

Whitpain Township, Montgomery County

The Department of Environmental Protection (Department) is issuing this notice under section 506(b) of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020—6020.101—6020.1304) (HSCA).

The Department, under the authority of HSCA, began an interim response action on September 16, 1998, at the Chemigraphics Site (Site), located at Railroad Avenue and Mathers Road in Whitpain Township, Montgomery County. The Site has a plume of contaminated groundwater, and had a number of drums and containers of hazardous wastes and materials. Based on the ongoing release and imminent threat of release of hazardous substances at the Site, and corresponding threats to human health and the environment, the Department decided that it was necessary to implement a prompt interim response action at the Site under authority under sections 501(a) and 505(b) of HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)). The Department determined that prompt action was required to protect the public health and safety and the environment from the ongoing release and threat of release of hazardous substances.

The Department made its decision to implement a prompt interim response at the Site because of the community's actual or potential exposure to hazardous substances by inhalation, ingestion and dermal contact. The formerly unused portions of the facility were being put back into active use, and as a result the probability of exposure to stored materials increased. Because of these conditions, the Department determined that prompt action was required to protect the public health and safety, and the environment within the meaning of 25 Pa. Code 3.21(b). The Department will conduct further investiga-

tions of Site conditions concurrent with, and following, the prompt interim response action.

The objectives of the prompt interim response action were to remove and properly dispose of hazardous wastes and materials that the Department had stored on the Site. The Department considered two alternative interim response actions for the Chemigraphics Site:

Alternative 1) No Action. A "No Action" alternative provides a baseline against which all other alternatives can be prepared and/or judged. Had the Department selected the "No Action" alternative, any actual or potential health and environmental risk posed by the Site would have remained the same.

Alternative 2) Waste Removal and Disposal. This alternative consisted of shipping the stored wastes offsite to properly permitted disposal facilities.

In evaluating these alternatives, the Department considered the criteria of permanence, protection of human health and environment, and the alternatives' ability to meet applicable, relevant and appropriate State and Federal requirements (ARARs). The Department also considered cost-effectiveness in analyzing the prompt interim alternatives. The Department determined that the "No Action" alternative would not be protective of the public health. The Department selected Alternative 2, "Waste Removal and Disposal." This alternative is protective of the public health and environment, complies with ARARs, and is feasible and effective. Due to the arrival of a new tenant at the facility, the Department determined that prompt action was required under the authority provided in section 505(b) of HSCA.

An Administrative Record which contains more detailed information concerning the prompt interim response action is available for public inspection. The Administrative Record may be examined from 8 a.m. to 4 p.m. at the Department's offices at Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA 19428, (610) 832-6000. Individuals interested in examining the Administrative Record should contact April Flipse at (610) 832-5937 to arrange for an appointment.

An additional copy of the Administrative Record is available for review at the Wissahickon Valley Public Library, Ambler Branch, 209 Race Street, Ambler.

A public hearing is scheduled under section 506(d) of HSCA for June 13, 2000 at 7 p.m. at the Wissahickon Valley Public Library System, Blue Bell Branch, 650 Skippack Pike, Blue Bell, PA 19422. Persons who want to present formal oral comments regarding this prompt interim response may do so by registering with the Department before the meeting. Individuals may register by calling the Department's Community Relations Coordinator, John Gerdemann, at (610) 832-6228.

Persons with a disability who wish to attend the June 13 meeting and require auxiliary aid, service or other accommodation to participate in the proceedings should contact John Gerdemann at the telephone number listed or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

The public may also submit written comments regarding the Department's prompt interim response action during the period of public comment. Under section 506(c) of HSCA, the Department has established a period for public comment, which shall run from the date of this notice through August 4, 2000. Written comments should

be addressed to April Flipse, Project Officer, at the Department's address listed.

Individuals with questions concerning this notice should contact April Flipse at (610) 832-5937.

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 investigations, 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 content of the plans and reports, contact the Environmental Cleanup Program Manager in the Department's Regional Office under which the notice of the plan and report appears. If information concerning the plan and 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 plans and reports.

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

Krouse Property, City of Philadelphia, **Philadelphia County**. A Final Report concerning remediation of site soil contaminated with petroleum hydrocarbons and

polycyclic aromatic hydrocarbons was submitted to the Department. The report demonstrated attainment of the Statewide health standards and was approved by the Department on October 30, 1997.

Northeast Fence & Ironworks, City of Philadelphia, **Philadelphia County**. A Final Report concerning remediation of site soil contaminated with PCBs, heavy metals and petroleum hydrocarbons and groundwater contaminated with heavy metals was submitted to the Department. The report demonstrated attainment of site-specific standards and was approved by the Department on October 1, 1997.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 56095N49849 (Abington Road), North Abington Township, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The final report demonstrated attainment of the Statewide health standard, and was approved on October 2, 1997.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 56526N50832 (Craig Road), North Abington Township, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The final report demonstrated attainment of the Statewide health standard, and was approved on October 2, 1997.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 56475N44790 (Hamm Court), City of Scranton, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The final report demonstrated attainment of the Statewide health standard, and was approved on October 2, 1997.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 56454N46658 (Simplex Drive), City of Scranton, **Lackawanna County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The final report demonstrated attainment of the Statewide health standard, and was approved on October 2, 1997.

Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 59960S47145 (Applewood Drive), South Whitehall Township, **Lehigh County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The final report demonstrated attainment of the Statewide health standard, and was approved on October 2, 1997.

Coleman Residence, Coaldale Borough, **Schuylkill County**. Glen E. Rieger, Senior Engineer with Environmental Strategies Corporation, Four Penn Center West, Suite 315, Pittsburgh, PA (on behalf of his clients,

Thomas and Kimberly Coleman, 53 East Phillips Street, Coaldale, PA) submitted a Final Report concerning the remediation of site soils found to be contaminated with petroleum hydrocarbons. The Final Report demonstrated attainment of the Statewide health standard, and was approved on September 10, 1997.

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

Bethlehem Steel Corp., Steelton and Highspire Boroughs, **Dauphin County**. A Final Report has been submitted concerning the remediation of site soils contaminated with heavy metals. The Final Report demonstrated attainment of the background standard, and was approved by the Department on October 31, 1997.

Bethlehem Steel Corp., Steelton and Highspire Boroughs, **Dauphin County**. A remedial investigation report, baseline risk assessment report and cleanup plan have been submitted concerning the remediation of site groundwater contaminated with solvents. These reports were approved by the Department on October 31, 1997.

Degol Carpet, Duncansville Borough, **Blair County**. A Final Report has been submitted concerning the remediation of site groundwater contaminated with solvents. The Final Report will demonstrate attainment of the background standard, and was approved by the Department on October 15, 1997.

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

GTE Erie West Plant Facility, 1157 West 16th Street, City of Erie, **Erie County**. A Final Report concerning remediation of groundwater contaminated with solvents was submitted to the Department. The report demonstrated attainment of the site-specific standards and was approved by the Department on October 31, 1997.

GPU Front Street Parcel G-1, North of Front Street, City of Erie, **Erie County**. A Final Report concerning remediation of site soils and groundwater contaminated with PCBs (polychlorinated biphenyls), heavy metals and petroleum hydrocarbons was submitted to the Department. The report demonstrated attainment of Statewide health standards and was approved on October 2, 1997.

SOLID AND HAZARDOUS WASTE

HAZARDOUS WASTE, TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate hazardous waste treatment, storage or disposal facility.

Regional Office: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2516.

PAD No. 002389559. Keystone Cement Company, P. O. Box A, Bath, PA 18014-0058. A permit modification updating the Hazardous Waste Storage Permit to address significant changes to the permitted facility's construction, changes to permitted activities and new (post 1991) statutory and regulatory requirements. This permit modification also includes changes from the draft permit modification issued October 15, 1999 for public comment. The permit modification was approved in the Regional Office on April 11, 2000.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 101656. Accurate Recycling Corp., 300 East Baltimore Pike, Lansdowne, PA 19050. A permit modification was issued to Accurate for their C&D transfer station facility located in Upper Darby Township, **Delaware County**. This modification includes a facility expansion, a daily volume increase and an increase in operating hours. The permit was issued by the Southeast Regional Office on April 16, 2000.

Southcentral Regional Office: Regional Solid Waste Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.

Permit No. 101668. Barner Site Transfer Station, Mifflin County Solid Waste Authority, (P. O. Box 390, Lewistown, PA 17044-0390). Application for a transfer station in Derry Township, **Mifflin County**. Permit issued in the Regional Office on April 13, 2000.

Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653.

Permit No. 300610. Masonite Landfill, Masonite Corporation (P. O. Box 311, Towanda, PA 18848). Repermitting of residual waste landfill located in Wysox Township, **Bradford County**, issued in the regional office on April 19, 2000.

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.

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

Permit No. 603343(13). BIO GRO, P. O. Box 266, Somerset, PA 15501. This permit has been revoked in response to the permittees' request to revoke the permit for agricultural utilization of municipal sewage sludges on the Laurel Locks Farm located in North Coventry Township, **Chester County**. Permit revoked in the Southeast Regional Office on April 11, 2000.

AIR QUALITY

OPERATING PERMITS

General Plan Approval and Operating Permit usage authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

09-302-081GP: Hines Color (6071 Durham Road, Pipersville, PA 18947) on March 29, 2000, for a hot water boiler in Plumstead Township, **Bucks County**.

15-312-034GP: West Chester University (University Avenue, West Chester, PA 19383) for a boiler in West Chester Borough, **Chester County**.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

45-310-017GP: Haines & Kibblehouse, Inc. (Locust Ridge Quarry, P. O. Box 196, Skippack, PA 19474) on April 13, 2000, for relocation and operation of a Hazmag portable stone plant in Tobyhanna Township, **Monroe County**.

45-310-018GP: Haines & Kibblehouse, Inc. (Locust Ridge Quarry, P. O. Box 196, Skippack, PA 19474) on April 13, 2000, for relocation and operation of a Cedar Rapids portable stone plant in Tobyhanna Township, **Monroe County**.

40-323-012GP: Reilly Finishing Technologies (130 Alden Road, Nanticoke, PA 18634) on April 21, 2000, for construction and operation of a burnoff oven in Nanticoke Borough, **Luzerne County**.

54-310-025GP: Lehigh Asphalt Paving & Construction Co. (P. O. Box 1089, Glenside, PA 19038) on April 21, 2000, for construction and operation of a portable stone crushing plant in Porter Township, **Schuylkill County**.

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

GP3-06-3115: Haines & Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) authorized use of a general permit for installation/operation of a portable non-metallic mineral processing plant in Cumru Township, **Berks 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.

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

22-322-001A: Dauphin Meadows, Inc. (Route 209, Millersburg, PA 17061) on April 24, 2000, for operation of a landfill gas extraction system controlled by an enclosed ground flare in Upper Paxton and Washington Townships, **Dauphin County**.

36-317-105D: Kellogg U.S.A., Inc. (2050 State Road, Lancaster, PA 17604) on April 24, 2000, for operation of corn lines controlled by rotoclones and fabric collectors in East Hempfield Township, **Lancaster County**.

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

PA-20-284A: Multi-Tool, Inc. (Route 198 South Street, P. O. Box 708, Saegertown, PA 16433) on February 28, 2000, for operation of two chrome plating tanks in Saegertown, **Crawford County**.

PA-25-070B: Gunite EMI Corp. (603 West 12th Street, Erie, PA 16501) on March 31, 2000, for operation of a paint spray booth in Erie, **Erie County**.

Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

OP-46-0015: Occidental Chemical (Armand Hammer Boulevard, Pottstown, PA 19464) on March 29, 2000, for Facility VOCs/NOx in Lower Pottsgrove Township, **Montgomery County**.

OP-09-0022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on March 31, 2000, for fountain solution in Quakertown Borough, **Bucks County**.

OP-09-0001A: Avery Dennison Corp. (35 Penn Am Drive, Quakertown, PA 18951) on April 13, 2000, for Facility VOC/NOx RACT in Richland Township, **Bucks County**.

OP-09-0013: Wheelabrator Falls, Inc. (1201 New Ford Mill Road, Morrisville, PA 19067) on April 13, 2000, for Facility VOC in Falls Township, **Bucks County**.

OP-09-0021: MRI Flexible Packaging (122 Penns Trail, Newtown, PA 18940) on April 17, 2000, for Facility VOCs/NOx RACT in Newtown Township, **Bucks County**.

OP-46-0024: McNeil Consumer Healthcare (7050 Camp Hill Road, Fort Washington, PA 19428) on April 21, 2000, for Facility VOCs/NOx RACT in Whitemarsh Township, **Montgomery County**.

OP-09-0022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on March 24, 2000, for fountain solution in Quakertown Borough, **Bucks County**.

OP-46-0035: SmithKline Beecham Pharmaceuticals (709 Swedeland Road, King of Prussia, PA 19406) on March 24, 2000, for two emergency generators in Upper Merion Township, **Montgomery County**.

OP-46-0050: Rohm & Haas DVI (727 Norristown Road, Spring House, PA 19477) on February 23, 2000, for Synthetic Minor NOx Facility in Lower Gwynedd Township, **Montgomery County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

49-302-051: Kurt Weiss Greenhouses of Pennsylvania, Inc. (10 Arcos Road, P. O. Box C, Mt. Carmel, PA 17851) on April 13, 2000, to incorporate conditions established in Plan Approval 49-302-051A for two 17,600,000 BTU per hour natural gas/#2 fuel oil fired boilers equipped with low NOx (nitrogen oxides) burners in Mt. Carmel Township, **Northumberland County**. The boilers are subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

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.

48-309-109: Keystone Cement Co. (P. O. Box A, Bath, PA 18014) for minor modification and consolidation of permits in East Allen Township, **Northampton County**.

39-310-002C: Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 18034) for minor modification of a crushing operation in Whitehall Township, **Lehigh 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.

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

PA-15-0055: Highway Materials, Inc. (850 Quarry Road, Downingtown, PA 19335) on March 6, 2000, for operation of a baghouse in East Caln Township, **Chester County**.

PA-09-0063A: New Hope Crushed Stone Co. (6970 Phillips Mill Road, New Hope, PA 18938) on March 10, 2000, for operation of a stone crushing plant in Solebury Township, **Bucks County**.

PA-23-0001N: Sunoco, Inc. (R&M) (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on March 15, 2000, for operation of Boiler 9 in Marcus Hook Borough, **Delaware County**.

PA-23-0006C: Foamex L. P. (1500 East Second Street, Eddystone, PA 19022) on March 15, 2000, for operation of a thermal reticulation unit in Eddystone Borough, **Delaware County**.

PA-46-0081B: Markel Corp. (416 School Lane, Norristown, PA 19404) on March 15, 2000, for operation of two horizontal extruders in Plymouth Township, **Montgomery County**.

PA-46-0041: Jefferson Smurfit Corp. (US) (1035 Longford Road, Phoenixville, PA 19460) on March 15, 2000, for operation of a Non-heatset Lithographic Press in Upper Providence Township, **Montgomery County**.

PA-15-0101: Kendal-Crosslands Communities (4109 East Baltimore Pike, Kennett Square, PA 19348) on March 15, 2000, for operation of a diesel generator in Kennett Township, **Chester County**.

PA-15-0100: Kendal-Crosslands Communities (1660 East Street Road, Kennett Square, PA 19348) on March 15, 2000, for operation of a diesel generator in Pennsbury Township, **Chester County**.

PA-46-0015A: Occidental Chemical Corp. (375 Armand Hammer Boulevard, Pottstown, PA 19464) on March 29, 2000, for operation of Process Line No. 6 in Lower Pottsgrove Township, **Montgomery County**.

PA-09-0087A: Air Products & Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on March 29, 2000, for operation of an ammonia scrubber in Falls Township, **Bucks County**.

PA-46-0123: Wesco Industrial Products, Inc. (1250 Welsh Road, Lansdale, PA 19446) on March 29, 2000, for operation of spray paint booths in Montgomery Township, **Montgomery County**.

PA-23-0001L: Sunoco, Inc. (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on April 5, 2000, for operation of two racing fuel storage tanks in Marcus Hook Borough, **Delaware County**.

PA-23-0001M: Sunoco, Inc. (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on April 7, 2000, for operation of a CO Boiler in Marcus Hook Borough, **Delaware County**.

PA-15-0029B: Dopaco, Inc. (241 Woodbine Road, Downingtown, PA 19335) on April 12, 2000, for operation of a packaging rotogravure printing press in Downingtown Borough, **Chester County**.

PA-09-0112A: Superior Woodcraft, Inc. (160 North Hamilton Street, Doylestown, PA 18901) on April 12, 2000, for operation of a floor type spray booth in Doylestown Borough, **Bucks County**.

PA-46-0036B: Ford Electronics & Refrigeration, LLC (2750 Morris Road, Lansdale, PA 19446) on April 14, 2000, for operation of a selective soldering machine in Worcester Township, **Montgomery County**.

PA-09-0105A: Naceville Materials (Springfield Street and Route 309, Coopersburg, PA 19474) on April 19, 2000, for operation of an asphalt batch plant in Springfield Township, **Bucks County**.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

48-317-018: Keystone Food Products, Inc. (3767 Hecktown Road, P. O. Box 326, Easton, PA 18044) on April 20, 2000, for installation of an air cleaning device on the frying operations in Lower Nazareth Township, **Northampton County**.

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

07-05001B: Appleton Papers, Inc. (100 Paper Mill Road, Roaring Spring, PA 16673) on April 17, 2000, for construction of bleach plant operations controlled by a packed column wet scrubber at the Spring Mill in Roaring Spring Borough, **Blair County**. This source is subject to 40 CFR Part 63, Subpart S—Standards of Performance for Hazardous Air Pollutants from the Pulp and Paper Industry.

67-05077: Fypon, Ltd. (22 West Pennsylvania Avenue, Stewartstown, PA 17363) on April 20, 2000, for construction of an architectural molded millwork production facility in North Codorus Township, **York County**.

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

PA-03-026A: Eljer Plumbingware, Inc. (1301 Eljer Way, Ford City, PA 16226) on April 18, 2000, for operation of Tunnel Kiln 1 at Ford City Plant in Burrell Township, **Armstrong County**.

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

PA-61-004B: Electralloy, A G. O. Carlson, Inc. Co. (175 Main Street, Oil City, PA 16301) on April 25, 2000, for construction of a granular metal production process in Oil City, **Venango County**.

Plan Approval 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.

OP-46-0015: Occidental Chemical (Armand Hammer Boulevard, Pottstown, PA 19464) on March 29, 2000, for Facility VOCs/NOx in Lower Pottsgrove Township, **Montgomery County**.

OP-09-0022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on March 31, 2000, for fountain solution in Quakertown Borough, **Bucks County**.

OP-09-0001A: Avery Dennison Corp. (35 Penn Am Drive, Quakertown, PA 18951) on April 13, 2000, for Facility VOC/NOx RACT in Richland Township, **Bucks County**.

OP-09-0013: Wheelabrator Falls, Inc. (1201 New Ford Mill Road, Morrisville, PA 19067) on April 13, 2000, for Facility VOC in Falls Township, **Bucks County**.

OP-09-0021: MRI Flexible Packaging (122 Penns Trail, Newtown, PA 18940) on April 17, 2000, for Facility VOCs/NOx RACT in Newtown Township, **Bucks County**.

OP-46-0024: McNeil Consumer Healthcare (7050 Camp Hill Road, Fort Washington, PA 19428) on April 21, 2000, for Facility VOCs/NOx RACT in Whitemarsh Township, **Montgomery County**.

OP-09-0022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on March 24, 2000, for fountain solution in Quakertown Borough, **Bucks County**.

OP-46-0035: SmithKline Beecham Pharmaceuticals (709 Swedeland Road, King of Prussia, PA 19406) on March 24, 2000, for two emergency generators in Upper Merion Township, **Montgomery County**.

OP-46-0050: Rohm & Haas DVI (727 Norristown Road, Spring House, PA 19477) on February 23, 2000, for Synthetic Minor NOx Facility in Lower Gwynedd Township, **Montgomery County**.

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

28-05022: RJC Industries, Inc. (5171 Innovation Way, Chambersburg, PA 17201) granted April 4, 2000, to authorize temporary operation of two spray paint booths controlled by dry panel filters, covered under this Plan Approval until August 1, 2000, at Letterkenny Industrial Park in Greene Township, **Franklin County**.

36-05019B: Supply Sales Co. (1411 Lancaster Avenue, Columbia, PA 17512) granted January 2, 2000, to authorize temporary operation of a sprue crusher, covered under this Plan Approval until May 1, 2000, at the Columbia Plant in Columbia Borough, **Lancaster County**.

36-05019C: Supply Sales Co. (1411 Lancaster Avenue, Columbia, PA 17512) granted January 2, 2000, to authorize temporary operation of a fabric collector, covered under this Plan Approval until May 1, 2000, at the Columbia Plant in Columbia Borough, **Lancaster County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

18-313-019C: Croda, Inc. (P. O. Box 178, Mill Hall, PA 17751-0178) on April 14, 2000, to extend the authorization to operate an ethylene oxide storage and distribution system on a temporary basis until August 12, 2000, in Bald Eagle Township, **Clinton County**.

08-322-001B: Northern Tier Solid Waste Authority (P. O. Box 10, Burlington, PA 18814-0010) on April 14, 2000, to extend the deadline to June 30, 2001, for construction of additional municipal solid waste landfill disposal area (Cells 6, 7 and 8) at the Northern Tier Solid Waste Authority Landfill in West Burlington Township, **Bradford County**.

18-310-002D: Hanson Aggregates Pennsylvania, Inc. (P. O. Box 231, Easton, PA 18044-0231) on April 18, 2000, to extend the authorization to operate various pieces of stone crushing and screening equipment on a temporary basis until August 16, 2000, in Lamar Township, **Clinton County**.

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

PA-37-234B: Praxair Surface Technologies (3225 Honeybee Lane, New Castle, PA 16105) on April 30, 2000, for a coating disposition cubicle in Wilmington Township, **Lawrence County**.

PA-37-243A: International Metals Reclamation Co. (245 Portersville Road, P. O. Box 720, Ellwood City, PA 16117) on April 30, 2000, for a rotary calciner thermal oxidation furnace in Ellwood City, **Lawrence County**.

PA-42-185A: IA Construction Co. (Route 155 Turtlepoint, P. O. Box 568, Franklin, PA 16323) on April 30, 2000, for a batch asphalt plant in Annin Township, **McKean County**.

PA-43-170B: Werner Co. (93 Werner Road, Greenville, PA 16125) on April 30, 2000, for a pultrusion line in Sugar Grove Township, **Mercer County**.

Plan Approvals transferred under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

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

PA-04-699A: NGC Industries, Inc. (2001 Rexford Road, Charlotte, NC 28211) on April 19, 2000, to National Gypsum for a wallboard manufacturing plant in Shippingport Borough, **Beaver County**. The original plan approval was issued on February 24, 1998.

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 such applications will also address

the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

Coal Applications Issued:

65990102. Duppstadt Coal (2835 Stutzmantown Road, Somerset, PA 15501-8332), commencement, operation and restoration of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 76.4 acres, receiving stream Tub Mill Run, unnamed tributaries to Tub Mill Run, and unnamed tributaries to Casselman River, application received May 12, 1999, permit issued April 17, 2000.

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

65990107. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Mt. Pleasant Township, **Westmoreland County**, affecting 55.6 acres. Receiving streams: unnamed tributaries to Jacobs Creek, Jacobs Creek to Youghiogheny River. Application received: October 12, 1999. Permit issued: April 17, 2000.

26940101R. J & B Coal Company (R. D. 2, Box 75C, Smithfield, PA 15478). Permit renewed for continued reclamation only of a bituminous surface mine located in Nicholson Township, **Fayette County**, affecting 22.5 acres. Receiving streams: unnamed tributary to Jacobs Creek, to Jacobs Creek, to the Monongahela River. Application received: December 20, 1999. Renewal issued: April 19, 2000.

26900103R. J & B Coal Company (R. D. 2, Box 75C, Smithfield, PA 15478). Permit renewed for continued reclamation only of a bituminous surface mine located in Nicholson Township, **Fayette County**, affecting 31.6 acres. Receiving streams: Jacobs Creek and the Monongahela River. Application received: December 20, 1999. Renewal issued: April 19, 2000.

63951701. Pennsylvania Turnpike Commission (Commonwealth of Pennsylvania, P. O. Box 67676, Harrisburg, PA 17106-7676). Permit revised to be renewed for an additional 5 years at a mine drainage treatment facility located in Fallowfield Township, **Washington County**. Application received: April 3, 2000. Revision/renewal issued: April 20, 2000.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

17990108. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine permit in Girard Township, **Clearfield County** affecting 73.5 acres. Receiving streams: unnamed tributary No. 1 and unnamed tributary No. 2 to Bald Hill Run to the West Branch of the Susquehanna River to the West Branch of the Susquehanna River. Application received April 29, 1999. Permit issued April 13, 2000.

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

61970101. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous strip operation to add the removal of Vanport Limestone in Irwin Township, **Venango County** affecting 66.5 acres. Receiving streams: Four unnamed tributaries

to Scrubgrass Creek. Application received: February 11, 2000. Permit Issued: April 12, 2000.

33890113. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous strip, auger, tipple refuse disposal and limestone and sandstone removal in Perry Township, **Jefferson County** affecting 508.8 acres. Receiving streams: Unnamed tributaries to Pine Run. Application received: August 18, 1999. Permit Issued: April 17, 2000.

33990111. P & N Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous strip operation in Young and McCalmont Townships, **Jefferson County** affecting 171.5 acres. Receiving streams: Unnamed tributary to Little Elk Run and Unnamed tributary to Elk Run. Application received: August 26, 1999. Permit Issued: April 12, 2000.

33990113. Cookport Coal Company, Inc. (425 Market Street, Kittanning, PA 16201). Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Jefferson County** affecting 50.1 acres. Receiving streams: Unnamed tributary to Rose Run. Application received: December 28, 1999. Permit Issued: April 12, 2000.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54840205R3. Hegins Mining Company (290 Swatara Road, Zerbe, PA 17981), renewal of an existing coal refuse reprocessing and coal preparation plant operation in Reilly Township, **Schuylkill County** affecting 63.6 acres, receiving stream—none. Renewal issued April 17, 2000.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

Small Industrial Minerals Permits Issued

08990804. Donald E. Johnson, Sr. (R. R. 1, Box 257A, Monroeton, PA 18832), commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit in Asylum Township, **Bradford County** affecting 1 acre. Receiving streams: unnamed tributary to Durell Creek. Application received September 30, 1999. Permit issued April 13, 2000.

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

Small Noncoal (Industrial Minerals) Permits Issued

20992804. Joseph F. and M. Shirley Pikula (26161 Crossingville Road, Edinboro, PA 16412). Commencement, operation and restoration of a small noncoal sand and gravel operation in Cussewago Township, **Crawford County** affecting 5.0 acres. Receiving streams: Cussewago Creek. Application received: May 5, 1999. Permit Issued: April 11, 2000.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

58992807. Douglas G. Kilmer (R. R. 1 Box 85K, Uniondale, PA 18470), commencement, operation and restoration of a quarry operation in Franklin Township, **Susquehanna County** affecting 4.0 acres, receiving stream—none. Permit issued April 19, 2000.

58000803. Robert Cooley (R. R. 2 Box 154, Kingsley, PA 18826), commencement, operation and restoration of a bluestone quarry operation in Brooklyn Township, **Susquehanna County** affecting 1.0 acres, receiving stream—none. Permit issued April 19, 2000.

58000804. James W. Barber (Box 157, Clifford, PA 18413), commencement, operation and restoration of a bluestone quarry operation in Clifford Township, **Susquehanna County** affecting 2.0 acres, receiving stream—none. Permit issued April 19, 2000.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Permits Issued

5575SM1A3C3. State Aggregates, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034-9454), renewal of NPDES Permit No. PA0119555 in Clifford Township, **Susquehanna County**, receiving stream—East Branch of Tunkhannock Creek and an unnamed tributary. Renewal issued April 17, 2000.

4873SM3C7. York Silicia Sand, Inc. (740 South Front Street, Wrightsville, PA 17368), renewal of NPDES Permit No. PA0595021 in Springettsbury Township, **York County**, receiving stream—unnamed tributary to Codorus Creek. Renewal issued April 17, 2000.

8274SM4A2C3. Rohrer's Quarry, Inc. (70 Lititz Road, P. O. Box 365, Lititz, PA 17543), renewal of NPDES Permit No. PA0010111 in Penn and Warwick Townships, **Lancaster County**, receiving stream—unnamed tributary to Little Conestoga Creek. Renewal issued April 17, 2000.

48870301C2. Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474), renewal of NPDES Permit No. PA0593893 in Lower Mt. Bethel Township, **Northampton County**, receiving stream—Delaware River. Renewal issued April 21, 2000.

21900301C. E. E. Kough Sons (P. O. Box 134, Newville, PA 17241), renewal of NPDES Permit No. PA0595055 in North Newton Township, **Cumberland County**, receiving stream—unnamed tributary to Conodoguinet Creek. Renewal issued April 21, 2000.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of the written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (*Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.*)

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

E38-128. Encroachment. **Scott Lengel**, P. O. Box 424, Newmanstown, PA 17073. To maintain a 10-inch PVC intake pipe installed in the left downstream channel bank of the Tulpehocken Creek (TSF) to convey water into an existing pond within an abandoned quarry located about 400 feet west of Millardsville Road (Bethel, PA Quadrangle N: 0.1 inch; W: 2.6 inches) in Jackson Township, **Lebanon County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E50-196. Encroachment. **Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105. To place approximately 140 feet of riprap along the channel of the North Branch of Laurel Run (EV) at a point along Laurel Run Road (Newburg, PA Quadrangle N: 22.6 inches; W: 4.2 inches) for the purpose of stopping streambank erosion in Toboyne Township, **Perry County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Northcentral Region: Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third Street, Williamsport, PA 17701.

E14-358. Encroachment. **Sea Oaks Company**, 2007 Windgate Drive, Durham, NC 27705. To extend an existing culvert crossing, two 58-inch by 36-inch arch pipes by 5 feet in an unnamed tributary to Big Hollow located on Toftrees Avenue just east of Waddle Road (Julian, PA Quadrangle N: 13.0 inches; W: 3.6 inches) in Patton Township, **Centre County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-365. Encroachment. **John and Amy Beck**, 537 Rattlesnake Pike, Julian, PA 16844. To 1) maintain a 60-foot long by 8-foot to 12-foot wide by 0-foot to 2.5-foot deep area of fill to facilitate driving around the existing garage and 2) place three 6-inch by 6-inch wooden posts for a garage roof extension within 50-feet of the top of the left bank of Dewitt Run, 3) place 120 linear feet or R-4 limestone riprap on the left bank of Dewitt Run located 0.75 mile up S. R. 504 (Rattlesnake Pike) from S. R. 220 (Bear Knob, PA Quadrangle N: 7.07 inches; W: 1.85 inches) in Union Township, **Centre County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E17-339. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830-0424. To remove an existing single span structure and to construct, operate and maintain a single span pre-stressed concrete spread box beam bridge to carry SR 1014, Section A01, Segment/Offset 0060-0290 across Alder Run. The bridge

shall be constructed with a clear span of 31.1 feet. The average underclearance of the bridge shall be a minimum of 7.4 feet. The bridge shall be constructed with a skew of 75 degrees. The proposed bridge is located along the eastern right-of-way of SR 0080 approximately 1.2 miles southeast of the intersection of Graham Township Road No. 735 and SR 1014 (Frenchville, PA Quadrangle N: 2.5 inches; W: 10.4 inches) in Graham Township, **Clearfield County**. This permit also authorizes the installation of R-7 rip rap for channel scour protection which shall not expand or diminish the natural stream conveyance.

E19-191. Encroachment. **John E. Klinger**, R. R. 5, Box 290, Bloomsburg, PA 17815. To (1) excavate and remove fill from the floodway of the Susquehanna River; and (2) place and maintain fill in 0.313 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 0.313 acre of wetland. The project is located along the eastern right-of-way of SR 0011 approximately 1.5 miles north of SR 1004 and SR 0011 intersection (Bloomsburg, PA Quadrangle N: 0.01 inch; W: 6.7 inches) in Scott Township, **Columbia County**. The 0.313 acre of permanently impacted wetlands shall be mitigated with 0.317 acre of onsite replacement wetlands. All pre-existing floodway activity shall be completed, all proposed floodway activity shall be completed and all replacement wetlands shall be completely constructed prior to the filling of any wetlands authorized by this permit.

E19-199. Encroachment. **Linda L. Hill**, 2069 Mill Road, Catawissa, PA 17820. To: 1) maintain the following existing structures, with their respective footprints noted, that have been built since 1975, a) 656-square foot residential addition to the pre-1975 residence, b) 198-square foot metal shed, c) an 842-square foot pole garage, d) 433-square feet of concrete walkway, e) a 223-square foot concrete slab, 2) construct and maintain an 842-square foot by 3-inch thick reinforced concrete pad in an existing pole garage, all of which is in the left 100-year floodway of Roaring Creek (Catawissa, PA Quadrangle, N: 5.1 inches; W: 3.1 inches) in Locust Township, **Columbia County**. This permit was issued under section 105.13(e) "Small Projects."

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

E02-968. Encroachment. **Redland Brick, Inc.**, 375 Rich Hill Road, R. D. 3, Cheswick, PA 15024. To amend permit E02-968 which authorized the construction and maintenance of a twin 12' x 6' R. C. box culvert in the channel of Deer Creek to provide mobile equipment access to shale recovery operations located at a point approximately 700 feet upstream from Rich Hill Road (New Kensington, West PA Quadrangle N: 10.2 inches; W: 12.7 inches) in Harmar Township, **Allegheny County**. The permit will be amended to include the placement and maintenance of fill for a distance of approximately 640' within the floodway of Little Deer Creek (TSF), to place and maintain rip rap erosion protection adjacent to and behind an existing structure along the same stream and to place and maintain fill in 0.23 acre of wetlands (PEM/PSS) for the purpose of constructing a new state of the art brick making facility replacing the current facility (New Kensington West PA Quadrangle N: 10.3 inches; W: 12.0 inches) in Harmar Township, Allegheny County. To meet the wetland replacement requirements the applicant has paid into the wetland replacement fund. Originally published under E02-1297.

E26-264. Encroachment. **Pennsylvania Department of General Services**, 18th and Herr Streets, Harrisburg, PA 17120. To place and maintain fill in 0.01 acre of de minimis wetlands and to relocate and maintain 633 LF of an unnamed tributary to the Monongahela River (WWF) for the purpose of constructing the Western Pennsylvania Correctional Institution located along S. R. 4028 near its intersection with S. R. 4022 (Carmichaels, PA Quadrangle: N: 22.2 inches; W: 15.65 inches) in Luzerne Township, **Fayette County**.

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

E10-186. Encroachment. **Washington Homes, Inc.**, 2500 Baldwick Road, Suite 285, Pittsburgh, PA 15205. To place and maintain fill along a total of 50 lineal feet of a tributary to Brush Creek to provide a public right-of-way and residential lots along Parkwood Drive off Freedom Road in Woodland Estates Development (Baden, PA Quadrangle N: 9.6 inches; W: 0.6 inch) in Cranberry Township, **Butler County**.

E61-229. Encroachment. **Pennsylvania Electric Company d/b/a GPU Energy**, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19640-0001. To install a fiber optic cable and to operate and maintain the existing aerial fiber optic and electric distribution lines across Sugar Creek at the following locations in Sugarcreek Borough, **Venango County**: Crossing No. 1 is located approximately 0.31 mile northwest of the intersection of S. R. 322 and S. R. 427 (Utica, PA Quadrangle N: 13.75 inches; W: 3.25 inches). Crossing No. 2 is located upstream of Sugarcreek Drive approximately 0.3 mile south of S. R. 322 (Utica, PA Quadrangle N: 9.75 inches; W: 0.69 inch). Crossing No. 3 is located approximately 250 feet upstream of the mouth (Utica, PA Quadrangle N: 8.0 inches; W: 0.1 inch).

E61-230. Encroachment. **Pennsylvania Electric Company d/b/a GPU Energy**, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19640-0001. To install a fiber optic cable and to operate and maintain the existing aerial fiber optic and electric distribution lines across the Allegheny River near the Oil City Sewage Treatment Plant approximately 2 miles downstream of S. R. 62 (Oil City, PA Quadrangle N: 6.75 inches; W: 14.7 inches) in Sugarcreek Borough and Oil City, **Venango County**.

WATER ALLOCATIONS

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

Southcentral Regional Office: Water Supply Management Program, Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. WA 28-518C. Water allocation. **Mont Alto Water Authority, Franklin County**. *Responsible Official:* P. E. Nunemaker, P. O. Box 427, Mont Alto, PA 17237-0427. Request: Increase withdrawal from 50,000 gallons per day to 135,000 gallons per day from pearl of the Park Spring. *Consulting Engineer:* Walter A. Mulewich, Design Engineer, Nassaux-Hemsley Inc., 56 North Second Street, Chambersburg, PA 17201-1820. Permit Issued: April 17, 2000.

STORAGE TANKS

SITE SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site Specific Installation Permits under the authority of the Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—1102) and 25 Pa. Code Chapter 245, Subchapter C have been issued by the Bureau of Watershed Conservation, Director, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-5267.

<i>SSIP Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Tank Type and Capacity</i>
00-06-002	Rick Greenly East Penn Manufacturing Company Deka Road Lyon Station, PA 19536	Berks County Lyons Borough	1 AST Storing Sulfur Nitrogen 1,000,000 gallon

SPECIAL NOTICE

Notice of intent to issue a Hazardous Waste Permit under the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, and opportunity for a public hearing.

Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711-0790.

DRAFT HAZARDOUS WASTE PERMIT

Permittee: Copperhead Chemical Company, Inc.
 Permit No.: PAR000030874
 Facility: **Copperhead Chemical Company, Inc.**
 Tamaqua
 Schuylkill County

The Department of Environmental Protection (Department) intends to issue to Copperhead Chemical Company, Inc. a Solid Waste Management Act Permit. This draft permit is to operate a Hazardous Waste facility located in Tamaqua, Pennsylvania.

Public Review, Public Comment, Public Hearing

The Hazardous Waste Regulations, 25 Pa. Code § 270a.80(2) Public Notice and Comment requirements states: The Department gives public notice of the following actions: A draft permit is prepared under 270a.10(c).

Section 270a.80(b) of 25 Pa. Code requires that the public be given 45 days to comment on each draft permit prepared under the Solid Waste Management Act. The comment period will begin on May 12, 2000 and will end on June 26, 1999. Any person interested in commenting on the application or draft permit must do so within this comment period. Copies of the application, draft permit and fact sheet for the Hazardous Waste Facility may be reviewed at the Pennsylvania Department's Bethlehem District Office at 4530 Bath Pike (Route 512), Bethlehem, PA 18017 and the North East Regional Office at 2 Public Square, Wilkes-Barre, PA 18711-0790. Please contact Robert C. Wallace at (570) 826-2516 for further information.

Further Information

All persons wishing to comment on any of the permit conditions or permit application should submit the comments in writing to the Department of Environmental Protection, Waste Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Attention William Tomayko, Regional Solid Waste Manager. Comments should include all reasonably available references, factual grounds and supporting materials.

A public hearing is scheduled for June 26, 2000 at 7 p.m. The hearing will be held at the Walker Township

Municipal Building, R. D. 1, Tamaqua, PA 18252. The public hearing will be held on the Department's draft for hazardous waste processing.

Final Determination

When making a determination regarding the issuance of a hazardous waste permit to Copperhead Chemical Company, the Department will consider all written comments received during the comment period, and oral or written statements received during the public hearing (if requested), the requirements of the hazardous waste regulations of 25 Pa. Code Chs. 260—270 and the Department's permitting policies.

Facility Description

The Tamaqua, Pennsylvania, facility of Copperhead Chemical Company, located in Schuylkill County, is a manufacturer of nitrated esters, pharmaceutical grade nitroglycerin and other products for use in various pharmaceutical blends.

The facility consists of a proposed thermal treatment unit for the safe disposal of waste materials generated in the manufacturing process, as well as off-spec products. The thermal treatment unit is to be located in an isolated area of the western section of Copperhead's property. The unit will consist of three elevated concrete slabs with concrete block walls on three sides which house 1/4" thick steel burn pans supported by fire brick. The loading/unloading area in front of the burn bays will be paved with asphalt to minimize the potential for spills to impact soils or groundwater.

[Pa.B. Doc. No. 00-750. Filed for public inspection May 5, 2000, 9:00 a.m.]

Availability of Technical Guidance

Technical Guidance Documents are on DEP's World Wide Web site (www.dep.state.pa.us) at the Public Participation Center. The "2000 Inventory" heading is the Governor's List of Non-regulatory Documents. 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 2000.

Downloading/Ordering Paper Copies of DEP Technical Guidance

Persons can download all guidance documents from our website at www.dep.state.pa.us. We strongly encourage

utilizing Internet access for viewing documents whenever possible. If you do not have access to the Internet, copies of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory can be ordered 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 Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number are listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Guidance

DEP ID: 383-2100-208 Title: Approval Guide for Noncommunity Water Systems Description: Noncommunity water systems must be authorized by DEP to serve water to the public. This authorization may take the form of either a public water supply permit or a noncommunity water system approval. This guidance document will summarize the noncommunity water system approval process and will serve as the sister document to the *DEP Permit Guide to Public Water Systems*. Comment Period Closes: June 12, 2000 Anticipated Effective Date: August 5, 2000 Contact: Trudy Troutman at (717) 783-3795, email is Troutman.Trudy@dep.state.pa.us.

Final Guidance

DEP ID: 363-2134-008 Title: Erosion and Sedimentation Pollution Control Program Manual Description: This manual is a substantive revision of the 1996 version of the manual with the same title. The manual contains design standards for Best Management Practices for erosion and sediment pollution control. Effective Date: May 13, 2000 Contact: John Mank at (717) 772-5963.

Notice to Rescind

DEP ID: 253-5800-618 Title: Change Orders for Hazardous Sites Cleanup Program Contract Management Description: Establishes policies and procedures for making changes to approved work performed under a General Technical Assistance Contract or Interim Response Services Contract with the Hazardous Sites Cleanup Program. Since the information contained in this policy provides guidance to Department staff on the management of the Hazardous Sites Cleanup Program and does not contain information that is relevant to the public, the policy should be rescinded from the Department's technical guidance inventory. Effective Date: May 13, 2000 Contact: Robert Orwan at (717) 783-9475.

DEP ID: 253-5800-610 Title: End of Project Report: Interim Policy and Procedure Description: Establishes guidance for work assignments and activities completed under a General Technical Assistance Contract and Interim Response Services contract with the Hazardous Sites Cleanup Program. Since the information contained in this policy provides guidance to Department staff on the management of the Hazardous Sites Cleanup Program and does not contain information that is relevant to the public, the policy should be rescinded from the Department's technical guidance inventory. Effective Date: May 13, 2000 Contact: Robert Orwan at (717) 783-9475.

DEP ID: 253-5800-625 Title: Subcontractor Approval Process in HSCA Contracts Description: Establishes poli-

cies and procedures for approving subcontractors for use in Interim Response Service Contracts and General Technical Assistance Contracts with the Hazardous Sites Cleanup Program. Since the information contained in this policy provides guidance to Department staff on the management of the Hazardous Sites Cleanup Program and does not contain information that is relevant to the public, the policy should be rescinded from the Department's technical guidance inventory. Effective Date: May 13, 2000 Contact: Robert Orwan at (717) 783-9475.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 00-751. Filed for public inspection May 5, 2000, 9:00 a.m.]

Initial Notice of Request for Certification under Section 401 of the Federal Clean Water Act and Coastal Zone Management Consistency Determination for the Issuance and Modification of Section 404 Nationwide Permits by the United States Army Corps of Engineers

This notice pertains to the issuance and modification of United States Army Corps of Engineers (Corps) Nationwide Permits (NWP) under section 404 of the Federal Clean Water Act (act). At the present time, these NWPs do not alter Pennsylvania's existing wetland protection program. The final NWPs may impact citizens who are required to receive Federal authorization or permits for these activities.

On March 9, 2000, the Corps published in the *Federal Register* (65 *Fed. Reg.* 12818) its application for certification under section 401(a) of the Federal Clean Water Act (33 U.S.C.A. § 1341(a)) that the activities described in the *Federal Register* notice which may result in a discharge into waters of the United States will comply with the applicable provisions of sections 301–303, 306 and 307 of the act. That notice also served as a request for a State determination of Coastal Zone Management consistency under section 307 of the Coastal Zone Management (CZM) Act, 16 U.S.C.A. § 1456, for activities within or affecting the coastal zone of the Commonwealth of Pennsylvania.

In its *Federal Register* Notice, the Corps issued five new NWPs, modified six existing NWPs, amended nine NWP general conditions, and added two new NWP general conditions. The *Federal Register* notice also provides that NWP 26 will expire on June 5, 2000. A list of new and modified NWPs and new and modified NWP conditions follows. Further information on this Federal action is available by accessing the Corps Home Page at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg> or by contacting David Olsen or Sam Collinson at (202) 761-0199.

Persons wishing to comment on this application for 401 Water Quality Certification and CZM consistency are invited to submit comments by June 5, 2000, to Ken Reisinger, Chief, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775. Requests should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments are addressed, and a concise statement of comments, objections or suggestions. Prior to final action on this application, consideration will be given to any comments, suggestions or objections which are submitted in writing

by June 5, 2000. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5788 (voice users). No comments submitted by facsimile transmission will be accepted. The Department may conduct a fact-finding hearing or an informal conference in response to any comments if deemed necessary.

Electronic Comments—Comments may be submitted electronically to the Department at Reisinger.Kenneth@dep.state.pa.us. A subject heading of the proposal must be included in each transmission. Comments submitted electronically must also be received by the Department by June 5, 2000.

New Nationwide Permits

39. Residential, Commercial and Institutional Developments.

- 41. Reshaping Existing Drainage Ditches.
- 42. Recreational Facilities.
- 43. Stormwater Management Facilities.
- 44. Mining Activities.

Modified Nationwide Permits

- 3. Maintenance.
- 7. Outfall Structures and Maintenance.
- 12. Utility Activities.
- 14. Linear Transportation Crossings.
- 27. Stream and Wetland Restoration Activities.
- 40. Agricultural Activities.

New General Permit Conditions

- 25. Designated Critical Resource Waters.
- 26. Fills within 100-Year Floodplains.

Modified General Conditions

- 4. Aquatic Life Movements.
- 9. Water Quality.
- 11. Endangered Species.
- 13. Notification.
- 15. Use of Multiple Nationwide Permits.
- 17. Shellfish Beds.
- 19. Mitigation.
- 20. Spawning Areas.
- 21. Management of Water Flows.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 00-752. Filed for public inspection May 5, 2000, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Design Professional Selections

The Department of General Services has withdrawn the request for applications for design services for the following project which was advertised in the March 4, 2000, issue of the *Pennsylvania Bulletin*:

Project No. DGS 553-32—Install Particulate Emissions Collection System, Selinsgrove Center, Selinsgrove, Snyder County, PA. Construction Cost: \$1,000,000. The scope of work includes, but is not limited to, installation of emissions control devices on the existing boiler plant. Consideration should be given to a device other than the conventional baghouse. Must be completed and operational by December 31, 2001.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 00-753. Filed for public inspection May 5, 2000, 9:00 a.m.]

Request for Proposal; Project Monitor

The Department of General Services (Department) plans to retain six Project Monitor (PM) firms that specialize in project monitoring for asbestos and lead for each of the three Public Works Construction regions (two each for the Western Region, Central Region and Eastern Region). The PM will review project specifications, perform project oversight as related to the specifications and requirements of this Request for Proposal, collect and analyze samples, and provide written documentation to insure satisfactory removal and disposal of asbestos and/or lead materials. It is advised that there is no guarantee that PM services will be used. No minimum compensation is guaranteed or implied by virtue of this contract.

The Department is seeking interested firms to submit sealed proposals for consideration for the following project:

DGS 2000-1 RAL—Regional Asbestos and Lead Project Monitoring, Sample Collection and Analysis, Department of General Services Construction Regions (Revised Rebid)

RFP Price—\$25 (Includes PA Sales Tax) per RFP. Checks must be made payable to the Commonwealth of Pennsylvania. This price is nonrefundable. Requests for the RFP should be mailed to the Department of General Services, Bureau of Professional Selections and Administrative Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Contact Bidders Services at (717) 787-3923 or www.dgs.state.pa.us for the names of those who have secured the RFP.

Preproposal Questions—All questions pertaining to this RFP must be received by fax by 5 p.m., Wednesday, May 10, 2000. Inquiries received after this time and date will not be considered. Address questions to Brian Hunsberger, fax (717) 772-8441 or (717) 772-2036.

Proposals are due Friday, May 19, 2000, no later than 2 p.m., in Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Responses received after this due date and time will be returned unopened.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 00-754. Filed for public inspection May 5, 2000, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding

Berks County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Federal Highway Administration and the Department of Transportation are planning selective replacement and rehabilitation of the Lindbergh Viaduct, which carries S. R. 2021 over Mineral Spring Road, 19th Street, Mineral Spring Creek and Pendorra Park in the City of Reading, Berks County.

This project will impact Section 4(f) resources as identified in the associated Categorical Exclusion Evaluation/Programmatic Section 4(f) Evaluation.

Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation/Programmatic Section 4(f) Evaluation and in the executed Memorandum of Agreement. Mitigation measures include the following:

- A Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) recordation/documentation will be completed to mitigate the demolition of spans 1-6 and the consequent change in the bridge's overall character and appearance.
- All new construction will be compatible with the historic and architectural qualities of the Lindbergh Viaduct.
- The deteriorated reinforced concrete light standards will be reproduced, and neoclassical style, two arm luminaires will be installed.
- Plantings on the embankment will be the same type used in the park.
- The information generated during the HAER recordation will be compiled into an interpretive plaque to be placed in the park adjacent to a pedestrian path and/or on the bridge.
- Only the area necessary to effectively complete the construction will be disturbed. Any adjacent sensitive resources will be surrounded with protective fencing. All disturbed areas will be restored and revegetated at the completion of construction.
- A protective cover will be constructed over Mineral Spring Creek to prevent debris and other construction material from falling into the stream channel.
- The construction area within Pendorra Park will be surrounded by protective fencing in order to eliminate construction/recreation conflicts.

The environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from this bridge project.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-755. Filed for public inspection May 5, 2000, 9:00 a.m.]

Finding

Montgomery County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Federal Highway Administration and the Department of Transportation plan to replace the one lane stone arch bridge that carries S. R. 4015 (Second Avenue) over Mingo Creek in Upper Providence Township, Montgomery County. The bridge is eligible for listing in the National Register of Historic Places and is considered a Section 2002/Section 4(f) resource.

This project will impact the Section 2002/Section 4(f) resource as identified in the associated Categorical Exclusion Evaluation/Programmatic Section 4(f) Evaluation.

Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation/Programmatic Section 4(f) Evaluation and in the executed Memorandum of Agreement. Mitigation measures will include the following:

- A Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) recordation will be completed prior to the demolition of the bridge.
- Architectural elements such as the date plaque will be selected for curation, relocation, or reconstruction.
- A permanent plaque commemorating the history and significance of the bridge will be placed near the site.
- The Renninger archaeological site will be avoided.
- The new twin culvert will be placed six inches below the natural stream bottom to allow for natural re-establishment of the streambed and maintenance of fish passage.

The environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from this bridge replacement project.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-756. Filed for public inspection May 5, 2000, 9:00 a.m.]

Retention of Engineering Firms

Indiana County

Project Reference No. 08430AG2545

The Department will retain an engineering firm to provide supplementary construction inspection staff of

approximately thirteen (13) inspectors, under the Department's Inspector(s)-in-Charge, for construction inspection and documentation services on S.R. 0022, Section 495, Gas Center, Indiana County.

This project involves the reconstruction of Route 22 from the Route 403 intersection to the Indiana and Cambria County lines in East Wheatfield Township. This project consists of constructing a four lane divided highway with median barrier to replace the existing two-lane roadway. The project will involve earthwork, drainage, pavement construction, guide rail and traffic control.

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 final 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. Number of available inspectors in each payroll classification.
- c. Number of NICET certified inspectors in each payroll classification.
- d. Understanding of Department's requirements, policies, and specifications.
- e. Ability to provide CPM scheduling.
- f. Past Performance.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. Of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	3 (2)
Transportation Construction Inspector—Materials (TCI-Materials) (NICET Highway Materials Level 2 or equivalent)	2 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	6 (4)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

The numbers 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, sub field of High-

way Construction, or sub field 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 2000:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCM-1)	\$47.65
(TCIS)	\$41.75
(TCI-Materials)	\$37.65
(TCI)	\$36.53
(TA)	\$25.12

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal workweek.

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; Provide certified CDS Operator, NECEPT certified bituminous technician, and Nuclear Densometer Gage Licensed Operator; and perform other duties as may be required.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License at point of need, when required
- 1 Camera—Digital

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total Agreement price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised projects.

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI-M	3
TCI	8
TA	0

This project reference assignment is considered non-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), and additional resumes, if applicable (see the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Richard H. Hogg, P.E., District Engineer
Engineering District 10-0
Route 286 South, P. O. Box 429
Indiana, PA 15701
Attention Mr. Paul F. Koza, Jr.

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 (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Paul F. Koza, Jr., phone number (724) 357-3205, fax number (724) 357-5951.

**Bucks and Montgomery Counties
Project Reference No. 08430AG2546**

The Department will retain an engineering firm to provide preliminary engineering, environmental documentation, final design and services during construction on S.R. 1058, Section HAT, Bucks & Montgomery Counties, Sumneytown Pike/PA 309 Connector in Lower Salford, Towamencin, Franconia, and Hatfield Townships in Montgomery County and Hiltown in Bucks County.

This project involves roadway overlay, shoulder widening, roadway reconstruction, roadway construction on new alignment, bridge and retaining wall construction, interchange improvements with PA 309, traffic signal installation, right and left turn-lane installation, signing, drainage improvements, highway lighting and appurtenant work.

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. Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience. The specific experience of individuals employed by the firm shall be considered.

b. Available staffing for this assignment and the ability to meet the Department's needs.

c. Specialized experience and technical competence of firm.

d. Location of Consultant with respect to the District Office.

The firm selected may be required to provide the following engineering, environmental and design services: C.E.E. document preparation; alternate alignment analysis; noise analysis; surveys; roadway design; preparation of cross sections; drainage design; erosion and sedimentation control design; preparation of roadside development plans; right of way investigation and plan preparation, subsurface boring, sampling and testing; structure design;

traffic analysis; traffic signal design; preparation of traffic control plans, pavement marking and signing plans; highway lighting design; utility coordination; coordination with PUC, PennDEP, US Army Corps of Engineers, public agencies, municipal officials, and the public; preparation of final plans, specifications and estimates; shop drawing reviews; alternate design review; construction consultation; and other services necessary to complete the project.

The firm selected will be required to provide environmental services to identify and assess historic and archaeological resources, farmlands, hazardous waste sites, wetlands and noise sensitive areas.

The firm selected may be required to provide all necessary environmental services, materials and equipment to collect, analyze, and organize data, assess impacts, conduct agency and public involvement activities, and prepare reports and mitigation plans to ensure that a complete environmental investigation has been performed. The reports and other written graphic material to be prepared may include, but are not limited to Section 106 documents; Section 4(f) Evaluation, Mitigation Plans and Reports; and coordinating the development of the study with various agencies and special interest groups.

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).

This project reference assignment is considered complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Andrew L. Warren, District Administrator
Engineering District 6-0
7000 Geerdes Boulevard
King of Prussia, PA 19406

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 (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Mr. Timothy R. O'Brien, P.E., District 6-0, phone number (610) 205-6850, fax number (610) 205-6903 or Mr. Joseph L. Capella, District 6-0, at (610) 205-6857, fax number (610) 205-6903.

Statewide

Project Reference No. 08430AG2547

The Department will retain four (4) photogrammetric mapping firms for Open-End Contracts for photogrammetric services. Each contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of each of the Open-End Contract will be \$2.0 million.

The Department will establish an order of ranking of a minimum of seven (7) firms for the purpose of negotiating four Open-End Contracts based on the Department's evaluation of the letters of interest received in response to this solicitation. The final ranking will be established

directly from the letters of interest. Technical proposals will *not* be requested prior to the establishment of the final 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. Specialized experience and technical competence of firm.
- b. Past record of performance with respect to cost control, work quality, and available staff to meet schedules.
- c. Specific experience of in-house staff and professional qualifications.
- d. Quality assurance/quality control criteria established for checking all work tasks.
- e. Specialized photogrammetric systems and surveying equipment.
- f. Previous experience on Open-End Contracts.
- g. Relative size of firm to size of projects that may be completed under this Contract.

Services requested may include, but are not limited to the following:

- Vertical and oblique aerial photography acquisition, using a variety of aircraft
- Aerial film processing, printing, and enlargements
- Airborne GPS
- Scanning of aerial film
- Geodetic mapping control surveys
- Establishing permanent monumentation
- Global Positioning System (GPS) surveys
- Analytical aero-triangulation
- Digital map compilation
- Digital orthophotography
- Digital terrain models
- Archive files onto electronic media

All work must be performed in accordance with the requirements of the applicable sections of the Department's Surveying and Mapping Manual (Publication 122M). The geodetic surveying and photogrammetric mapping must be performed under the direct supervision of a *licensed Pennsylvania Professional Land Surveyor*. It is also recommended that a Certified Photogrammetrist (ASPRS) be part of the firm's full-time staff working in the photogrammetry section.

Firms submitting a letter of interest for this work should have prior experience in geodetic surveys and large-scale photogrammetric mapping for highway design in metric and/or English units. Digital mapping should be compiled directly into CADD using analytical stereo plotters or softcopy workstations with the ability to provide the digital data in MicroStation format. In addition to having current state-of-the-art surveying equipment and photogrammetric systems, firms should have sufficient qualified personnel to complete large assignments with short delivery schedules.

The photogrammetric services identified above are the general work activities that can be expected under these Open-End Contracts. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

This project reference assignment is considered non-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), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Dean A. Schreiber, P.E., Director-
Bureau of Design
7th floor Forum Place
555 Walnut Street
Harrisburg, PA 17101-1900
Attn: L. Bradley Foltz, P. L.S.

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 (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to L. Bradley Foltz, phone number 717-948-3830 ext. 3002, fax number 717-948-3826.

Dauphin and Lebanon Counties

Project Reference No. 08430AG2548

The Department will retain an engineering firm for a multi-phase, specific project(s) agreement to provide corridor safety/intersection studies, environmental studies and overview report, preliminary engineering including traffic data collection and preparation of a Preliminary Alternatives Report, final design including traffic signal plans roadway plans, specifications and estimates and construction consultation on the following project(s):

1. S.R. 0022, Section 010, Dauphin County Local Name: US 22 Safety Corridor This project involves studying and designing for recommended safety improvements along the corridor that runs from Segment 0490/0000 to Segment 0660/3548 (L.R. 140 Sta. 373+71 to Sta. 784+37) a distance of approximately 7.7 miles beginning at Blue Ribbon Avenue and terminating at the Lebanon County line, Lower Paxton, East and West Hanover Townships, Dauphin County.

2. S.R. 0022, Section 004, Lebanon County Local Name: US 22 Safety Corridor This project involves studying and designing for recommended safety improvements along the Corridor that runs from Segment 0010/0000 to Segment 0300/0000, (L.R. 140 Sta. 0+00 to Sta. 731+61), a distance of approximately 13.8 miles beginning at the Lebanon County line and terminating at the interchange with I-78, East Hanover, Swatara and Bethel Townships, Lebanon County.

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. Specialized experience and technical competence with similar projects and their ability to provide innovative solutions to complex technical problems.
- b. Understanding of the Departments requirements, Design Manuals, policies and specifications.
- c. Past record with respect to cost control, work quality, and ability to meet schedules.
- d. The project team including subconsultants and the method of controlling between disciplines, subconsultants, etc.

e. Location of the consultant with respect to the District Office. This will include ability/provisions for quick responses to District requests.

The firm selected may be required to, at a minimum, do the preparation of intent to enter notices; field surveys; plotting of topography and cross sections; corridor/intersection safety studies and recommendations, environmental overview, preparation of categorical exclusion document; historical survey; pavement and drainage design; submission of utility verification and relocation engineering; field view; safety review meeting; step 9 and value engineering; line and grade submissions; right-of-way plans; traffic control plan with special provision; development of the soil and foundation engineering report; erosion control plans and narrative; investigation of utility and property involvement; and construction plans, specifications, cost estimates, public involvement meetings, and provide services during construction.

The design of these projects will be done in English units.

Welcom's Open Plan Software will be used for project management and tracking.

A project specific Quality Development Plan will be developed.

The Department is seeking a multi-disciplined team with environmental, geotechnical, signal design, traffic data gathering, and final design experience.

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).

This project reference assignment is considered moderately complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Barry G. Hoffman, P.E., District Engineer
Engineering District 8-0
2140 Herr Street
Harrisburg, Pa 17103-1699
Attention: Mr. Mark A. Malhenzie

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 (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Mark A. Malhenzie, phone number 717-783-5080, fax number 717-705-5493.

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties

Project Reference No. 08430AG2549

The Department will retain an engineering firm for an Open-End Contract for various engineering services on various projects located in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties. The Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of the Open-End Contract will be \$250 thousand.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Open-End Contract based on the Department's evaluation of the letters of interest received in response to this solicitation. The final ranking will be established directly from the letters of interest. Technical proposals will *not* be requested prior to the establishment of the final 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. Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience on Open-end Contracts. The specific experience of individuals employed by the firm shall be considered.

b. Available staffing for this assignment and the ability to meet the Department's needs. The selected firm could be assigned several concurrent work orders of a similar or diverse nature. Prompt turn-around time is expected.

c. Specialized experience and technical competence of firm.

d. Location of Consultant in respect to the District.

e. Use of Microstation CADD

f. Special consideration will be given to smaller firms.

The work and services required under this Contract may encompass a wide range of engineering efforts with the possibility of several different types of projects with short completion schedules being assigned concurrently. The anticipated types of projects include, but not limited to, bridge replacements or bridge rehabilitation with minor approach work, environmental studies, roadway betterments (3R type), minor capital improvement projects (bridges or roadway), railroad grade crossing projects, and minor location studies, etc.

The engineering work and services which may be required under this Contract include, but are not limited to, perform field surveys; plot topography and cross sections; prepare submission for utility verification and relocations engineering; prepare all pertinent submissions and materials necessary for the Department to prepare the application to PUC and for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during the design of the project; develop erosion control details and narrative; prepare right of way plans; complete structure designs including type, size and location reports, core boring layouts and foundation designs and reports; develop traffic control plans with narratives; conduct soils investigations and prepare soils reports; investigate utility involvement on projects; provide material for and participate in value engineering reviews; coordinate contacts with railroad officials and procure railroad related costs, permits, and insurance; collect signal timing, accident data and other traffic flow data; document engineering study findings and activities; alternative analysis to assess impacts and mitigation; and prepare construction plans, specifications, and estimates.

The engineering services identified above are the general work activities that can be expected under this Open-End Contract. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

This project reference assignment is considered non-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), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

District Consultant Selection Committee
Engineering District 8-0
2140 Herr Street
Harrisburg, PA 17103-1699
Attn: Mr. Greg Vaughn

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 tenth (10th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Gregory J. Vaughn, District 8-0, phone number 717-783-5149, fax number 717-705-5493.

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties

Project Reference No. 08430AG 2550

The Department will retain an engineering firm for Open-End Contracts for various environmental services on various projects located in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties. The Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of the Open-End Contract will be \$250 thousand.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Open-End Contract based on the Department's evaluation of the letters of interest received in response to this solicitation. The final ranking will be established directly from the letters of interest. Technical proposals will *not* be requested prior to the establishment of the final 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. Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience on Open-end Contracts. The specific experience of individuals employed by the firm shall be considered.
- b. Available staffing for this assignment and the ability to meet the Department's needs. The selected firm could be assigned several concurrent work orders of a similar or diverse nature. Prompt turn-around time is expected.
- c. Specialized experience and technical competence of firm.
- d. Location of Consultant in respect to the District.
- e. Use of Microstation CADD
- f. Special consideration will be given to smaller firms.

The work and services required under this Contract may encompass a wide range of environmental studies with the possibility of several different types of projects with short completion schedules being assigned concurrently. The anticipated types of projects include, but not limited to, bridge replacements or bridge rehabilitation with minor approach work, environmental studies, roadway betterments (3R type), minor capital improvement

projects (bridges or roadway), railroad grade crossing projects, and minor location studies, etc.

The areas of environmental study required under the Contract may include, but are not limited to: air quality; noise; energy; vibration; hazardous waste; surface water and ground water quality; surface water and ground water hydrology; terrestrial ecology including threatened and endangered species; wetlands; soils; geology; farmlands; visual quality; socio-economic resources; cultural resources; Section 4(f) Evaluations; early coordination and; scoping correspondence; meeting minutes; public meeting and hearing presentations; visualization materials, handouts and displays; technical basis reports (TBRs) and/or technical files; NEPA environmental documents; Section 106 documents; mitigation plans and reports; wetland and floodplain findings; and preliminary engineering plans, and remote sensing/mapping innovations; The format and content of all documents will be consistent with applicable State and Federal regulations, policies and guidelines.

The environmental studies identified above are the general work activities that can be expected under this Open-End Contract. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

This project reference assignment is considered non-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), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

District Consultant Selection Committee
Engineering District 8-0
2140 Herr Street
Harrisburg, PA 17103-1699
Attn: Mr. Greg Vaughn

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 tenth (10th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Gregory J. Vaughn, District 8-0, phone number 717-783-5149, fax number 717-705-5493.

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties

Project Reference No. 08430AG2551

The Department will retain an engineering firm for an Open-End Contract for various engineering and/or environmental services on various projects located in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties. The Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount of the Open-End Contract will be \$500 thousand.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Open-End Contract based on the Department's evaluation of the letters of interest received in response to this solicitation. The final ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the final 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. Past record of performance with respect to cost control, work quality, ability to meet schedules, and previous experience on Open-end Contracts. The specific experience of individuals employed by the firm shall be considered.

b. Available staffing for this assignment and the ability to meet the Department's needs. The selected firm could be assigned up to twenty concurrent work orders of a similar or diverse nature. Prompt turn-around time is expected.

c. Specialized experience and technical competence of firm.

d. Location of Consultant in respect to the District.

e. Use of Microstation CADD

f. Relative size of firm to size of projects that may be completed under this Contract.

The work and services required under this Contract may encompass a wide range of environmental studies and engineering efforts with the possibility of several different types of projects with short completion schedules being assigned concurrently. The anticipated types of projects include, but not limited to, bridge replacements or bridge rehabilitation with minor approach work, environmental studies, roadway betterments (3R type), minor capital improvement projects (bridges or roadway), railroad grade crossing projects, and minor location studies, etc.

The engineering work and services which may be required under this Contract include, but are not limited to, perform field surveys; plot topography and cross sections; prepare submission for utility verification and relocations engineering; prepare all pertinent submissions and materials necessary for the Department to prepare the application to PUC and for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during the design of the project; develop erosion control details and narrative; prepare right of way plans; complete structure designs including type, size and location reports, core boring layouts and foundation designs and reports; develop traffic control plans with narratives; conduct soils investigations and prepare soils reports; investigate utility involvement on projects; provide material for and participate in value engineering reviews; coordinate contacts with railroad officials and procure railroad related costs, permits, and insurance; collect signal timing, accident data and other traffic flow data; document engineering study findings and activities; alternative analysis to assess impacts and mitigation; and prepare construction plans, specifications, and estimates.

The areas of environmental study required under the Contract may include, but are not limited to: air quality; noise; energy; vibration; hazardous waste; surface water and ground water quality; surface water and ground water hydrology; terrestrial ecology including threatened and endangered species; wetlands; soils; geology; farmlands; visual quality; socio-economic resources; cultural resources; Section 4(f) Evaluations; early coordination and; scoping correspondence; meeting minutes; public meeting and hearing presentations; visualization materials, handouts and displays; technical basis reports (TBRs) and/or technical files; NEPA environmental documents; Section 106 documents; mitigation plans and reports;

wetland and floodplain findings; and preliminary engineering plans, and remote sensing/mapping innovations; The format and content of all documents will be consistent with applicable State and Federal regulations, policies and guidelines.

The engineering services and environmental studies identified above are the general work activities that can be expected under this Open-End Contract. A more specific and project-related Scope of Work will be outlined for each individual Work Order developed under this Open-End Contract.

This project reference assignment is considered non-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), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

District Consultant Selection Committee
Engineering District 8-0
2140 Herr Street
Harrisburg, PA 17103-1699
Attn: Mr. Greg Vaughn

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 tenth (10th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Gregory J. Vaughn, District 8-0, phone number 717-783-5149, fax number 717-705-5493.

Bedford County

Project Reference No. 08430AG2552

The Department will retain an engineering firm to provide final design and services during construction on the following projects:

1. S.R. 0056, Section 008, Bedford County
Local Name: 0056 Western Intersections

This project involves safety improvements to two (2) separate intersections (approximately 0.8 miles apart) located less than two (2) miles east of Pleasantville, Bedford County. The western most intersection (S.R. 0056 with T-671 and T-554) will have a left turn lane added to S.R. 0056 at both approaches. The existing single span structure located just west of this intersection on S.R. 0056 will be replaced as part of this project. The second intersection is at the intersection of T-559, S.R. 4032, and S.R. 0056. The proposed work at this intersection includes adding a left turn lane to S.R. 0056 at both approaches and improving the vertical alignment on S.R. 0056 just west of S.R. 4032. These improvements (at both intersections) also include roadway widening and rehabilitation, widening of shoulders, hillside cuts to improve sight distance (where applicable), guide rail updates, drainage improvements, and improvements to the immediate approaches of intersecting roadways (width, radii and gradient). The Final Design of this project will be based upon approved Preliminary Design.

2. S.R. 0056, Section 010, Bedford County
Local Name: Turn Lane at Chestnut Ridge School

This project involves safety improvements to a section of SR 0056 beginning just west of Fishertown, Bedford County and extending approximately 0.9 miles eastward. The project will provide a continuous center left turn lane through access drives for the three (3) existing schools

located within this section. The existing vertical alignment on S.R. 0056 just west of S.R. 4003 will be adjusted to improve sight distance. An existing concrete culvert near the eastern end of the section will be extended to accommodate the widening of S.R. 0056. These improvements also include roadway widening and rehabilitation, wider shoulders, guide rail updates, drainage improvements, and improvements to the immediate approaches of intersecting roadways and driveways (width, radii and gradient). The Final Design of this project will be based upon approved Preliminary Design submissions.

3. S.R. 0056, Section 012, Bedford County
Local Name: 0056 Eastern Intersections

This project involves safety improvements to three (3) separate intersections located within a one half-mile section of S.R. 0056. This section of S.R. 0056 is located just south of Fishertown, Bedford County. A continuous left turn lane or designated left turn lane, (as determined in the Preliminary Design phase), will be provided on S.R. 0056 for all three-intersection locations. The western-most intersection in this section where S.R. 4028 intersects S.R. 0056 at approximately a 45-degree angle will either be relocated west to form a "T" intersection, or be cul-de-saced, or be otherwise improved as determined during the Preliminary Design phase. The next intersection is where T-541 intersects S.R. 0056. An existing single span structure on T-541 located less than 50 feet from the intersection will be replaced as part of this project. The hillside just west of this intersection will be cut back to provide required sight distance. The eastern most intersection is where S.R. 4015 and T-518 intersect S.R. 0056. These improvements also include roadway widening and rehabilitation, widening of shoulders, guide rail updates, drainage improvements, and improvements to the immediate approaches of intersecting roadways (width, radii and gradient). The Final Design of this project will be based upon approved Preliminary Design submissions.

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. Specialized experience and technical competence of the design team. The team must demonstrate an ability to collect and analyze data, make decisions to develop quality plans in a timely manner, and to meet accelerated schedules. Firms must demonstrate familiarity with the project and how the project relates to the firms' experience. Firms must demonstrate a capacity for innovative engineering to resolve complex problems.

b. Past experience of firm in Pennsylvania, (with emphasis on District 9-0 projects), with respect to cost control, work quality and meeting schedules. The specific experience and project management skills of the individuals who constitute the firm will be considered.

c. Understanding the Department's requirements, Design Manuals, policies and procedures. The firm selected must be capable of providing adequate leadership and human resources to effectively complete this project. The firm must demonstrate their ability to communicate ideas and/or practices across units, subconsultants and the general public.

d. Number and title of personnel assigned to this project and their work location. Current and projected workload on PennDOT and Pennsylvania Turnpike projects will be considered. List current PennDOT projects and PennDOT contact person including their telephone number.

e. The specific experience and project management skills of the individuals who constitute the subconsultant selected by the prime will be considered.

f. Firm must describe their methods of controlling the quality of project submissions by outlining a project specific Quality Assurance/Quality Control (QA/QC) plan.

g. Location of firm with respect to District 9's office as it relates to their ability to provide quick response time to the District's requests.

The firm selected may be required to provide a variety of engineering services as indicated below, but not limited to:

1. Adjustments to concepts provided during the Preliminary Design Submission.

2. Preparation of right of way plans, other plans as required, final roadway and structure plans, including, but not limited to: roadway and structure borings; final design; and preparation of plans, specifications, and estimates.

3. Consultation during construction.

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).

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Earl L. Neiderhiser, P.E., District Engineer
Engineering District 9-0
1620 North Juniata St.
Hollidaysburg, PA 16648
Attn.: Terry L. Bouch

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 (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Terry L. Bouch, District 9-0, phone number (814) 696-7171, fax number (814) 696-7173.

**Adams, Cumberland, Franklin, York, Dauphin,
Lancaster, Lebanon and Perry Counties**

Project Reference No. 08430AG2553

The Department will retain two (2) engineering firms for Open-End Contracts to provide supplementary construction inspection staffing under the Department's Inspector(s)-in-Charge to perform construction inspection services on various projects in Engineering District 8-0, that is: Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry Counties. The Contract will include roadway and bridge construction projects. Each Contract will be for a period of sixty (60) months, with a maximum cost of \$ 1.5 Million dollars.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating these Engineering Agreements based on the Department's evaluation of the acceptable letters of interest received in

response to this solicitation. The final ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the final rankings.

The following, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest.

a. Review of inspector's resumes with emphasis on construction inspection capabilities and specialized experience in the maintenance and protection of traffic, soils, structures, concrete placement, rigid and bituminous concrete paving and drainage.

b. Number of NICET certified inspectors in each payroll classification.

c. Number of NECEPT certified inspectors, with the exception of the TCM-1 and TA personnel in each payroll classification. To receive the highest rating 50% of the inspectors shown in the letter of interest must be certified and a training plan to achieve 75% and 100% certification by January of 2002 and 2003 respectively must be presented.

d. Understanding of the Department's requirements, policies and specifications.

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>Classifications</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Inspector Supervisor (TCIS) (NICET Highway Construction Level 3 or equivalent)	6 (6)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	15 (12)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	6 (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 Technology (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 experience Specified for the Inspection Classification.

The maximum reimbursement per hour inspection for each Department Payroll Classification for the calendar year 2000:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
TCM-1	\$ 47.65
TCIS	\$ 41.75
TCI	\$ 36.53
TA	\$ 25.12

The maximum reimbursement per hour of inspection includes all cost for providing construction inspection services at the project site during the normal workweek.

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 the 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 labor standards, safety and accident prevention and equal opportunity provisions of the contract; personnel should be proficient with the Department's construction documentation policies and procedures as well as "CDS" operations, also, knowledgeable of the Department's final project documentation close out audit procedures and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

Cellular Telephones (For Engineer's employees only)

The goal for Disadvantaged Business Enterprise (DBE) participation in this agreement shall be fifteen percent (15%) of the total Agreement cost. Additional information concerning DBE Participation in this Agreement is contained in the General Requirements and Information Section after the advertised project.

Letters of Interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your Letter of Interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	8
TCI	18
TA	0

No resumes are required for the TA Classification.

This project reference assignment is considered to be of a non-complex nature. 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) and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Barry G. Hoffman, P.E., District Engineer
Engineering District 8-0
2140 Herr Street
Harrisburg, PA 17103-1699
Attention: Mr. Richard K. Waddell

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 (20th) day following the date of this notice.

Any technical questions concerning the requirements for this project should be directed to Richard K. Waddell, District 8-0, Construction Unit at (717) 787-5054, fax (717) 772-0397.

Warren County

Project Reference No. 08430AG2554

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately seven (7) inspectors, under the Department's Inspector-in-Charge for construction inspection and documentation services on S.R. 0006, Section A01, Warren County.

This project involves the reconstruction of approximately 5.76 miles of S.R. 0006 from Thatcher's Lane (approximately the Brokenstraw Township/Youngsville Borough Line - Seg 0390/1859) east to the Village of Starbrick (Conewango Township Seg 0520/0000). Items of work include overlay and reconstruction (break and seat) of the existing 8" depth reinforced cement concrete pavement, new left and right turning lanes, guide rail updates, new signs and traffic signals, and drainage improvements.

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 final 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. Ability to provide CPM scheduling.
- e. Number of available inspectors in each payroll classification.
- f. Number of NICET certified 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 Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	4 (3)*
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

* At least one TCI to be a nuclear gage operator.

The numbers 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 2000:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCM-1)	\$47.65
(TCIS)	\$41.75
(TCI)	\$36.53
(TA)	\$25.12

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; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

1	Nuclear Densometer Gauges/License at point of need when needed
4	Two-Way Radios
2	Cellular Phones (for Engineer's employees only)
1	Camera—Digital with date and time
1	Smart Level

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total Agreement price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project.

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	2
TCI	5
TA	0

This project reference assignment is considered moderately complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. John L. Baker, P.E. District Engineer
Engineering District 1-0
255 Elm Street
P. O. Box 398
Oil City, Pa. 16301-0398

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 20th day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Mr. Terry J. Nye, P.E., Assistant District Engineer Construction, District 1-0, phone number (814)678-7120, fax number (814)618-7020.

Mercer County

Project Reference Nos. 08430AG2538 and 08430AG2539

On April 22, 2000 the above Project Reference Numbers solicited letters of interest to supply supplementary construction inspection staff of approximately nine (9) inspectors under the Department's Inspector-in-Charge for construction inspection and documentation services on S.R. 0018, Section A01, Mercer County, North Hermitage Road.

This assignment will be made under Project Reference Number 08430AG2538 however the Department will accept letters of interest submitted under either Project Reference Number. If a firm proposed the same project team for both Project Reference Numbers no further action is required. However if a firm proposed a different project team for each Reference Number and they desire to have the Letter of Interest for Reference Number 08430AG2539 considered instead of the Letter of Interest for Reference Number 08430AG2538 than the firm must notify the Department in writing no later than May 12, 2000.

The Notification shall be sent to:

Mr. John L. Baker, P.E., District Engineer
Engineering District 1-0
255 Elm Street
P. O. Box 398
Oil City, PA 16301-0398

Otherwise, the Department will evaluate the firm based on the content of the Letter of Interest for Reference Number 08430AG2538 and discard the Letter of Interest for Reference No. 08430AG2539.

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 request 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. A firm not conforming to this requirement may submit a letter of interest as a part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

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*.

The requirements for Letters of Interest, in addition to the requirements stipulated in the individual advertisement, are as follows:

1. The Letter of Interest must include the project reference number, the firm's legal name, and the firm's federal identification number.
2. Identify the project manager.

3. Identify subconsultants, if any, including DBE/WBE, if required.

4. Identify key project staff.

5. Include full disclosure of any potential conflict of interest by the prime or any subconsultant based on Engineering Involvement Restrictions Guidelines as established in Strike-off Letter No. 433-00-02 published March 27, 2000. If there are no potential conflicts you shall include the following statement: I have reviewed Strike-off Letter No. 433-00-02 and determine that there are no potential conflicts of interest for anyone on this project team.

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 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, WBEs or combinations thereof).

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

The 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 solici-

tions requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-757. Filed for public inspection May 5, 2000, 9:00 a.m.]

FISH AND BOAT COMMISSION

Designation of Wilderness Trout Waters

The Fish and Boat Commission (Commission) has approved the list of Wilderness Trout Waters as set forth at 30 Pa.B. 1428 (March 11, 2000). Under 58 Pa. Code § 57.4 (relating to wilderness trout streams), it is the Commission's policy to manage the wilderness trout streams program where the stream remoteness and populations of naturally reproducing trout combine to offer a sport fishing opportunity for the recreation of anglers in a wilderness setting away from roads or vehicular access. It is the Commission's intent to advocate proper watershed management to maintain the wilderness setting and to advance and seek the highest water quality standards through the Department of Environmental Protection.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 00-758. Filed for public inspection May 5, 2000, 9:00 a.m.]

Designations of Waters Subject to Special Fishing Regulations

The Fish and Boat Commission (Commission) has redesignated the limits of the following water that is currently regulated and managed under 58 Pa. Code § 65.1 (relating to the Selective Harvest Program), effective immediately upon publication of this notice in the *Pennsylvania Bulletin*:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
York	Codorus Creek	From the confluence with the West Branch of Codorus Creek downstream to the cable 0.5 miles downstream of T-374 (Hayrick Road), a distance of 3.1 miles.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 00-759. Filed for public inspection May 5, 2000, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (act) (71 P. S. § 745.5(g)) provides that the designated standing committees may issue comments within 20 days of the close of

the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committee comment period. The Commission comments are based upon the criteria contained in section 5a(h) and (i) of the act (75 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulations must be submitted by the dates indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-Form Submission Deadline</i>
57-213	Pennsylvania Public Utility Commission Reporting Requirements for Quality of Gas Service Benchmarks and Standards	4/20/00	3/20/02
16A-555	State Board of Accountancy Continuing Education Program Sponsors	4/20/00	3/20/02
10-161	Department of Health WIC Program	4/20/00	3/20/02

Pennsylvania Public Utility Commission Regulation No. 57-213

Reporting Requirements for Quality of Gas Service Benchmarks and Standards

April 20, 2000

We submit for consideration the following objections and recommendations regarding this regulation. Subsections 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) list the criteria the Commission must use to determine if the regulation is in the public interest. The Pennsylvania Public Utility Commission (PUC) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 20, 2002, the regulation will be deemed withdrawn.

1. Section 62.31. Purpose.—Clarity.

This section states that the regulation is intended to provide the PUC with uniform measurements and reports to ensure that customer services of Natural Gas Distribution Companies (NGDC) are maintained at the same quality under competition. To improve clarity, the PUC should specify that this regulation applies to two classes of NGDCs which are required to file restructuring plans under the Natural Gas Choice and Competition Act. Specifically, these classes are large NGDCs serving more than 100,000 residential customers and small NGDCs serving less than 100,000 residential customers.

2. Section 62.32. Definitions.—Clarity.

Call abandonment rate

The phrase “. . . at the NGDC’s telephone call center or business office” appears twice in this definition. To be consistent with the definition of “busy-out rate,” the PUC should delete the phrase appearing at the end of the definition of “call abandonment rate.”

Infraction rate, Justified informal consumer complaint rate and Justified payment arrangement request rate

The definitions of these terms address informally verified infractions, justified informal complaints and justified payment arrangement requests. To improve clarity, the PUC should add the phrase “as determined by BCS” to these definitions.

Also, these definitions refer to the PUC’s “negotiation procedures or regulations.” This phrase is vague. The PUC should specify the “procedures” and “regulations” it will use in determining these rates.

Transaction survey

Subparagraph (ii) of this definition lists transactions that could be included in an NGDC’s survey. However, section 62.34(2) of the proposed regulation provides a list of transactions that must be included in the transaction survey. Given the explicitness of section 62.34(2), subparagraph (ii) in the definition of “transaction survey” is not necessary and should be deleted.

3. Section 62.33. Reporting requirements.—Reasonableness; Clarity.

Subsection (b) Recordkeeping

This subsection establishes what data an NGDC must report. However, it does not require an NGDC to record the amount of time it takes for the NGDC to respond to emergency calls. The PUC should consider adding the amount of time it takes an NGDC to respond to emergency safety calls to the list of items required to be reported.

This subsection also requires each NGDC to “take measures necessary and keep sufficient records” to report certain data to the PUC. This phrase does not specify what measures are “necessary” or what records are “sufficient.” Instead, the regulation clearly sets forth the data that is to be reported to the PUC. Consequently, this phrase is unnecessary and should be deleted.

Subsection (b)(3) Meter reading

Subsection (b)(3)(i) and (ii) requires each NGDC to report the number and percent of residential meters for which the company has not obtained an actual or ratepayer supplied reading within the past 6 and 12 months, as required by the PUC’s Chapter 56 regulations. However, this requirement does not distinguish between meters which are inside or outside a residential customer’s home. Although this distinction does not negate the Chapter 56 requirement for meter readings, the location of the meter is a significant factor in an NGDC’s failure

to obtain the required meter readings. The PUC should consider allowing separate reporting for meters which are inside a residential customer's home.

4. Section 62.34. Customer surveys.—Clarity.

Paragraph (1) Purpose

This paragraph requires survey questions to measure the "promptness" and "timeliness" of the NGDC's response or visit. These terms are also used in section 62.35(3)(iv). The difference between these terms is unclear. For clarity, the PUC should define "promptness" and "timeliness" in section 62.32.

Paragraph (2) Questions

We request the PUC specify what types of transactions would fall into category (vi) "Other similar transactions."

Paragraph (3) Uniform data

This provision requires an NGDC to conduct a survey using "instruments and procedures" which provide the PUC with uniform data. We request the PUC clarify what "instruments and procedures" are to be used.

Paragraph (6) Commission approval

This paragraph states the "survey instrumentation, as well as procedures for case selection, sampling, conducting the survey, analyzing results and reporting to the Commission shall be subject to the review and approval of the Commission." We have several questions relating to this provision. When does review and approval occur? Is review and approval done through a formal proceeding? If not, what type of proceeding is used? We request the PUC address these issues in the final regulation.

5. Section 62.35. NGDCs with fewer than 10,000 residential accounts.—Clarity.

Paragraph (1) Survey sample

This paragraph requires an NGDC to report to the PUC "[T]he results of a mail survey of a sample of the NGDC customers who have had interactions with one or more representatives of the NGDC." (Emphasis added.) However, the regulation does not specify the required sample size. It is our understanding that the PUC intends to require each small NGDC (under 100,000 residential customers) to survey every 10th customer that contacts the company. For clarity, the PUC should include the required sample size in the final regulation.

Additionally, the phrase "one or more representatives of" is unnecessary. For clarity and consistency with the language in section 62.34, the PUC should delete this phrase.

Paragraph (3) BCS approval

This paragraph provides that "[E]ach NGDC shall use the same mail survey questionnaire which shall be approved by the BCS." Is the questionnaire approved by the BCS through a formal proceeding? If not, what type of proceeding is used? We request the PUC address these issues in the final regulation.

6. Section 62.36. Informal complaints to the BCS.—Clarity.

Subsection (a) Residential informal consumer complaints and payment arrangement requests

According to this subsection, the BCS will report the "justified consumer complaint rate" to the PUC on an annual basis. The defined term in section 62.32 is "justified informal consumer complaint rate." The PUC should use the defined term in this subsection. If this

provision is intended to address a different complaint rate, the PUC should separately define "justified consumer complaint rate."

Subsection (b) Informally verified infractions

This subsection states that the BCS will report to the PUC "an 'infraction rate' for each NGDC with more than 100,000 residential accounts." It is unclear if the "infraction rate" referenced in this subsection is the same rate as the one defined in section 62.32. If the PUC is referring to the same rate, why does the term appear in quotation marks in this subsection? If the PUC is referring to a different rate, the term should be defined for purposes of this subsection.

7. Waiver of survey requirements.—Clarity.

In the preamble, the PUC states that it reserves the right to waive the requirements of this regulation upon petition by an affected party under 52 Pa. Code § 5.43 (relating to petitions for issuance, amendment, waiver or repeal of regulations). However, waivers are not addressed in the proposed regulation. The PUC should consider adding a section which cross-references the requirements for petitioning for a waiver in section 5.43.

State Board of Accountancy Regulation No. 16A-555

Continuing Education Program Sponsors

April 20, 2000

We submit for consideration the following objections and recommendations regarding this regulation. Subsections 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) list the criteria the Commission must use to determine if the regulation is in the public interest. The State Board of Accountancy (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 20, 2002, the regulation will be deemed withdrawn.

1. Section 11.64. Sources of continuing education credit.—Clarity.

The date in this section is inconsistent with the Preamble. The date, May 1, 2000, should be deleted and replaced with January 1, 2001.

2. Section 11.69.a. Approval of program sponsor.—Reasonableness, Implementation procedure and Clarity.

Subsection (a) Initial approval.

Subsection (a) states, "[T]he approval of previously approved program sponsors will expire December 31, 2000." Additionally, "[P]reviously approved programs sponsors desiring to offer continuing education programs after December 31, 2000, shall comply with this section."

The House Professional Licensure Committee has two concerns with this requirement. First, will the program sponsor applicants be able to comply with the December 31, 2000 deadline? Second, given the potential number of program sponsor applications, does the Board have the ability to process these applications in time? The Board should explain how both the Board and applicants will meet the deadline.

Subsection (c) Contents of application for initial approval.

This subsection contains an extensive list of information required in an application for approval. The contents of paragraphs (1), (2), (6), (7), (8), (9), (10) and (11) are definitive and readily available.

However, we question whether the program sponsor will be able to provide to the Board the information requested in paragraphs (3) (the dates and locations of the programs), (4) (the faculty names, titles and degrees) and (5) (the program schedules, which include the title of subject, lecturer, time allotted, excluding breaks and lunches). This information may be difficult to project 2 years in advance.

To properly evaluate a program sponsor, the Board needs to review the sponsor's courses and instructors. At the same time, the Board must recognize that this information is subject to change. To provide greater flexibility, the Board should consider allowing approved program sponsors to submit any changes, deletions or amendments to the information required in this subsection as they occur.

Subsection (e) Board review of application for initial approval.

This subsection provides that the Board's Continuing Education Committee (Committee) will review an application for approval or disapproval. If a program is disapproved, the Board will provide the applicant the reasons for disapproval, and allow the applicant to resubmit the disapproved application. However, there are no time frames for any stage of this process. For clarity, the Board should provide time frames for the Committee's review, and for an applicant to resubmit.

3. Section 11.71. Responsibilities of program sponsor.—Need and Clarity.

Paragraph (1) Program level of difficulty.

For improved readability, the phrase "[A]s an illustration" should be replaced by "For example."

Paragraph (4) Program review.

This paragraph states, "[A] program sponsor shall review the course materials periodically . . ." The term "periodically" is vague. For clarity, the Board should consider including a set time frame for the review of course materials in paragraph (4).

Paragraph (6) Selection and review of instructors.

Paragraph (6) includes the phrase "[A]lthough it is expected that the instructors will be selected with great care . . ." This phrase is unnecessary in the regulation. For clarity, the Board should delete it from this paragraph.

Paragraphs (8) and (9) Attendance records and course materials.

These two paragraphs require program sponsors to maintain and retain records of attendance and written outlines of course materials for a 5-year period. Although this retention requirement is consistent with an existing provision at 49 Pa. Code § 11.68(a), the period appears to be lengthy. It is our understanding that the Board only reviews records from the previous biennium. When the current biennium ends, it is unnecessary to retain records that will not be used. Therefore, the Board should explain the need to retain records for a 5-year period rather than the current and previous biennial review period.

4. Section 11.72. Withdrawal of approval of program sponsor.—Reasonableness.

This section allows the Board to withdraw the approval of a program sponsor. What impact does the withdrawal of approval have on courses given by the program sponsor

before the withdrawal? It is our understanding that participants can still claim credit for courses they took from a program sponsor before the Board withdrew approval from that sponsor. If this is so, the regulation should make that clear.

Department of Health Regulation No. 10-161

WIC Program

April 20, 2000

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which has not been met. The Department of Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 20, 2002, the regulation will be deemed withdrawn.

1. Section 1103.2. Probationary certification.—Clarity.

There appears to be a typographical error in subsection (b)(2). The subsection (b)(2) cross reference to Inadequate Participant Access is cited as section 1107.3(c)(8). However, Inadequate Participant Access is found at section 1103.7. Is the correct reference section 1103.7(c)(8)? If not, please explain.

2. Section 1103.3. Authorization of store slots.—Clarity.

Subsection (b) provides that by October 1 of each year the Department will evaluate the WIC participant population to determine store slot allocations per county for each Federal Fiscal Year. Please explain how the public and the industry will be notified of annual changes in store slots.

3. Section 1107.1. Imposition of sanctions.—Consistency with Federal regulations and Clarity.

New subsections (b) and (c) both state ". . . the Department will give the store the option of paying a civil money penalty in lieu of . . . disqualification. . . ." The parallel portions of 7 CFR 246.12(f)(2)(xix) and (xx) provide ". . . the State Agency shall impose a civil money penalty. . ." (Emphasis added) The Department should explain why the language in the regulation differs from the language in the Federal regulation.

4. Section 1107.1a. Disqualifications.—Clarity.

There are two clarity concerns in subsection (d). First, in paragraph (9) the phrase "or with another WIC check for purchases made with a WIC check" is unclear. What circumstance does this phrase address?

Second, paragraph (14) uses the phrase "within the specified time frame," but does not specifically identify the time frame. Time frames are set forth in sections 1105.2(f), (g) and 1105.6(f). The Department should amend paragraph (14) to clearly specify the time frames that must be met to avoid disqualification, or include a cross reference to sections 1105.2(f), (g) and 1105.6(f).

5. Section 1107.2. Civil money penalties.—Clarity.

There is an inconsistency between subsection (b)(2) and the Preamble. Subsection (b)(2) begins "For disqualifications identified in sections 1107.1a(d)(2)—(15), . . ." The Preamble includes sections 1107.1a(d)(2)—(16). The De-

partment should make these citations consistent for the final-form submittal.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 00-760. Filed for public inspection May 5, 2000, 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-Form

Reg. No.	Agency/Title	Received
30-51	Pennsylvania Emergency Management Agency Public Safety Emergency Telephone Program	4/20/00
30-52	Pennsylvania Emergency Management Agency Training and Certification Standards for 9-1-1 Emergency Communications Personnel	4/20/00
30-53	Pennsylvania Emergency Management Agency 9-1-1 Performance Review and Quality Assurance Standards	4/20/00
60-2	Pennsylvania Turnpike Commission Traffic Regulations	4/20/00
49-1	Pennsylvania Municipal Retirement Board Revisions to Rules and Regulations	4/26/00

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 00-761. Filed for public inspection May 5, 2000, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for Certificate of Authority

1st Choice Auto Insurance Company, Inc. has applied for a Certificate of Authority to operate as a stock casualty insurance company in Pennsylvania. The initial filing was received on April 18, 2000, and was made under the requirements set forth under the Business Corporation Law of 1988 (15 Pa.C.S.A. §§ 1101—1997). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) order approving this Certificate of Authority are invited to submit a written statement to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Department of

the exact basis of the statement. Written statements should be directed to Cressinda E. Bybee, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120; Fax (717) 787-8557; E-mail cbybee@ins.state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-762. Filed for public inspection May 5, 2000, 9:00 a.m.]

Bankers Life and Casualty Insurance Company Requesting Authority to Increase Rates for Individual Standardized Medicare Supplement Plans A, B, C, D, E and H Policy Form Numbers GR-A05A, GR-A05B, GR-A05C, GR-A05D, GR-A05E and GR-A05H; Rate Filing

Bankers Life and Casualty Insurance Company has filed for approval increased rates for its individual Medicare supplement plans, listed above. The filing requests an average increase of 14.3%, varying by benefit plan. The rate increase will impact about 12,384 policyholders, and produce additional annual Pennsylvania premium income of approximately \$2.85 million. The requested effective date of the increase is September 3, 2000.

The proposed rate increase percentages by plan are as follows:

Form No.	Plan	Increase %
GR-A05A	A	20.0%
GR-A05B	B	15.5%
GR-A05C	C	14.0%
GR-A05D	D	20.0%
GR-A05E	E	20.0%
GR-A05H	H	0.0%

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

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

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-763. Filed for public inspection May 5, 2000, 9:00 a.m.]

Export List of Insurance Coverages Request for Comments

The Insurance Commissioner published a notice at 30 Pa.B. 841 (February 12, 2000) soliciting comments to the export list published at 29 Pa.B. 2735 (May 22, 1999). Consideration was given to all comments received. The Insurance Commissioner proposes to amend the May 22, 1999, list to delete: (1) physical damage coverage for private passenger, classic, antique or commercial vehicles with an original new cost or market value of \$60,000 or

greater; (2) asbestos abatement contractors liability and cleanup coverage; (3) hazardous waste site mitigation contractors liability; (4) hazardous waste disposal site liability and cleanup coverage; (5) lead liability; (6) lead abatement contractors liability; and (7) ocean marine.

Persons wishing to comment on the Insurance Commissioner's proposals are invited to submit a written statement within 15 days from the date of this publication. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Regulation of Companies, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, Fax (717) 787-8557; E-mail cbybee@ins.state.pa.us. Formal notification of changes will be published in the *Pennsylvania Bulletin* after the 15-day comment period, or a notice will be published stating that the May 22, 1999, list remains in effect.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-764. Filed for public inspection May 5, 2000, 9:00 a.m.]

Hartford Insurance Company of the Midwest; Homeowners Rate Revision

On April 24, 2000, the Insurance Department (Department) received from Hartford Insurance Company of the Midwest a filing for a rate level change for homeowners insurance.

The company requests an overall 2.5% increase amounting to \$384,900 annually, to be effective September 1, 2000.

Unless formal administrative action is taken prior to May 24, 2000, the subject filing may be deemed approved by operation of law.

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

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (E-mail at mburkett@ins.state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-765. Filed for public inspection May 5, 2000, 9:00 a.m.]

HealthAmerica; Rate Filing

On April 24, 2000, HealthAmerica submitted a filing for base rates for HMO and associated medical riders for Western Pennsylvania service area, requesting a rate increase of 9.4%. This filing will affect approximately 93,000 members. The proposed increase will generate an additional annual premium income of approximately \$3.7 million. An effective date of January 1, 2001, is requested.

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

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-766. Filed for public inspection May 5, 2000, 9:00 a.m.]

Highmark Inc. d/b/a Pennsylvania Blue Shield, d/b/a Highmark Blue Cross Blue Shield Filing No. 200001—PremierBlue Preferred Provider Allowances; Rate Filing

Highmark Inc., d/b/a Pennsylvania Blue Shield, d/b/a Highmark Blue Cross Blue Shield submitted a request to adjust selected PremierBlue fee scheduled allowances to no higher than 105% of Medicare Pennsylvania 2000 Medicare Metro allowances. The PremierBlue preferred provider allowance was originally established to perform overall at approximately 114% of the Pennsylvania Medicare 1993 Metro and Rural Fee schedules. The proposed change is projected to save \$762,000 (2% of claims). Highmark has recommended no rate adjustment at this time in concert with this submission.

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

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

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-767. Filed for public inspection May 5, 2000, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Jefferson County, Wine & Spirits Shoppe #3305, 410 Main Street, Reynoldsville, PA 15851-1251.

Lease Expiration Date: April 30, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 1,600 net useable

square feet of new or existing retail commercial space on Main Street in downtown Reynoldsville.

Proposals due: May 25, 2000 at noon

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Clearfield County, Wine & Spirits Shoppe #1701, 315 East Market Street, Clearfield, PA 16830.

Lease Expiration Date: June 30, 2000.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 2,000 to 3,000 net useable square feet of new or existing retail commercial space in the Clearfield Central Business District.

Proposals due: May 19, 2000 at noon

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222.
Contact: George Danis, (412) 565-5130

Delaware County, Wine & Spirits Shoppe #2324, MacDade Shopping Center, 2143 MacDade Boulevard, Holmes, PA 19043.

Lease Expiration Date: June 30, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space within 1 mile radius of Route 420 and MacDade Boulevard in Ridley Township.

Proposals due: June 2, 2000 at noon

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: James M. Bradley, (215) 482-9670

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 00-768. Filed for public inspection May 5, 2000, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Railroad With Hearing

A-00114696. Frank T. Perano. Application of Frank T. Perano for approval of the vacation of one private at-grade railroad crossing and construct a new at-grade private crossing where the proposed private road will cross at-grade the tracks of the Consolidated Rail Corporation rail line, along with the installation of underground utilities, said private crossing to be located approximately 3,000 L. F. east of the intersection of the Consolidated Rail Corporation's rail tracks and Cedar Hill Road (T-354) located in the Township of Robeson, Berks County, PA.

An Initial Hearing on this matter will be held Wednesday, June 21, 2000, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-769. Filed for public inspection May 5, 2000, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before May 29, 2000, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00116771, Folder 2. HDS Enterprises, Inc. (R. D. 3, Box 3080, East Stroudsburg, Monroe County, PA 18301), a corporation of the Commonwealth of Pennsylvania—persons on scheduled route service: (1) Beginning in the borough of Stroudsburg to the borough of East Stroudsburg, and return, all transportation performed in Monroe County, as follows: Beginning in the borough of Stroudsburg at the corner of 7th and Main Streets, thence proceeding east on Main Street and over the Interborough Bridge to Brown Street in the borough of East Stroudsburg, proceeding on Brown Street, thence left onto Prospect Street, thence right onto Normal Street, proceeding on Normal Street, thence left on Analomink Street, proceeding on Analomink Street, thence right onto North Courtland Street, proceeding on North Courtland Street, thence turning around at the intersection of North Courtland and Route 477, thence south on North Courtland, thence right onto Washington Street, after crossing the Interborough Bridge, thence right onto Sarah Street, proceeding on Sarah Street, thence right onto Ninth Street, after one block, thence onto Main Street, proceeding west on Main Street, turning around at the intersection of Dreher Avenue and Main Street, proceeding east on Main Street to the place of beginning; and (2) Beginning in the borough of Stroudsburg to the village of Tannersville, located in Pocono Township, and return, all transportation performed in Monroe County, as follows: Beginning in the borough of Stroudsburg, at the corner of 7th and Main Streets, thence west on Main Street, thence right onto Bridge Street, proceeding on Bridge Street, thence left onto Route 611/Ninth Street, proceeding north on Route 611 (approximately 7 miles) to The Crossings in the village of Tannersville, located in Pocono Township, thence turning around at The Crossings, thence south on Route 611, thence left onto Sarah Street, proceeding along

Sarah Street, thence right onto 7th Street, proceeding south on 7th Street, to Main Street, to the place of beginning. *Attorney:* Jason Zac Christman, 3227 North Fifth Street, East Stroudsburg, PA 18301.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-770. Filed for public inspection May 5, 2000, 9:00 a.m.]

Supplemental Interconnection Agreement

A-310725F0002. GTE North Incorporated and FairPoint Communications. Joint Petition of GTE North Incorporated and FairPoint Communications for approval of a supplemental interconnection agreement.

GTE North Incorporated and FairPoint Communications by its counsel, filed on April 18, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a supplemental interconnection 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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the GTE North Incorporated and FairPoint Communications Joint Petition are on file with the 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. 00-771. Filed for public inspection May 5, 2000, 9:00 a.m.]

Telecommunications

A-310806. United Telephone Company of Pennsylvania d/b/a Sprint and NOW Communications, Inc. Joint Application of the United Telephone Company of Pennsylvania d/b/a Sprint and NOW Communications, Inc., for approval of a master resale agreement under section 252(a)(1) and (e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and NOW Communications, Inc., by its counsel, filed on April 20, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master 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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the United Telephone Company of Pennsylvania d/b/a Sprint and NOW Communications, Inc. Joint Petition are on file with the 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. 00-772. Filed for public inspection May 5, 2000, 9:00 a.m.]

Telecommunications

A-310622. United Telephone Company of Pennsylvania d/b/a Sprint and Tel-Link, L.L.C. Joint Petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Tel-Link, L.L.C. for approval of a master resale agreement under section 252(a)(1) and (e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Tel-Link, L.L.C., by its counsel, filed on April 20, 2000, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master 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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the United Telephone of Pennsylvania d/b/a Sprint and Tel-Link, L.L.C. Joint Petition are on file with the 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. 00-773. Filed for public inspection May 5, 2000, 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". The 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.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 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

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET 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

Commodities

N-1200 Contractor is to supply approximately 300 winter parkas of various sizes to the Youth Development Center in New Castle, PA. Call for complete bid package (724) 656-7310.

Department: Public Welfare
Location: Youth Development Center, Frew Mill Road, R. R. 6, Box 21A, New Castle, PA 16101
Duration: Undetermined
Contact: Thomas E. Mateja, PA, (724) 656-7310

1564119 Metal fencing. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Muncy, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

1552159 KU-Brand Uplink System. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: Harrisburg, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

1545119 Video cameras, monitors and surveillance equipment. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Muncy, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

8135160 Precast Reinforced Concrete Box Culvert. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Franklin, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

1558119 Various equipment for serving line system. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Department of Corrections Training Academy, Elizabethtown, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

8141460 Bituminous Wearing Course, ID-2. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Mercer, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

8252180 Truck, 15K, shop, dual, diesel. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

8252010 Truck, Paint. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

1543119 Security Equipment. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Somerset, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

8252200 Excavator, Hyd, 59K, 6x4. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

8141510 Bituminous wearing course, ID-2. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Tionesta, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

1571119 Flat bed die cutter. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Dallas, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

051600-01 Edinboro University is seeking Bids for a model 2000 heavy duty 4 x 4 stake body truck. Bid forms are available in the Purchasing Department, Room 220, McNerney Hall, Edinboro University or by calling (814) 732-2704. Bids are due on May 16, 2000, at 2 p.m. at EUP Purchasing Office. Nondiscrimination and Equal Opportunity are the policies of the State System of Higher Education. MBE/WBE firms are urged to respond.

Department: State System of Higher Education
Location: Edinboro University of Pennsylvania—Main Campus
Duration: Indeterminate 1999-2000
Contact: Barbara James, Purchasing Agent, (814) 732-2704

1513119 Turbine pump. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Huntingdon, PA
Duration: FY 99-00
Contact: Vendor Services, (717) 787-2199

8252290 Brine, Salt Product System. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

5009-993 72" Appliphase PA—a low cost "Applicator," powered operated 110 Volt, 50/60 Hz, 1 phase, 3 amp. Run by foot control to leave hand free. The machine is constructed with rigid steel frame, 1 rubber top roller, 1 steel bottom roller adjustable pressure on both sides, constant speed gear motor drive. Max sign size up to 72" wide and 1" thick by any length. Overall dimensions—92" wide x 9" x 18" high for applicator and a 24" x 72" feed table with edge guide. To bid call (412) 761-1955, Ext. 303, Rich.

Department: Corrections
Location: Sign Shop, S.R.C.F. Mercer, 801 Butler Pike, Mercer, PA 16137
Duration: Three Days
Contact: Chip Hess, (724) 662-1837, Ext. 142

001carpet Supply 500 sq. yd. of carpet and related materials. (Materials only, no installation.)

Department: Military Affairs
Location: Ft. Indiantown Gap, Annville, PA 17003-5002
Duration: FY 99—00
Contact: Regine Faith, (717) 861-8455

8252110 Paver Finisher, 10' Bituminous. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000—01
Contact: Vendor Services, (717) 787-2199

1563119 Latest Model Van Body Truck. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: Harrisburg, PA
Duration: FY 99—00
Contact: Vendor Services, (717) 787-2199

1567159 Trailer Mounted Z-Boom. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: Harrisburg, PA
Duration: FY 99—00
Contact: Vendor Services, (717) 787-2199

8252140 Plow Wing, Full Power w/One Way. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000—01
Contact: Vendor Services, (717) 787-2199

SERVICES

Audio/Video—04

00976001 Provide full maintenance and service, including repair and/or replacement of 450 individual telephone instruments, of the NEC 2400IMS Electronic PBX telephone system presently in use at Polk Center.

Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: September 1, 2000—August 31, 2002 w/ Renewals
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

Construction—09

DGS1103-48EN2 Project Title: Roofing. Brief Description: All work necessary to complete roofing work, including roof insulation, membrane roofing, standing seam roofing, flashing, soffits and metal wall panels. Estimated Range: \$1,000,000 to \$2,000,000. Roofing Construction. Plans Deposit: \$200 per set payable to: Pitt-Center Partners. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$40 per set or provide an express mail account number to the office listed below. Mail requests to: Pitt-Center Partners, 1020 Lebanon Rd., West Mifflin, PA 15122-1036, Attn: Marlene Martak. Tel: (412) 462-9300. Bid Date: Wednesday, May 31, 2000, at 11 a.m. A Prebid Conference has been scheduled for Tuesday, May 9, 2000, at 9:30 a.m. at the Fitzgerald Field House, Pittsburgh University Campus, Pittsburgh, PA. Contact: Jim Friel, Tel: (412) 394-6888. All Contractors who have secured Contract Documents are invited and urged to attend this Prebid Conference.

Department: General Services
Location: University of Pittsburgh Campus, Pittsburgh, Allegheny County, PA
Duration: 255 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

DGSA508-92 Project Title: Replace Electrical Vault Equipment—William Forrester Building. Brief Description: Replace existing equipment in the electrical vault of the William Forrester Building, including primary transfer system, transformer and duct bank to manhole. Estimated Range: Under \$100,000. Electrical Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide an express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, May 24, 2000 at 11 a.m.

Department: General Services
Location: Mayview State Hospital, Upper St. Clair and South Fayette Townships, Allegheny County, PA
Duration: 180 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

DGSA553-86 Project Title: Install New HVAC System in Building No. 16 (Applewood). Brief Description: Selective demolition of hot water radiant heating system. Installation of split-system cooling and ventilation systems, steam and condensate return piping, air distribution ductwork, electric heating equipment and associated electrical work. Estimated Range: \$100,000 to \$500,000. HVAC and Electrical Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of 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 below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, May 24, 2000, at 2 p.m.

Department: General Services
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA
Duration: 180 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

FDC-116-322.1 General Construction work for a new campground washhouse (28 ft. x 42 ft.) at Ole Bull State Park in Potter County. (Sitework, concrete and masonry, wood framing, insulating, roofing, all interior finishing.) Note: Bid documents will be available on or after May 8, 2000.

Department: Conservation and Natural Resources
Location: Stewardson Township
Duration: 270 days
Contact: Construction Management Section, (717) 787-5055

DGSA583-72 Project Title: Upgrade Fire Alarm System—Building No. 5. Brief Description: Upgrade building fire alarm system. Estimated Range: Under \$100,000. Electrical Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide an express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, May 17, 2000, at 11 a.m.

Department: General Services
Location: Ebensburg Center, Ebensburg, Cambria County, PA
Duration: 150 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding, (717) 787-6556

DGSA589-45 Project Title: Replace Hot Water Heaters in Buildings 2, 5, 6, 7 and 8 and HVAC in Building 1. Brief Description: Replace electric water heaters in Buildings No. 2, 5, 6, 7 and 8, HVAC in Building No. 1 and electrical connections for above in Buildings No. 1, 2, 5, 6, 7 and 8. Estimated Range: \$100,000 to \$500,000. HVAC, Plumbing and Electrical Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide an express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, May 17, 2000, at 11 a.m.

Department: General Services
Location: Youth Development Center, New Castle, Lawrence County, PA
Duration: 140 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

DGS404-58 Project Title: Addition to and Renovation of Carlson Library. Brief Description: Demolition of 32,000 SF of existing building including hazardous material abatement and renovation of 85,000 SF of existing building. Construction of 28,500 SF of four-floor additions to the existing library and new wet-pipe fire protection system. Estimated Range: Over \$10,000,000. General, HVAC, Plumbing, Electrical and Fire Protection Construction. Plans Deposit: \$500 per set payable to: Ross Bianco Architects, P.C./GBQC. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide an express mail account number to the office listed below. Mail requests to: Ross Bianco Architects, P.C./GBQC Architects—Joint Venture, 503 Martindale Street, Penthouse, Pittsburgh, PA 15212. Tel: (412) 321-8050. Bid Date: Wednesday, May 31, 2000, at 11 a.m. A Prebid Conference has been scheduled for Thursday, May 11, 2000 at 10 a.m. at Clarion University, in the Lunchroom in the McEntire Maintenance Building, Wilson Street, Clarion, PA. Contact: Clare Heidler. Tel: (814) 393-2027. All Contractors who have secured Contract Documents are invited and urged to attend this Prebid Conference.

Department: General Services
Location: Clarion University, Clarion, Clarion County, PA
Duration: 358 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

DGS1103-48EN1 Project Title: Masonry. Brief Description: All work necessary to complete masonry work, including exterior masonry and cast stone, interior masonry wall and all miscellaneous work associated with completion of the masonry work. Estimated Range: \$2,000,000 to \$5,000,000. Masonry Construction. Plans Deposit: \$200 per set payable to: Pitt-Center Partners. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$40 per set or provide an express mail account number to the office listed below. Mail requests to: Pitt-Center Partners, 1020 Lebanon Rd., West Mifflin, PA 15122-1036. Attn: Marlene Martak. Tel: (412) 462-9300. Bid Date: Wednesday, May 31, 2000 at 11 a.m. A Prebid Conference has been scheduled for Tuesday, May 9, 2000, at 9:30 a.m. at the Fitzgerald Field House, Pittsburgh University Campus, Pittsburgh, PA. Contact: Jim Friel. Tel: (412) 394-6888. All Contractors who have secured Contract Documents are invited and urged to attend this Prebid Conference.

Department: General Services
Location: University of Pittsburgh Campus, Pittsburgh, Allegheny County, PA
Duration: 427 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

FDC-200-655R Rehabilitating a storage area in the Regional Office located in Butler County (work includes constructing an ADA accessible bathroom and constructing new and repositioning existing shelving). Note: Bid documents will be available on or after May 8, 2000.

Department: Conservation and Natural Resources
Location: Franklin Township
Duration: 60 days
Contact: Construction Management Section, (717) 787-5055

FDC-116-322.3 All Mechanical Work (HVAC and Plumbing) associated with the construction of the campground washhouse at Ole Bull State Park in Potter County. Note: Bid documents will be available on or after May 8, 2000.

Department: Conservation and Natural Resources
Location: Stewardson Township
Duration: 270 days
Contact: Construction Management Section, (717) 787-5055

FDC-116-322.4 All electrical work associated with the construction of the campground washhouse at Ole Bull State Park in Potter County. Note: Bid documents will be available on or after May 8, 2000.

Department: Conservation and Natural Resources
Location: Stewardstown Township
Duration: 270 days
Contact: Construction Management Section, (717) 787-5055

3881079004 Pave nine different areas at the Forest District Office.

Department: Conservation and Natural Resources
Location: Bald Eagle State Forest, Rt. 45, Laurelton, PA 17835
Duration: June 30, 2000
Contact: James J. Lipko, (570) 922-3344

DGSA518-6 Project Title: Upgrade Elevators No. 1 2 and 3 to Comply with ADA Requirements. Brief Description: Upgrade existing elevators for ADA compliance. Including lowering hall stations, car stations and handrails in hall and cars. Install sensors and smoke detectors at locations as required by codes, etc.; and tie into existing fire alarm system. Provide new signage, etc. as required to meet ADA requirements. Estimated Range: Under \$100,000. General Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide an express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Bid Date: Wednesday, May 24, 2000, at 11 a.m.

Department: General Services
Location: Altoona Center, Altoona, Blair County, PA
Duration: 60 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding Unit, (717) 787-6556

MI-789 Project Title: Millersville University—Lyte Auditorium stage floor replacement. Scope of work: Remove and replace approximately 2,480 square feet of wood floor; sand, seal, and finish floor; refinish existing wood trim; and furnish and install new base. Plans Cost: \$25 nonrefundable.

Department: State System of Higher Education
Location: Lyte Auditorium, Millersville University, Millersville, Lancaster County, PA 17551
Duration: 150 calendar days
Contact: Jill M. Coleman, (717) 872-3730

Food—19

MACF-900 Six each refrigerated type drink dispenser machines with adequate dispensers to meet requirements of dispensing 2,400 12 ounce drinks in a 2 hour period. Counter top installation, vendor to furnish, install and maintain, providing repair services as required during working hours, 6 days per week with no cost to agency. Note: Items required for the dispensing of carbonated soft drink beverages in the institution dietary department.

Department: Corrections
Location: State Correctional Institution at Huntingdon
Duration: July 1, 2000—June 30, 2001
Contact: Phyllis Sheffield, PA1, (814) 643-2400, Ext. 303

DTY No. 4235 Bread, rolls, pastries and related products, fresh, for the period beginning July 1, 2000—December 31, 2000.

Department: Public Welfare
Location: Agency Dietary Department, Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: July 1, 2000—December 31, 2000
Contact: F. Molisse, P.A. II, (412) 257-6215

9033 Frozen juice and juice drinks.

Department: Public Welfare
Location: DPW—Selingsgrove Center, Box 500, Route 522, Selingsgrove, PA 17870
Duration: July—September 2000
Contact: Arletta K. Ney, Purch. Agt., (570) 372-5070

518 Bread and bread products.

Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: July 1, 2000—December 31, 2000
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

DTY No. 4236 Perishable foods for the period beginning July 1, 2000—December 31, 2000.

Department: Public Welfare
Location: Agency Dietary Department, Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: July 1, 2000—December 31, 2000
Contact: F. Molisee, P.A. II, (412) 257-6215

9034 Frozen fruits and vegetables.

Department: Public Welfare
Location: Selingsgrove Center, Box 500, Route 522, Selingsgrove, PA 17870
Duration: July—September 2000
Contact: Arletta K. Ney, Purchasing Agent, (570) 372-5070

060900 Estimated need: fresh and fresh prepared fruits and vegetables; shell eggs; fresh breads, pastries, and pies; miscellaneous prepared foods; fresh meats; fresh cheese, dairy, and ice cream products; fresh and frozen poultry and poultry products; fresh and frozen fish and fish products. Bid packets including detailed information can be obtained by contacting Kathy Zeigler at (724) 656-7308.

Department: Public Welfare
Location: Youth Development Center, R. R. 6, Box 21A, Frew Mill Road, New Castle, PA 16101
Duration: July 1, 2000—September 30, 2000
Contact: Kathy Zeigler, (724) 656-7308

Hazardous Materials—21

PDA449 Infectious waste removal at the State Veterinary Laboratory. An estimated 50,000 pounds may be collected.

Department: Agriculture
Location: Harrisburg, PA
Duration: July 1, 2000—June 30, 2001
Contact: Mike Mesaris, (717) 787-5674

PDA450 Service, maintain, repair and operate a 500 lb./hr. incinerator located at the State Veterinary Laboratory.

Department: Agriculture
Location: Harrisburg, PA
Duration: July 1, 2000—June 30, 2001
Contact: Mike Mesaris, (717) 787-5674

HVAC—22

90881075 Furnish two outdoor transfer switches, one indoor transfer switch, and one doublewall sub-base tank. Complete specifications will be mailed with bid from Loysville Complex, R. D. 2, Box 365B, Loysville, PA 17047.

Department: Public Welfare
Location: Loysville Secure Treatment Unit, R. D. Box 500, Loysville, PA 17047
Duration: May 1, 2000—October 31, 2000
Contact: Dee Kuhn, (717) 789-5509

065006 For the maintenance services to the HVAC System in the Philadelphia County Office Building at Blaine and Ruffner Streets. Bidding packages may be obtained by faxing a request to PennDOT at (215) 560-6668, Attn: Jill Logue.

Department: Transportation
Location: PennDOT, Blaine and Ruffner Streets, Philadelphia, PA 19140-2889
Duration: Multiyear contract with options to renew
Contact: Jill Logue, (215) 225-1415

Walnut Creek Electrical Purchase of electrical items such as: lighting by Lightolier and Lithonia or equal, baseboard heaters by Qmark or equal, Hoffman enclosures, various types of electrical wire and conduit.

Department: Fish and Boat Commission
Location: Deliver to: Central Warehouse, Robinson Lane, Pleasant Gap, PA 16823
Duration: For delivery by June 30, 2000
Contact: Kathi Tibbott, Purchasing Agent, (814) 359-5131

LBLA 6239 SC Plumbing Purchase of miscellaneous plumbing items such as copper tubing and fittings, bathroom fixtures, water heaters.

Department: Fish and Boat Commission
Location: For delivery to: Central Warehouse, Robinson Lane, Pleasant Gap, PA 16823
Duration: For delivery approximately June 1, 2000
Contact: Kathi Tibbott, Purchasing Agent, (814) 359-5131

120R-032 Provide complete repair of all electrical systems at the Washington County Welcome Center site, according to bid specifications. Estimated start date is July 1, 2000. Contract will include renewal option for two 2-year periods (fiscal years). Requests for bid packages are to be faxed to Michael Maurer, District Roadside Specialist, at (724) 439-7360.

Department: Transportation
Location: Washington County Welcome Center, Interstate 70 East-Bound, at approximately 5 mile marker
Duration: One Fiscal Year, approximately July 1, 2000—June 30, 2001; with renewal option for two 2-year periods
Contact: Michael Maurer, (724) 439-7374

90881074 Furnish emergency generator, Kohler brand or approved equal. Complete specifications will be mailed with bid from Loysville Complex, R. D. 2, Box 365B, Loysville, PA 17047.

Department: Public Welfare
Location: Loysville Secure Treatment Unit, R. D. 2, Box 500, Loysville, PA 17047
Duration: May 1, 2000—October 31, 2000
Contact: Dee Kuhn, (717) 789-5509

Laboratory Services—24

04094 Provide complete laboratory services for the Residents at the PA Soldiers and Sailors Home.

Department: Military Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 2000—June 30, 2003
Contact: Jeanette Gualtieri, (814) 878-4930

Laundry—25

04093 Supply and service all nursing home/hospital linens at the PA Soldiers and Sailors Home.

Department: Military Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: July 1, 2000—June 30, 2003
Contact: Jeanette Gualtieri, (814) 878-4930

Lodging/Meeting Facilities—27

PGC-2639 Exclusive use of day/overnight facilities to include sleeping accommodations, indoor bathrooms, showers, electric lights, heat or electrical system that will support the use of heaters, (separate lodging for approximately 12 male staff), and dining facilities for approximately 150 adults. Need eight classrooms, lake for canoeing, stream or lake for fishing, kitchen for cooking class, archery range, rifle range, shotgun range and sporting clay range. Trails for hiking, biking. Camp/facility should be located in the SE part of PA, approximately 2.5 hour drive from Harrisburg for September 22—24, 2000. Agency reserves the right to inspect facility prior to awarding contract and to reject facility not deemed suitable to meet our needs. Get complete details in bid package from agency. Call agency for detailed information and bid package.

Department: Game Commission
Location: Automotive and Procurement Division, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797
Duration: Indeterminate 1999—2000
Contact: Diane Shultz or Linda Beaver, (717) 787-6594

Mailing Services—28

1720001 It is the intent of the contract to allow the Pennsylvania Public Utility Commission to respond to any need for print communication in any fashion and to have such material disseminated to end users directly from the source of creating and printing. The contract is, therefore, based on a series of elements that can be used to create any document and/or services needed for fulfillment purposes. These elements include, but are not limited to, document design and composition, printing, imaging and mailing.

Department: Pennsylvania Public Utility Commission
Location: North Office Building, Room 118, Harrisburg, PA 17120
Duration: 3 years with 2 year extension option
Contact: Herman Umbholtz, (717) 783-5375

SP No. 00782006 The contractor shall perform vision examinations and provide eyeglass services for the individuals of the Hamburg Center, Hamburg, PA 19526. To receive detailed specifications, submit fax to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526, (610) 562-6025.

Department: Public Welfare
Location: Hamburg Center, P. O. Box 1000, Old Route 22, Hamburg, PA 19526
Duration: Anticipated dates: January 1, 2001—December 31, 2005
Contact: Beverly O. Epting, PA, (610) 562-6031

Property Maintenance—33

04-C-00 Day care center playground resurfacing: remove mulch, install stone base, install poured-in, place rubber safety surface.

Department: Labor and Industry
Location: Seventh and Forster Streets, Harrisburg, PA 17120
Duration: Indeterminate 1999—2000
Contact: Norman Kee, (717) 705-0450

04-D-00 Snow/ice removal services: To be provided for parking lot, driveway, and sidewalks on an as-needed basis at the discretion of the Office Manager or when snow accumulation reaches 3" or more in the parking lot and driveway and 1" or more for sidewalks. Service to include spreading of antiskid materials, which is to be included in the price quote. In the event of heavy snowfalls on weekends or holidays (6" or more) it may be necessary to plow on these occasions to assure that snow is removed on the first workday by 7 a.m. following the storm.

Department: Labor and Industry
Location: Department of Labor and Industry, Cambria County, Job Center, 200 Lincoln Street, Johnstown, PA 15901
Duration: October 1, 2000—April 30, 2002
Contact: Cherianita Thomas/NK, (717) 787-2877

Sanitation—36

SP38610002 Sealed bids will be received at the Department of Conservation and Natural Resources, Moraine State Park, 225 Pleasant Valley Road, Portersville, PA 16051-9650 and then publicly opened and read. A bid opening date has not yet been set for rental of portable toilet units at Moraine State Park Complex. A bid proposal containing all pertinent information must be obtained from the office of the Park Manager, Moraine State Park.

Department: Conservation and Natural Resources
Location: Moraine State Park, 225 Pleasant Valley Road, Portersville, PA 16051-9650
Duration: July 1, 2000—June 30, 2003
Contact: Moraine State Park, (724) 368-8811

120R-033 Provide and maintain containers and remove refuse at specified intervals at Washington County Welcome Center on Interstate 70 East Bound at approximately the 5-mile marker. Estimated start date is July 1, 2000. Contract includes renewal option. Requests for bid packages should be faxed to Mike Maurer at (724) 439-7360.

Department: Transportation
Location: Washington County Welcome Center, Interstate 70 East Bound, at approximately the 5-mile marker
Duration: One fiscal year, approximately July 1, 2000—June 30, 2001; with a renewal option for two 2-year renewals
Contact: Mike Maurer, (724) 439-7374

SP1300380001 Contractor will provide removal and proper disposal of refuse from Scotland School for Veterans' Children. All pick-ups must be made between 6 a.m. and 3 p.m. Main kitchen and residential areas will be picked up on Mondays, Wednesdays, and Fridays; School Building—a minimum of twice per week. All other areas—once a week. The contractor must meet residential recycling requirements as governed by Greene Township. This will be multiyear contract to cover a 5 year period beginning October 1, 2000—September 30, 2005.

Department: Military Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254
Duration: October 1, 2000—September 30, 2005
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

Security Services—37

SBC-1191200002 Contractor to provide service and maintenance of the locking and surveillance system at SCI Albion.

Department: Corrections
Location: State Correctional Institution at Albion, 10745 Rt. 18, Albion, PA 16475-0001
Duration: Anticipated start date: July 1, 2000. Anticipated termination date: June 30, 2003
Contact: Lesley S. Jarrett, Purchasing Agent, (814) 756-5778

00007001 Contractor to provide security guard services at the Blair County Assistance Office—10 hours per work day—6:30 a.m.—5:15 p.m. (Lunch—45 minutes). Complete details and specifications may be obtained by contacting the Procurement Office or by faxing a request with name, address and the contract number to: (717) 787-3560.

Department: Public Welfare
Location: Department of Public Welfare, Blair County Assistance Office, 1100 Green Avenue, Altoona, PA 16601
Duration: July 1, 2000—June 30, 2003 in addition to two 1-year optional renewals
Contact: Rose Wadlinger, (717) 783-3767

Miscellaneous—39

KURFP-0022 Kutztown University is seeking qualified vendors able to maintain the Northern Telecom, Meridian 1, Option 71 telephone switch that operates using Release 21 software. The University is interested in certified distributors only. The telephone switch resides on the Kutztown University campus and is located in the Administration Building Annex, on the first floor and is easily accessible. All requests for RFP packages must be made in writing and submitted to: Barbara Reitz, Director of Purchasing, Kutztown University, Kutztown, PA 19530, (610) 683-4132, fax (610) 683-4674, E-mail: reitz@kutztown.edu. Packages are available Monday, May 8, 2000—Monday, May 22, 2000. Proposals submissions must be received prior to Monday, June 5, 2000 at 2 p.m. Late submissions will not be accepted.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: 3 years after NTP with the option to renew for 2 additional 1 year
Contact: Barbara Reitz, (610) 683-4132

SP-01780001 Vendor to provide Spanish interpreter services for the Bureau of Hearings and Appeals. A specific description of this service and bid package may be obtained by using the fax number: (717) 787-3560. On the fax message include your address and contact person.

Department: Public Welfare
Location: Bureau of Hearings and Appeals, 625 Cherry Street, 4th Floor, Reading, PA 19602
Duration: Anticipated term of contract will be from July 1, 2000—June 30, 2003
Contact: Barry Malone, Purchase Agent, (717) 705-3917

SP-01780002 Vendor to provide Spanish interpreter services for the Bureau of Hearings and Appeals. A specific description of this service and bid package may be obtained by using the fax number: (717) 787-3560. On the fax message include your address and contact person.

Department: Public Welfare
Location: Bureau of Hearings and Appeals, 1400 Spring Garden Street, Room 1608, Philadelphia, PA 19130.
Duration: Anticipated term of contract will be from July 1, 2000—June 30, 2003
Contact: Barry Malone, Purchase Agent, (717) 705-3917

00872015 Contractor shall supply all labor, tools, equipment, appurtenances and materials to remove and replace firebrick in boiler at Power Plant. Proof of visit required.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: Anticipated to begin August 1, 2000—October 31, 2000
Contact: Pamela Bauman, (570) 271-4578

9058 Provide Transportation and Counseling Services to the State Correctional Institution at Muncy, PA.

Department: Corrections
Location: State Correctional Institution, P. O. Box 180, Muncy, PA 17756
Duration: July 1, 2000—July 1, 2002
Contact: Cindy Lyons, (570) 546-3171

B0000304 Millersville University is seeking qualified bidders who can provide the following software: Real Networks Real Server 7.0 and Authentication Extension, both 200 stream. Interested vendors should fax requests to be placed on a bidders list no later than 11 a.m., Friday, May 12, 2000 to Anna Stauffer, (717) 871-2000.

Department: State System of Higher Education
Location: Millersville University, Millersville, PA 17551
Duration: May 2000
Contact: Anna Stauffer, (717) 872-3041

SP-01780003 Vendor to provide Spanish interpreter services for the Bureau of Hearings and Appeals. A specific description of this service and bid package may be obtained by using the fax number: (717) 787-3560. On the fax message include your address and contact person.

Department: Public Welfare
Location: Bureau of Hearings and Appeals, 1401 North 7th Street, 6th Floor, Harrisburg, PA 17102
Duration: Anticipated term of contract will be from: July 1, 2000—June 30, 2003
Contact: Barry Malone, Purchase Agent, (717) 705-3917

RFP No. 9-00 To procure the services of a contractor to provide independent enrollment assistance services for Medicaid recipients in the HealthChoices Southeast, Southwest and Lehigh/Capital zones. Copies of this RFP can be requested by facsimile at (717) 787-3560.

Department: Public Welfare
Location: Southeast zone includes Bucks, Chester, Delaware, Montgomery and Philadelphia Counties. Southwest zone includes Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Washington and Westmoreland Counties. Lehigh/Capital zone includes Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York Counties
Duration: Anticipated January 1, 2001 to December 31, 2002. Renewal for a period or periods covering up to 3 years through December 31, 2005
Contact: Kathy A. King-McCarthy, (717) 705-3878

SP1300380002 Rental of buses and drivers to transport the students at Scotland School for Veterans' Children to various interscholastic sporting events, parades and other recreational events throughout the school year. Service will be required on an as needed basis. We will attempt to give 24 hour notice when buses are needed, but less notice may be given in emergency situations. The contract will have a 4-year option to renew by mutual agreement and increases in cost to be negotiated.

Department: Military Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254-0900
Duration: August 1, 2000—June 30, 2001; 4 year renewal option
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

SP-01780004 Vendor to provide Spanish interpreter services for the Bureau of Hearings and Appeals. A specific description of this service and bid package may be obtained by using the fax number: (717) 787-3560. On the fax message include your address and contact person.

Department: Public Welfare
Location: Bureau of Hearings and Appeals, 111 North Pennsylvania Avenue, Room 322, Wilkes-Barre, PA 18701
Duration: Anticipated term of contract will be from July 1, 2000—June 30, 2003
Contact: Barry Malone, Purchase Agent, (717) 705-3917

ITQ-358003 The Department of Transportation (PennDOT) is continuing to accept applications for an Invitation to Quality (ITQ) to prequalify contractors interested in providing Design-Related Training Services (that is, training instruction, course development, compilation of student and instructor training manuals, etc.). Those contractors who have already submitted applications need not resubmit. Enrollment will remain open and ITQ applications will be accepted through May 31, 2004. To obtain a copy of the Invitation to Quality (ITQ) which specifies qualification information, fax the following information to Darlene Greenawald at (717) 783-7971 and include 1) Name, 2) Complete Address, 3) Phone and Fax, and 4) Reference ITQ No. 358003.

Department: Transportation
Location: Bureau of Office Services (ITQ 358003), Department of Transportation, 555 Walnut Street, 8th Floor, Information Desk, Harrisburg, PA 17101
Duration: Multiyear with option to renew
Contact: Darlene Y. Greenawald, (717) 705-6476

[Pa.B. Doc. No. 00-774. Filed for public inspection May 5, 2000, 9:00 a.m.]

DESCRIPTION OF LEGEND

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

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1305-01 RIP # 1	05/01/00	Firing Line, Inc.	100,000.00	5610-36	04/18/00	Dalrymple Gravel & Contracting Co. Inc.	22,844.00
3610-05 RIP # 2	04/27/00	Lanier World- wide	50,000.00	5610-36	04/18/00	Derry Con- struction Co. Inc.	20,000.00
5610-36	04/18/00	Abe Materi- als—Easton	20,000.00	5610-36	04/18/00	Dunbar As- phalt Prod- ucts Inc.	20,000.00
5610-36	04/18/00	American As- phalt Pav- ing Co.	429,925.00	5610-36	04/18/00	Dunmore Ma- terials	20,000.00
5610-36	04/18/00	B & L As- phalt In- dustries, Inc.	20,000.00	5610-36	04/18/00	Eastern In- dustries Inc.	857,627.00
5610-36	04/18/00	Barletta Ma- terials & Construc- tion Inc.	20,000.00	5610-36	04/18/00	Eastern In- dustries Inc.—West	20,000.00
5610-36	04/18/00	Bechtelsville Asphalt	20,000.00	5610-36	04/18/00	EJB Paving & Materials Co.	20,000.00
5610-36	04/18/00	Better Mate- rials Corpo- ration	20,000.00	5610-36	04/18/00	Eureka Stone Quarry Inc. Chalfont	20,000.00
5610-36	04/18/00	Bituminous Paving Ma- terials of York Inc.	20,000.00	5610-36	04/18/00	Foster Grad- ing Co.	20,000.00
5610-36	04/18/00	Blades Con- struction Products Corp.	20,000.00	5610-36	04/18/00	Glasgow Inc.	20,000.00
5610-36	04/18/00	Buffalo Crushed Stone Inc.	20,000.00	5610-36	04/18/00	Glenn O. Hawbaker Inc.	93,440.00
5610-36	04/18/00	Burkholder Paving	20,000.00	5610-36	04/18/00	Golden Eagle Construc- tion Co.	20,000.00
5610-36	04/18/00	Calvin C. Cole Inc.	25,425.00	5610-36	04/18/00	H & K Materials/ Div. of Haines & Kibblehouse	20,000.00
5610-36	04/18/00	Campbell's Asphalt Products Inc.	20,000.00	5610-36	04/18/00	Handwerk Materials/ Div. of Haines & Kibblehouse	20,000.00
5610-36	04/18/00	Charles Con- struction	178,645.00	5610-36	04/18/00	Hanson Ag- gregates Inc./Glen Mills	20,000.00
5610-36	04/18/00	Clairton Slag Inc.	20,000.00	5610-36	04/18/00	Hanson Ag- gregates Inc./Lake Ariel	20,000.00
5610-36	04/18/00	Commercial Asphalt Products	20,000.00	5610-36	04/18/00	Hanson Ag- gregates Inc./ Stroudsburg	20,000.00
5610-36	04/18/00	Commercial Asphalt Supply Inc.	20,000.00				

STATE CONTRACTS INFORMATION

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Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
5610-36	04/18/00	Hanson Aggregates PA/Montoursville	779,823.35	5610-36	04/18/00	M & M Stone Co.	20,000.00
5610-36	04/18/00	Hanson Aggregates/Bloomsburg	394,500.00	5610-36	04/18/00	Marsh Asphalt	20,000.00
5610-36	04/18/00	Heilman Pavement Specialties Inc.	20,000.00	5610-36	04/18/00	Mayer Bros. Construction Co.	20,000.00
5610-36	04/18/00	Hempt Bros. Inc.	20,000.00	5610-36	04/18/00	McDermitt Inc.	20,000.00
5610-36	04/18/00	Highway Materials Inc.	93,305.40	5610-36	04/18/00	McMinn's Asphalt Co. Inc.	150,677.40
5610-36	04/18/00	HRI Inc.	20,000.00	5610-36	04/18/00	Meckleys Limestone Products Inc.	1,097,983.37
5610-36	04/18/00	IA Construction Corp.	1,590,516.95	5610-36	04/18/00	Miller Quarries/Div. of Miller & Son Paving	20,000.00
5610-36	04/18/00	Independence Construction Materials	20,000.00	5610-36	04/18/00	New Enterprise Stone & Lime Co. Inc.	20,000.00
5610-36	04/18/00	Jamestown Macadam Inc.	20,000.00	5610-36	04/18/00	Pennsy Supply Inc.	414,852.40
5610-36	04/18/00	Jay Fulkroad & Sons Inc.	20,000.00	5610-36	04/18/00	Pioneer Mid-Atlantic Inc.	20,000.00
5610-36	04/18/00	Joseph McCormick Construction Co. Inc.	20,000.00	5610-36	04/18/00	Pottstown Trap Rock Quarries	20,000.00
5610-36	04/18/00	Kaminski Brothers Inc.	20,000.00	5610-36	04/18/00	Quaker Sales Corp.	20,000.00
5610-36	04/18/00	Kendi Enterprises Inc.	20,000.00	5610-36	04/18/00	Riverside Materials Inc.	20,000.00
5610-36	04/18/00	Keystone Lime Co. Inc.	20,000.00	5610-36	04/18/00	Russell Standard Corp.	20,000.00
5610-36	04/18/00	Latrobe Construction Co.	20,000.00	5610-36	04/18/00	Silver Hill Quarry/Div. of Haines & Kibblehouse	20,000.00
5610-36	04/18/00	Lehigh Asphalt Paving & Const. Co. Inc.	20,000.00	5610-36	04/18/00	Slusser Borhter Trucking & Excavating	20,000.00
5610-36	04/18/00	Lindy Paving Co.	20,000.00	5610-36	04/18/00	State Aggregates Inc.	314,643.05
5610-36	04/18/00	Locust Ridge Quarry/Div. of Haines & Kibblehouse	20,000.00	5610-36	04/18/00	Stillwater Asphalt Inc.	20,000.00
				5610-36	04/18/00	TDPS Materials	20,000.00

STATE CONTRACTS INFORMATION

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
5610-36	04/18/00	The Lane Construc- tion Corp.	20,000.00	1241359-03	04/24/00	Laser Tone Corp.	48,159.50
5610-36	04/18/00	Tresco Paving Corp.	20,000.00	1241359-04	04/24/00	Bid Innova- tions	6,548.00
5610-36	04/18/00	Union Equip- ment Co./ Div. of New Enterprise Stone & Lime Co. Inc.	20,000.00	1241359-05	04/24/00	Sai Comput- ers	11,084.46
5610-36	04/18/00	Union Quar- ries Inc.	20,000.00	1241359-06	04/24/00	Chemstat Products Inc.	695.70
5610-36	04/18/00	Valley Quar- ries Inc.	20,000.00	1271159-01	04/24/00	Tri-Dim Fil- ter	34,191.05
5610-36	04/18/00	Wayco Inc.	20,000.00	1373729-01	04/24/00	Mid-Atlantic Communi- cations Inc.	33,780.00
5610-36	04/18/00	Weist Asphalt Products & Paving	20,000.00	1387209.01	04/24/00	Stratton Hats Inc.	72,705.00
5610-36	04/18/00	Whitaker Roads Cor- poration	20,000.00	1391359-01	04/24/00	Skalar Incor- porated	100,811.00
5610-36	04/18/00	Wilson Pav- ing	20,000.00	1393119-01	04/24/00	Keystone Electrical Supply Co. Inc.	30,879.35
5610-36	04/18/00	Windsor Pav- ing	20,000.00	1393119-02	04/24/00	Dauphin Electric Supply Co.	19,053.44
5610-36	04/18/00	Wine Con- struction Co.	20,000.00	1418229-01	04/24/00	Jay Fulkroad & Sons Inc.	32,665.00
5610-36	04/18/00	Wyoming Sand and Stone Co.	20,000.00	1421359-01	04/24/00	Environmental Systems Corp.	69,885.00
5610-36	04/18/00	York Building Products Inc.	20,000.00	1482359-01	04/24/00	Ekto Mfg. Corp.	34,530.00
5610-36	04/18/00	Eureka Stone Quarry Inc. Stroudsburg	20,000.00	1430159-01	04/24/00	EPS Associ- ates Inc.	26,090.00
6850-04	05/01/00	Chemical Ser- vices Inc.	92,024.90	1431119-01	04/24/00	Stonhard/ Division of Stoncor Group Inc.	22,840.00
6850-04	05/01/00	Paul H. Kruggel	107,171.82	1450229-01	04/24/00	Aquatic Sys- tems Engi- neering	9,587.21
7350-04 REBID	04/27/00	Formsworld Stock Prod- ucts	59,801.75	1468389-01	04/24/00	Townsend Tree Ser- vice Co. Inc./ Townsed Chemical Div.	21,737.50
7530-04 REBID	04/27/00	Xpedx	380,437.60	1471359-01	04/24/00	Safety Head- quarters Inc.	31,504.80
7920-06 RIP # 1	04/27/00	3M Company Inc.	500,000.00	7314370-01	04/24/00	Dornisch Dis- count Safe Co.	41,625.00
1241359-01	04/24/00	Baum Control d/b/a The Computing Center	32,700.00				
1241359-02	04/24/00	Uneq Inc.	12,212.50				

STATE CONTRACTS INFORMATION

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Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
7314380-01	04/24/00	Progressive Forms & Label Sys. Inc.	29,813.00
8062450-01	04/24/00	Shaul Equip- ment & Supply Co.	53,200.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
8176730-01	04/24/00	Williams & Heintz Map Corp. GARY E. CROWELL, <i>Secretary</i>	36,680.00

[Pa.B. Doc. No. 00-775. Filed for public inspection May 5, 2000, 9:00 a.m.]