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# PENNSYLVANIA BULLETIN

Volume 27  
Saturday, August 23, 1997 • Harrisburg, Pa.  
Number 34  
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**Agencies in this issue:**

The Courts  
Department of Banking  
Department of Conservation and Natural  
Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Environmental Quality Board  
Executive Board  
Historical and Museum Commission  
Independent Regulatory Review Commission  
Insurance Department  
Milk Marketing Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Conservation Commission  
Treasury Department  
Turnpike Commission

**Detailed list of contents appears inside.**

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

**No. 273, August 1997**

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**PENNSYLVANIA**

**BULLETIN**

(ISSN 0162-2137)

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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*.

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

The agency then allows sufficient time for public comment before taking final action. An adopted

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

**SUBSCRIPTION INFORMATION: (717) 766-0211**  
**GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### Printing Format

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

### Fiscal Notes

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

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

# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1997.

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# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL [234 PA. CODE CH. 1500]

#### Suspension of the Capital Unitary Review Act and Related Sections of Act No. 1995-32 (SSI); and Amendment of Chapter 1500; No. 224; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the August 11, 1997 amendments of Chapter 1500 (Post-Conviction Collateral Proceedings) of the Rules of Criminal Procedure. The Final Report follows the Court's Order.

#### Order

*Per Curiam:*

And Now, this 11th day of August, 1997, pursuant to this Court's Authority under Article V, Section 10 of the Constitution of Pennsylvania, it is hereby *Ordered*:

(1) that the following provisions of the Act of November 17, 1995, P. L. 1118, No. 32 (SSI) and of the Act of June 25, 1997, P. L. , No. 33, are suspended permanently:

a. Sections 9570, 9571, 9572, 9573, 9574, 9575, 9576, 9577, 9578, 9579 (collectively known as the Capital Unitary Review Act) ("CURA");

b. Sections 9543(a)(4) and 9544(b) only insofar as they reference "unitary review";

c. Section 9545(c)(3);

d. Section 9545(d)(2);

e. the 1995 and 1997 amendments to Section 9546(d);

(2) upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been published before adoption at 27 Pa.B. 2296 (May 18, 1996), and in the *Pennsylvania Reporter* (Atlantic Second Series Advance Sheets, Vol. 674), with a Final Report to be published with this Order, that Chapter 1500 is hereby amended in the following form;

(3) that this Order shall apply retroactively to all cases in which the death penalty was imposed on or after January 1, 1996. Appointments of counsel made pursuant to CURA shall remain in effect for purposes of challenges under the Post Conviction Relief Act (as amended in 1995 and by this Order), and under Chapter 1500 (as amended by this Order).

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

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1500. POST-CONVICTION COLLATERAL PROCEEDINGS

(*Editor's Note:* Rule 1500 is a new rule. It is printed in regular type to enhance readability.)

#### Rule 1500. Scope.

The rules in Chapter 1500 apply to capital and noncapital cases under the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541—9546, as amended by Act 1995-32 (SS1).

**Official Note:** Adopted August 11, 1997, effective immediately.

#### Comment

The 1995 amendments to the Post Conviction Relief Act specifically provide that, "except as specifically provided otherwise, all provisions of this subchapter shall apply to capital and noncapital cases." See 42 Pa.C.S. § 9542.

*Committee Explanatory Reports:*

Final Report explaining the August 11, 1997 adoption of Rule 1500 published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).

#### Rule 1501. Initiation of Post-Conviction Collateral Proceedings.

**(1) A petition for post-conviction collateral relief shall be filed within one year of the date the judgment becomes final, except as otherwise provided by statute.**

**(2) A proceeding for post-conviction collateral relief shall be initiated by filing a [motion] petition and 3 copies with the clerk of the court in which the defendant was convicted and sentenced. The [motion] petition shall be verified by the defendant.**

**Official Note:** Previous Rule 1501 adopted January 24, 1968, effective August 1, 1968; amended November 25, 1968, effective February 3, 1969; amended February 15, 1974, effective immediately; rescinded December 11, 1981, effective June 27, 1982, rescission vacated June 4, 1982; rescinded November 9, 1984, effective January 2, 1985. Former Rule 1501 adopted November 9, 1984, effective January 2, 1985; rescinded February 1, 1989, effective July 1, 1989[; ], and replaced by present Rule 1502. Present Rule 1501 adopted February 1, 1989, effective July 1, 1989; amended March 22, 1993, effective January 1, 1994; **amended August 11, 1997, effective immediately.**

#### Comment

The rules in Chapter 1500 govern proceedings to obtain relief authorized by the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541 et seq. (**hereinafter PCRA**).

**By statute, a court may not entertain a request for any form of relief in anticipation of the filing of a petition for post-conviction collateral relief. 42 Pa.C.S. § 9545(a). For stays of execution, see 42 Pa.C.S. § 9545(c).**

The [motion] petition for post-conviction relief under these rules is not intended to be a substitute for or a limitation on the availability of appeal or a post-sentence motion. See Pa.Rs.Crim.P. [320 and] 1410 and 360. Rather, the Chapter 1500 Rules are intended to require that, in a single proceeding, the defendant must raise and the judge must dispose of all grounds for relief available after conviction and exhaustion of the appellate process, either by affirmance or by the failure to take a timely appeal.

**Except as provided in Rule 1502(e)(2) for death penalty cases, no discovery is permitted at any**

stage of the proceedings, except upon leave of the court with a showing of exceptional circumstances. See Rule 1502(e)(1), which implements 42 Pa.C.S. § 9545(d)(2).

As used in the Chapter 1500 Rules, "[motion] petition for post-conviction collateral relief" and "[motion] petition" are intended to include an amended [motion] petition filed pursuant to Rule 1505, except where the context indicates otherwise.

Under the 1995 amendments to the PCRA, a petition for post-conviction relief, including second and subsequent petitions, must be filed "within one year of the date the judgment becomes final," 42 Pa.C.S. § 9545(b)(1), unless one of the statutory exceptions applies, see 42 Pa.C.S. § 9545(b)(1)(i)–(iii). Any petition invoking one of these exceptions must be filed within 60 days of the date the claim could have been presented. 42 Pa.C.S. § 9545(b)(2).

The 1995 amendments to the PCRA apply to petitions filed on or after January 16, 1996. A petitioner whose judgment has become final on or before the effective date of the Act is deemed to have filed a timely petition under the Act if the first petition is filed within one year of the effective date of the Act. See Section 3 of Act 1995-32 (SS1).

For the purposes of the PCRA, a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review. See 42 Pa.C.S. 9545(b)(3).

#### *Committee Explanatory Reports:*

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

Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).

Rule 1502. Content of [Motion] Petition for Post-Conviction Collateral Relief; Request for Discovery.

(a) A [motion] petition for post-conviction collateral relief shall bear the caption, number, and court term of the case or cases in which relief is requested and shall contain substantially the following information:

\* \* \* \* \*

(8) the court, caption, term, and number of any proceeding (including appeals, prior post-conviction collateral proceedings, and federal court proceedings) instituted by the defendant to obtain relief from conviction or [by] sentence, specifying whether a proceeding is pending or has been completed;

\* \* \* \* \*

(13) whether any of the grounds for the relief requested were raised before, and if so, at what stage of the case; [and]

(14) a verification by the defendant that the facts set forth in the [motion] petition are true and correct to the best of the defendant's personal knowledge or information and belief and that any false statements therein are made subject to the penalties [of Section 4904] of the Crimes Code, [( ) 18 Pa.C.S. § 4904, ( ), ] relating to unsworn falsification to authorities[.];

(15) if applicable, any request for an evidentiary hearing. The request for an evidentiary hearing shall include a signed certification as to each intended witness, stating the witness's name, address, and date of birth, and the substance of the witness's testimony. Any documents material to the witness's testimony shall also be included in the petition; and

(16) if applicable, any request for discovery.

The [motion] petition may, but need not, include concise argument or citation and discussion of authorities.

(b) Each ground relied upon in support of the relief requested shall be stated in the [motion] petition. Failure to state such ground in the [motion] petition shall preclude the defendant from raising that ground in any [subsequent] proceeding for post-conviction collateral relief [under these rules].

(c) The defendant shall state in the [motion] petition the name and address of the attorney who will represent the defendant in the post-conviction collateral proceeding. If the defendant is unable to afford or otherwise procure counsel, and wants counsel appointed, the defendant shall so state in the [motion] petition and shall request the appointment of counsel.

(d) The defendant shall attach to the [motion] petition any affidavits, records, documents, or other evidence which show the facts stated in support of the grounds for relief, or the [motion] petition shall state why they are not attached.

#### (e) Requests for Discovery

(1) Except as provided in paragraph (e)(2), no discovery shall be permitted at any stage of the proceedings, except upon leave of court after a showing of exceptional circumstances.

(2) On the first counseled petition in a death penalty case, no discovery shall be permitted at any stage of the proceedings, except upon leave of court after a showing of good cause.

**Official Note:** Previous Rule 1502 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rules 1503 and 1505. Present Rule 1502 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately.

#### Comment

[This rule is derived from former Rule 1501.]

Pursuant to paragraph (a)(6), the [motion] petition should include specific information about the sentence imposed, including whether the defendant is currently serving a sentence of imprisonment or probation for the crime; awaiting execution of a sentence of death for the crime; or serving a sentence which must expire before the defendant may commence serving the disputed sentence; the minimum and maximum terms of the sentence[, ]; the amount of fine or restitution, if any[, ]; and whether the defendant is released on [probation or] parole. See [also, Section 9543(a) of the Post Conviction Relief Act,] 42 Pa.C.S. § 9543(a) [(Supp. 1988)].

[ **Section** ] Sections 9543(a)(2), (3), and (4) of the Post Conviction Relief Act, [ ( 42 Pa.C.S. § 9543(a)(2), (3), and (4), [ **(Supp. 1988)** ] [ **requires** ] require that to be eligible for relief, the defendant must plead and prove by a preponderance of the evidence **all** of the following:

[ 1. "That the conviction or sentence resulted from one or more of the following:

(I) A violation of the constitution of Pennsylvania or laws of this Commonwealth or the constitution of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(II) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(III) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused an individual to plead guilty.

(IV) The improper obstruction by Commonwealth officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.

(V) A violation of the provisions of the constitution, law or treaties of the United States which would require the granting of federal habeas corpus relief to a state prisoner.

(VI) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and that would have affected the outcome of the trial if it had been introduced.

(VII) The imposition of a sentence greater than the lawful maximum.

(VIII) A proceeding in a tribunal without jurisdiction."

2. "That the allegation of error has not been previously litigated and one of the following applies:

(I) The allegation of error has not been waived.

(II) If the allegation of error has been waived, the alleged error has resulted in the conviction or affirmation of sentence of an innocent individual."

"(III) If the allegation of error has been waived, the waiver of the allegation of error during pre-trial, trial, post-trial or direct appeal proceedings does not constitute a state procedural default barring federal habeas corpus relief."

3. "That the failure to litigate the issue prior to or during trial or on direct appeal could not have been the result of any rational strategic or tactical decision by counsel." ]

"(2) That the conviction or sentence resulted from one or more of the following:

(i) A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(ii) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.

(iii) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.

(iv) The improper obstruction by government officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court."

[ (v) ] *Deleted by statute.*

"(vi) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.

(vii) The imposition of a sentence greater than the lawful maximum.

(viii) A proceeding in a tribunal without jurisdiction."

"(3) That the allegation of error has not been previously litigated or waived."

"(4) That the failure to litigate the issue prior to or during trial . . . , or on direct appeal could not have been the result of any rational, strategic or tactical decision by counsel." 42 Pa.C.S. § 9543(a)(2), (3) and (4). (Note: the statutory reference to unitary review in this paragraph is not shown in view of the Court's 1997 suspension of the Capital Unitary Review Act.)

By statute, a court may not entertain a request for any form of relief in anticipation of the filing of a petition for post-conviction relief. 42 Pa.C.S. § 9545(a). For stays of execution, see 42 Pa.C.S. § 9545(c).

Paragraphs (a)(16) and (e) were added in 1997 to address requests for discovery. Paragraph (a)(16) requires that a request for discovery be included in the petition, if applicable. Paragraph (e) sets forth the standards for permitting discovery. Under paragraph (e)(1), which applies in all cases except on the first counseled petition in a death penalty case, no discovery is permitted at any stage of the proceedings, except upon leave of the court with showing of exceptional circumstances. See 42 Pa.C.S. § 9545(d)(2). Under paragraph (e)(2), which applies to first counseled petitions in death penalty cases, discovery is permitted only upon leave of court for good cause shown. For purposes of paragraph (e)(2), "first counseled petition" includes petitions on which defendants have elected to proceed pro se.

Second or subsequent petitions will not be entertained unless a strong prima facie showing is offered to demonstrate that a miscarriage of justice may have occurred. *Commonwealth v. Szuchon*, 633 A.2d 1098, 1099 (Pa. 1993) (citing *Commonwealth v. Lawson*, 549 A.2d 107 (Pa. 1988)). This standard is met if the petitioner can demonstrate either: (1) that the proceedings resulting in the petitioner's conviction were so unfair that a miscarriage of justice occurred which no civilized society can

tolerate; or (2) that the petitioner is innocent of the crimes charged. *Commonwealth v. Szuchon*, 633 A.2d 1098, 1100 (Pa. 1993).

It is expected that a form [motion] petition will be prepared incorporating the required contents set forth herein which will be available for distribution to uncounseled defendants. This rule is not intended to require an attorney to use a printed form or any other particular format in preparing a [motion] petition or an amended [motion] petition for post-conviction collateral relief, provided, of course, that the attorney must include in a [motion] petition or amended [motion] petition substantially all of the information set forth in this rule.

The [motion] petition should be typewritten or legibly handwritten.

#### ***Committee Explanatory Reports:***

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

#### **Rule 1503. Docketing and Assignment.**

(a) Upon receipt of a [motion] petition for post-conviction collateral relief, the clerk of courts shall immediately docket the [motion] petition to the same term and number as the underlying conviction and sentence. The clerk shall thereafter transmit the [motion] petition and the record to the trial judge, if available, or to the administrative judge, if the trial judge is not available. If the defendant's confinement is by virtue of multiple indictments or informations and sentences, the case shall be docketed to the same term and number as the indictment or information upon which the first unexpired term was imposed, but the court may take judicial notice of all proceedings related to the multiple indictments or informations.

(b) When the [motion] petition is filed and docketed, the clerk shall transmit a copy of the [motion] petition to the attorney for the Commonwealth.

(c) The trial judge, if available, shall proceed with and dispose of the [motion] petition in accordance with these rules, unless the judge determines, in the interests of justice, that he or she should be disqualified.

(d) When the trial judge is unavailable or disqualified, the administrative judge shall promptly assign and transmit the [motion] petition and the record to another judge, who shall proceed with and dispose of the [motion] petition in accordance with these rules.

**Official Note:** Previous Rule 1503 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rule 1504. Present Rule 1503 adopted February 1, 1989, effective July 1, 1989; amended June 19, 1996, effective July 1, 1996; **amended August 11, 1997, effective immediately.**

#### **Comment**

As used in this rule, "trial judge" is intended to include the judge who accepted a pleas guilty or nolo contendere.

The transmittal of the [motion] petition to the attorney for the Commonwealth does not require a re-

sponse unless one is ordered by the judge as provided in these rules, or required by Rule 1506(e).

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 since the indicting grand jury had been abolished in all counties, see PA. CONST. art. I, § 10 and 42 Pa.C.S. § 8931(b), the reference was retained in this rule because there may be some cases still pending that were instituted prior to the abolition of the indicting grand jury.

#### ***Committee Explanatory Reports:***

Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

Rule 1504. Appointment of Counsel; *in Forma Pauperis*.

(a) When an unrepresented defendant satisfies the judge that the defendant is unable to afford or otherwise procure counsel, the judge shall appoint counsel to represent the defendant on the defendant's first [motion] petition for post-conviction collateral relief.

(b) On a second or subsequent [motion] petition, when an unrepresented defendant satisfies the judge that the defendant is unable to afford or otherwise procure counsel, and an evidentiary hearing is required as provided in Rule 1508, the judge shall appoint counsel to represent the defendant.

\* \* \* \* \*

(d) An appointment of counsel shall be effective throughout the post-conviction proceedings, including any appeal from disposition of the [motion] petition for post-conviction collateral relief.

\* \* \* \* \*

**Official Note:** Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 1507. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; **amended August 11, 1997, effective immediately.**

#### **Comment**

**[ This rule replaces former Rule 1503. ]**

If a defendant seeks to proceed without an attorney, the court may appoint standby counsel. See Rule 318.

Consistent with Pennsylvania post-conviction practice under former Rules 1503 and 1504, it is intended that counsel be appointed in every case in which a defendant has filed a [motion] petition for post-conviction collateral relief for the first time and is unable to afford counsel or otherwise procure counsel. However, the rule now limits appointment of counsel on second or subsequent [motions] petitions so that counsel should be appointed only if the judge determines that an evidentiary hearing is required. Of course, the judge has the discretion to appoint counsel in any case when the interests of justice require it.

#### ***Committee Explanatory Reports:***

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**



**Rule 1505. Amendment and Withdrawal of [ Motion ] Petition for Post-Conviction Collateral Relief.**

(a) The judge may grant leave to amend or withdraw a [ motion ] petition for post-conviction collateral relief at any time. Amendment shall be freely allowed to achieve substantial justice.

(b) When a [ motion ] petition for post-conviction collateral relief is defective as originally filed, the judge shall order amendment of the [ motion ] petition, indicate the nature of the defects, and specify the time within which an amended [ motion ] petition shall be filed. If the order directing amendment is not complied with, the [ motion ] petition may be dismissed without a hearing.

(c) Upon the entry of an order directing an amendment, the clerk of courts shall serve a copy of the order on the defendant, the defendant's attorney, and the attorney for the Commonwealth.

(d) All amended [ motions ] petitions shall be in writing, shall comply substantially with Rule 1502, and shall be filed and served within the time specified by the judge in ordering the amendment.

**Official Note:** Previous Rule 1505 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rules 1506(b), 1508(a), and present Rule 1505(c). Present Rule 1505 adopted February 1, 1989, effective July 1, 1989[.]; **amended August 11, 1997, effective immediately.**

**Comment**

[ This rule replaces paragraph (a) of former Rule 1505 and paragraph (c) of former Rule 1502. ]

"Defective," as used in paragraph (b), is intended to include [ motions ] petitions that are inadequate, insufficient, or irregular for any reason; for example, [ motions ] petitions that lack particularity; [ motions ] petitions that do not comply substantially with Rule 1502; [ motions ] petitions that appear to be patently frivolous; [ motions ] petitions that do not allege facts which would support relief; [ motions ] petitions that raise issues the defendant did not preserve properly or where finally determined at prior proceedings.

When an amended [ motion ] petition is filed pursuant to paragraph (d), it is intended that the clerk of courts transmit a copy of the amended [ motion ] petition to the attorney for the Commonwealth. This transmittal does not require a response unless one is ordered by the judge as provided in these rules. See Rules 1503 and 1506.

**Committee Explanatory Reports:**

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

**Rule 1506. Answer to Petition [ Motion ] for Post-Conviction Collateral Relief.**

(a) **Except as provided in paragraph (e), [ An ]** an answer to a [ motion ] petition for post-conviction collateral relief is not required unless ordered by the judge. When the judge has not ordered an answer, the attorney for the Commonwealth may elect to answer, but the

failure to file one shall not constitute an admission of the well-pleaded facts alleged in the [ motion ] petition.

(b) Upon the entry of an order directing an answer, the clerk of [ court ] courts shall serve a copy of the order on the attorney for the Commonwealth, the defendant, and the defendant's attorney.

\* \* \* \* \*

**(e) Answers in Death Penalty Cases**

**(1) First Counseled Petitions**

(i) **The Commonwealth shall file an answer to the first counseled petition for collateral review in a death penalty case.**

(ii) **The answer shall be filed within 120 days of the filing and service of the petition. For good cause shown, the court may order extensions, of up to 90 days each, of the time for filing the answer.**

**(2) Second and Subsequent Petitions**

(i) **An answer to a second or subsequent petition for post-conviction collateral relief is not required unless ordered by the judge. When the judge has not ordered an answer, the attorney for the Commonwealth may elect to file an answer.**

(ii) **The answer shall be filed within 120 days of the filing and service of the petition. For good cause shown, the court may order extensions, of up to 90 days each, of the time for filing the answer.**

**(3) Amendments to Answer**

**The judge may grant the Commonwealth leave to amend the answer at any time, and amendment shall be freely allowed to achieve substantial justice. Amended answers shall be in writing, and shall be filed and served within the time specified by the judge in granting leave to amend.**

**Official Note:** Previous Rule 1506 adopted January 24, 1968, effective August 1, 1968; Comment revised April 26, 1979, effective July 1, 1979; rule rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; Comment revised January 28, 1983, effective July 1, 1983; rule rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 1508. Present Rule 1506 adopted February 1, 1989, effective July 1, 1989; **amended August 11, 1997, effective immediately.**

**Comment**

As used in the Chapter 1500 Rules, "answer" is intended to include an amended answer filed pursuant to [ paragraph ] paragraphs (d) and (e)(3) of this rule, except where the context indicates otherwise.

**Except as provided in paragraph (e), [ When ]** when determining whether to order that the attorney for the Commonwealth file an answer, the judge should consider whether an answer will promote the fair and prompt disposition of the issues raised by the defendant in the [ motion ] petition for post-conviction collateral relief.

**Paragraph (e)(1) was added in 1997 to require that the Commonwealth file an answer to the first counseled petition in a death penalty case. For second and subsequent petitions, paragraph (e)(2) would apply.**

**"First counseled petition," as used in paragraph (e)(1), includes petitions on which defendants have elected to proceed pro se. See also the Comment to Rule 1503.**

[ See Section 9543(B) of the Post Conviction Relief Act (42 Pa.C.S. § 9543(B) (Supp. 1988)) which, inter alia, authorizes the dismissal of the motion if "because of delay in filing . . . , the Commonwealth has been prejudiced either in its ability to respond to the petition or in its ability to re-try the petitioner." ]

**Committee Explanatory Reports:**

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

**Rule 1507. Disposition Without Hearing.**

**Except as provided in Rule 1509 for death penalty cases.**

(a) [ **The** ] the judge shall promptly review the [ **motion** ] petition, any answer by the attorney for the Commonwealth, and other matters of record relating to the defendant's claim(s). If the judge is satisfied from this review that there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings, the judge shall give notice to the parties of the intention to dismiss the [ **motion** ] petition and shall state in the notice the reasons for the dismissal. The defendant may respond to the proposed dismissal within [ **10** ] 20 days of the date of the notice. The judge thereafter shall [ **either** ] order the [ **motion** ] petition dismissed, [ **or** ] grant leave to file an amended [ **motion** ] petition, or direct that the proceedings continue.

(b) A [ **motion** ] petition for post-conviction collateral relief may be granted without a hearing when the [ **motion** ] petition and answer show that there is no genuine issue concerning any material fact and that the defendant is entitled to relief as a matter of law.

(c) The judge may dispose of only part of a [ **motion** ] petition without a hearing by ordering dismissal of or granting relief on only some of the issues raised, while ordering a hearing on other issues.

(d) When the [ **motion** ] petition is dismissed without a hearing, the judge [ **:** ] shall issue an order to that effect and shall advise the defendant by certified mail, return receipt requested, of the right to appeal from the final order disposing of the petition and of the time within which the appeal must be taken.

[ (1) shall issue an order to that effect and shall state in the order the grounds on which the case was determined; and

(2) shall advise the defendant by certified mail, return receipt requested, of the right to appeal from the final order disposing of the motion and of the time within which the appeal must be taken. ]

**Official Note:** Previous Rule 1507 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; amended January 28, 1983, effective July 1, 1983; rescinded February 1, 1989, effective July 1, 1989, and not replaced. Present Rule 1507 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately.

**Comment**

[ Previous Rule 1507 was rescinded in 1989 as unnecessary in view of the enactment of the new Post Conviction Relief Act, Act 47 of 1988, 42 Pa.C.S. § 9541 et seq. (Supp. 1988). Present Rule 1507 replaces former Rule 1504. ]

The judge is permitted, pursuant to paragraph (a), to summarily dismiss a [ **motion** ] petition for post-conviction collateral relief in certain limited cases. To determine whether a summary dismissal is appropriate, the judge should thoroughly review the [ **motion** ] petition, the answer, if any, and all other relevant information that is included in the record. If, after this review, the judge determines that the [ **motion** ] petition is patently frivolous and without support in the record, or that the facts alleged would not, even if proven, entitle the defendant to relief, or that there are no genuine issues of fact, the judge may dismiss the [ **motion** ] petition as provided herein.

A summary dismissal would also be authorized under this rule if the judge determines that a previous [ **motion** ] petition involving the same issue or issues was filed and was finally determined adversely to the defendant. See § 9545(b) for the timing requirements for filing second and subsequent petitions.

[ A second or subsequent motion should be summarily dismissed when the judge determines that the defendant has failed to make a strong prima facie showing that a miscarriage of justice may have occurred. See *Commonwealth v. Lawson*, — Pa. —, 549 A.2d 107 (1988). ]

Second or subsequent petitions will not be entertained unless a strong prima facie showing is offered to demonstrate that a miscarriage of justice may have occurred. *Commonwealth v. Szuchon*, 633 A.2d 1098, 1099 (Pa. 1993) (citing *Commonwealth v. Lawson*, 549 A.2d 107 (Pa. 1988)). This standard is met if the petitioner can demonstrate either: (1) that the proceedings resulting in the petitioner's conviction were so unfair that a miscarriage of justice occurred which no civilized society can tolerate; or (2) that the petitioner is innocent of the crimes charged. *Commonwealth v. Szuchon*, 633 A.2d 1098, 1100 (Pa. 1993).

[ See also Rule 1504 with regard to ] For the requirements for appointment of counsel on second and subsequent petitions, [ in these cases ] see Rule 1504(b).

Relief may be granted without a hearing under paragraph (b) only after an answer has been filed either voluntarily or pursuant to court order.

[ Upon disposition without a hearing under this rule, the judge should also comply with Rule 1508(d), to the extent that it reasonably applies. ]

A PCRA petition may not be dismissed due to delay in filing except after a hearing on a motion to dismiss. 42 Pa.C.S. § 9543(b). See Rule 1508.

**Committee Explanatory Reports:**

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

**Rule 1508. Hearing.**

(a) Except as provided in Rule 1507, the judge shall order a hearing:

**(1) whenever the Commonwealth files a motion to dismiss due to the defendant's delay in filing the petition, or**

**(2) when the petition for post-conviction relief or the Commonwealth's answer, if any, raises material issues of fact. [ on all material issues of fact raised by the motion and answer, if any. The ]** However, the judge may deny a hearing on a specific issue of fact when a full and fair evidentiary hearing upon that issue was held at trial or at any proceeding before or after trial.

The judge shall schedule the hearing for a time that will afford the parties a reasonable opportunity for investigation and preparation, and shall enter such interim orders as may be necessary in the interests of justice.

(b) The judge, or **[ motion ] petition** or request, shall postpone or continue a hearing to provide either party a reasonable opportunity, if one did not exist previously, for investigation and preparation regarding any new issue of fact raised in an amended **[ motion ] petition** or amended answer.

\* \* \* \* \*

(d) Upon the conclusion of the hearing the judge shall:

**(1) determine all material issues raised by the defendant's [ motion ] petition and the Commonwealth's answer, or by the Commonwealth's motion to dismiss, if any;**

**(2) issue an order denying relief or granting a specific form of relief [ and stating the grounds on which the case was determined, ] and issue any supplementary orders appropriate to the proper disposition of the case [ ; and ].**

**[ (3) state on the record, or issue and serve upon the parties, findings of fact and conclusions of law on all material issues. ]**

(e) If the judge disposes of the case in open court at the conclusion of the hearing, the judge shall advise the defendant on the record of the right to appeal from the final order disposing of the **[ motion ] petition** and of the time within which the appeal must be taken. If the case is taken under advisement, the judge shall advise the defendant of the right to appeal by certified mail, return receipt requested.

**Official Note:** Adopted February 1, 1989, effective July 1, 1989; **amended August 11, 1997, effective immediately.**

**Comment**

**[ This rule replaces former Rule 1506. ]**

**[ With respect to "material issues" as used in this rule, see, e.g., *Commonwealth v. Sullivan*, 472 Pa. 129, 371 A.2d 468 (1977); *Commonwealth v. Rightnour*, 469 Pa. 107, 364 A.2d 927 (1976); *Commonwealth v. Webster*, 466 Pa. 314, 353 A.2d 372 (1975); *Commonwealth v. Hayes*, 462 Pa. 291, 341 A.2d 85 (1975); *Commonwealth v. Dancer*, 460 Pa. 95, 331 A.2d 435 (1975); *Commonwealth v. Slavik*, 449 Pa. 424, 297 A.2d 920 (1972). ]**

The judge's power, under paragraph (a), to deny a hearing on a specific factual issue is intended to apply when an issue of fact has already been heard fully, but has never been determined. The judge need not rehear such as issue, but would be required to determine it under paragraph (d).

**The 1997 amendment to paragraph (a)(1) requires a hearing on every Commonwealth motion to dismiss due to delay in the filing of a PCRA petition. See 42 Pa.C.S. § 9543(b), as amended in 1995.**

**See also Rule 1509 for procedures in death penalty cases.**

**Except as provided in Rule 1502(e)(2) for first counseled petitions in death penalty cases, no discovery is permitted at any stage of the proceedings, except upon leave of the court with a showing of exceptional circumstances. See 42 Pa.C.S. § 9545(d)(2).**

**Committee Explanatory Reports:**

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

*(Editor's Note: Rule 1509 is a new rule. It is printed in regular type to enhance readability.)*

**Rule 1509. Procedures for Petitions in Death Penalty Cases: Hearing; Disposition.**

(a) No more than 20 days after the Commonwealth files an answer pursuant to Rule 1506(e)(1) or (e)(2), or if no answer is filed as permitted in Rule 1506(e)(2), within 20 days after the expiration of the time for answering, the judge shall review the petition, the Commonwealth's answer, if any, and other matters of record relating to the defendant's claim(s), and shall determine whether an evidentiary hearing is required.

(b) If the judge is satisfied from this review that there are no genuine issues concerning any material fact, that the defendant is not entitled to post-conviction collateral relief, and that no purpose would be served by any further proceedings,

(1) the judge shall give notice to the parties of the intention to dismiss the petition and shall state in the notice the reasons for the dismissal.

(2) The defendant may respond to the proposed dismissal by filing a request for oral argument within 20 days of the date of the notice.

(3) No later than 90 days from the date of the notice, or from the date of the oral argument, if granted, the judge shall:

(i) dismiss the petition, issue an order to that effect, and advise the defendant by certified mail, return receipt requested, of the right to appeal from the final order disposing of the petition and of the time within which the appeal must be taken;

(ii) grant the defendant leave to file an amended petition; and/or

(iii) order that an evidentiary hearing be held on a date certain.

(c) If the judge determines that an evidentiary hearing is required, the judge shall enter an order setting a date certain for the hearing, which shall not be scheduled for fewer than 10 days or more than 45 days from the date of the order. The judge may, for good cause shown, grant

leave to continue the hearing. No more than 90 days after the evidentiary hearing, the judge shall dispose of the petition.

(d) Failure of the judge to dispose of the petition within 90 days as required by paragraphs (b)(3) and (c) may result in the imposition of sanctions.

**Official Note:** Previous Rule 1509 adopted February 1, 1989, effective July 1, 1989; renumbered Rule 1510 August 11, 1997, effective immediately. Present Rule 1509 adopted August 11, 1997, effective immediately.

#### Comment

It is intended that once a determination is made under this rule that an evidentiary hearing is required, the provisions of Rule 1508(c), (d), and (e) apply.

#### *Committee Explanatory Reports:*

Final Report explaining the August 11, 1997 adoption of new Rule 1509 published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).

Rule [ 1509 ] 1510. Appeal.

An order granting, denying, dismissing, or otherwise finally disposing of a [ **motion** ] **petition** for post-conviction collateral relief shall constitute a final order for purposes of appeal.

**Official Note: Previously Rule 1509, [ Adopted ] adopted** February 1, 1989, effective July 1, 1989; **renumbered and amended August 11, 1997, effective immediately.**

#### Comment

Disposition without a hearing under Rule 1507(a) and (b), **or under Rule 1509(b)(3)(i)**, constitutes a final order under this rule. A partial disposition under Rule 1507(c) is not a final order until the judge has fully disposed of all claims.

#### *Committee Explanatory Reports:*

**Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).**

### FINAL REPORT

*New Pa.Rs.Crim.P. 1500 and 1509; Renumbering Rule 1509 as 1510; Amendments to Pa.Rs.Crim.P. 1501—1508, 1510*

### PROCEDURES UNDER THE POST CONVICTION RELIEF ACT

#### *I. Introduction*

On August 11, 1997, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court of Pennsylvania adopted new Rules of Criminal Procedure 1500 (Scope) and 1509 (Procedures for Petitions in Death Penalty Cases; Hearing; Disposition), renumbered present Rule 1509 as 1510, and amended Rules 1501—1508 and 1510, effective immediately.<sup>1</sup>

The changes to Chapter 1500 serve three purposes. First, they align the rules and Comments with the 1995 statutory amendments to the Post Conviction Relief Act (hereinafter PCRA). Second, several additions to the Comments are intended to alert judges and lawyers to

new provisions under the PCRA related to pleading and discovery. Third, the changes fill in the procedural gaps created by the suspension of the Capital Unitary Review Act, 42 Pa.C.S. §§ 9570—9579 (hereinafter CURA).

This Final Report highlights the Committee's considerations in formulating these amendments.<sup>2</sup>

#### *II. Background*

Chapter 1500 provides the procedural framework for proceedings under the PCRA, as it did for the Post Conviction Hearing Act. As such, the rules contained in Chapter 1500 have served, over time, to implement the various procedures for collateral review established by the Legislature.

In 1995, the Governor signed into law Act 1995-32(SS1), effective January 16, 1996. This Act amended the PCRA, 42 Pa.C.S. §§ 9542—9546, and enacted CURA, 42 Pa.C.S. §§ 9570—9579. Early in 1996, the Committee reviewed Act 1995-32 (SS1), and agreed that changes to Chapter 1500 were necessary to align Rules 1501—1509 with the amendments to the PCRA.

#### *III. Discussion*

1. Substitution of "petition" for "motion" throughout Chapter.

When new Chapter 1500 was drafted in 1988, see 18 Pa.B. 4235 (September 17, 1988), the Committee agreed to use the term "motion" throughout Chapter 1500 in accordance with the Court's express preference for that term. *Id.*, at 4240. After reviewing the rules in Chapter 1500 and the 1995 PCRA amendments, the Committee concluded that the use of the term "motion," while contributing to uniformity in one way, was confusing in light of the PCRA's consistent use of the word "petition." For this reason, the term "petition" replaces "motion" throughout Chapter 1500. This is the only change in the text of Rules 1503—1505 and Rule 1510.

2. Rule Changes

*a. New Rule 1500 (Scope)*

New Rule 1500 references the PCRA as amended in 1995, and makes it clear that the rules in Chapter 1500 apply to capital and noncapital cases under the PCRA.

*b. Rule 1501 (Initiation of Post-Conviction Collateral Proceedings)*

Present Rule 1501 contains the filing procedures for initiating PCRA proceedings. The text of the rule has been amended by the addition of a new paragraph (1), which implements the time limits for filing PCRA petitions mandated by 42 Pa.C.S. §§ 9545(b)(1) and (2).

The Rule 1501 Comment has been expanded to alert the reader to several of the PCRA amendments related to the initiation of PCRA proceedings.

(a) There is a new paragraph cautioning about the statutory prohibition on entertaining a request for any form of relief in anticipation of the filing of a PCRA petition. See 42 Pa.C.S. § 9545(a). In addition, in view of the applicability of the rules to capital and noncapital cases under the PCRA, a cross-reference to the statutory provision for stays of execution has been included. See 42 Pa.C.S. § 9545(c).

<sup>1</sup>The Court also suspended the Capital Unitary Review Act, 42 Pa.C.S. §§ 9570—9579, and sections of the Post Conviction Relief Act, 42 Pa.C.S. §§ 9543—9546. See the Court's August 11, 1997 order, which precedes this *Final Report*.

<sup>2</sup>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*.

(b) As explained in greater detail in the discussion of Rule 1502(e), in section c below, the rules address discovery in capital and noncapital cases, and provide a separate "good cause" discovery standard for the first counseled petition in a death penalty case. Cf. 42 Pa.C.S. § 9545(d)(2). In all other cases, the statutory prohibition on discovery at any stage of the proceedings, except upon leave of court with a showing of exceptional circumstances, would apply. This is made clear in the Comment, which includes a cross-reference to Rule 1502(e)(1), which implements 42 Pa.C.S. § 9545(d)(2), and to Rule 1502(e)(2).

(c) Several new paragraphs in the Comment summarize the new PCRA timing requirements.

(i) The Comment refers the reader to the general one-year time limit for petitions filed on or after the effective date of the amendments to the PCRA, 42 Pa.C.S. § 9545(b)(1), and to the exceptions to that requirement, 42 Pa.C.S. §§ 9545(b)(1)(i)—(iii) and 42 Pa.C.S. § 9545(b)(2).

(ii) The Comment also references the timing provision for those petitioners whose judgment became final on or before the effective date of the amendments, i.e., the petition is deemed to have been timely filed if the first petition is filed within one year of the effective date of the Act. See Act 1995-32(SS1), Section 3.

(iii) Finally, the Comment contains a cross-reference to 42 Pa.C.S. § 9545(b)(3), explaining that, for the purposes of the PCRA, a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania.

*c. Rule 1502 (Content of Petition for Post-Conviction Collateral Relief; Request for Discovery)*

#### (1) Discovery

The Committee extensively discussed the issue of discovery in the context of PCRA proceedings in view of both 42 Pa.C.S. § 9545(d)(2), which prohibits discovery except upon leave of court with a showing of exceptional circumstances, and 42 Pa.C.S. § 9573(d), which provides, for first petitions in death penalty cases, that "[d]iscovery shall be permitted, and no reasonable discovery request of the petitioner shall be denied except upon demonstration of exceptional circumstances justifying denial of discovery requests." We considered whether discovery should be addressed in the rules, particularly in view of the suspension of CURA, and if so, what the standard should be—the more flexible standard of 42 Pa.C.S. § 9573(d), or the stricter standard of 42 Pa.C.S. § 9545(d)(2). Ultimately, the Committee settled upon a compromise position, as reflected in paragraphs (a)(16) and (e).

Paragraph (a)(16) requires that any request for discovery must be made in the petition. Paragraph (e)(2) provides that for the first counseled petition only in a death penalty case, a "good cause" standard applies, i.e., a standard less stringent than § 9545(d)(2) but stricter than § 9573(d). In all other cases, paragraph (e)(1) applies the stricter standard in § 9545(d)(2).

These new provisions are underscored in the Comment. In addition, the Comment explains that "first counseled petitions" as used in paragraph (e)(2) include petitions on which a petitioner elects to proceed pro se. The Committee agreed that the new discovery standard in death penalty cases should also apply when a defendant elects to proceed pro se.

(2) In addition to the changes related to discovery, the text of Rule 1502, which, inter alia, sets forth in considerable detail the requisite contents of a PCRA petition, has been amended in several other ways.

(a) First, paragraph (8) has been amended to require that the petition include the court, caption, term, and number of any prior post-conviction proceedings in the case. This provision is intended to alert the parties to the stricter standards for second and subsequent petitions enunciated in the new Rule 1502 Comment reference to *Commonwealth v. Lawson* and *Commonwealth v. Szuchon*, explained in detail in paragraph (3)(d) below.

(b) Paragraph (a)(15) implements 42 Pa.C.S. § 9545(d)(1), which requires, if the petitioner wants an evidentiary hearing, that the petitioner include that request in the petition, accompanied by (1) a signed certification as to each intended witness, stating the witness's name, address, and date of birth, and the substance of the witness's testimony, and (2) any documents material to the witness's testimony.

(c) Paragraph (b) has been amended by the deletion of the word "subsequent" to make it clearer that if the defendant does not state a ground relied upon in the petition, the defendant may not raise it later in a proceeding on that petition or in a proceeding on any subsequent petition.

(3) The Comment has been revised in several ways.

(a) The first paragraph, which contains rule history, has been deleted as no longer necessary.

(b) The paragraph which discusses the sentencing information required by paragraph (a)(6) has been revised to more completely mirror the statute, 42 Pa.C.S. § 9543(a).

(c) The present Comment sets forth, verbatim, the pleading requirements contained in 42 Pa.C.S. § 9543(a)(2) prior to the 1995 amendments. These paragraphs have been completely deleted, and replaced with the provisions in 42 Pa.C.S. §§ 9543(a)(2)—(4), as amended in 1995. Because the Comment tracks the statute verbatim, in view of the suspension of CURA, and to minimize confusion, ellipses have been substituted for the "unitary review" language in paragraph (4), and a Note explaining the deletion follows the provision.

(d) The Committee considered whether it should incorporate language from *Commonwealth v. Lawson*, 549 A.2d 107, 112 (Pa. 1988), where appropriate, to address standards for second and subsequent petitions in order to avoid repeated filings of frivolous PCRA petitions. During the course of the Committee's discussion, we reviewed the reference to *Commonwealth v. Lawson* presently included in the Comment to Rule 1507(Disposition without Hearing), and considered whether the standards for second and subsequent petitions should be included in a rule, in a Comment, or both. Ultimately, we concluded that the explanation of the standards more appropriately belonged in a Comment. The Rule 1507 Comment has been revised accordingly, and identical language has been included in the Rule 1502 Comment.

#### *d. Rule 1503 (Docketing and Assignment)*

As explained in the discussion of Rule 1506(e) below, the Commonwealth is required to file an answer in response to the first counseled petition in a death penalty case. Rule 1506(e) has been cross-referenced in the Rule 1503 Comment.

*e. Rule 1504 (Appointment of Counsel; In Forma Pauperis)*

No substantive changes have been made to the rule. See discussion concerning petitions in Section 1 above.

*f. Rule 1505 (Amendment and Withdrawal of Petition for Post-Conviction Collateral Relief)*

The first paragraph of the Comment, which contains rule history, has been deleted as no longer necessary. Other changes to the Comment are stylistic only.

*g. Rule 1506 (Answer to Petition for Post-Conviction Collateral Relief)*

In order to facilitate the disposition of PCRA petitions in death penalty cases in view of the suspension of CURA, the Committee agreed, after much discussion, that the Commonwealth should be required to file an answer in response to the first counseled petition in a death penalty case, reasoning that the Commonwealth's answer should serve to hone the issues presented to the judge for disposition. See paragraph (e)(1). Paragraph (e)(2) makes it clear that the Commonwealth is not required to answer a second or subsequent petition in these cases unless ordered by the judge. Paragraph (e)(3) authorizes the judge to permit the Commonwealth to amend an answer.

Both this rule and new Rule 1509 (Procedures for Petitions in Death Penalty Cases: Hearing; Disposition) contain time limits intended to move death penalty cases forward in an orderly fashion. The time limits are derived from CURA. See, e.g., 42 Pa.C.S. §§ 9574, 9575(a), and 9576(a)—(c). Rule 1506(e)(1)(ii) requires Commonwealth answers to be filed in 120 days, but permits the judge to grant extensions of up to 90 days for each extension. The time limits imposed on the Commonwealth's answer, in turn, trigger the time limits for disposition in new Rule 1509.

The Comment includes an explanation of the general purpose of paragraph (e). In addition, the Comment explains that "first counseled petitions" as used in paragraph (e)(1) includes petitions on which a petitioner elects to proceed pro se. The Committee agreed that the requirement should still apply, because the rationale for requiring a Commonwealth answer on first counseled petitions, i.e., the answer will serve to hone the issues submitted to the judge for disposition, is equally valid in a pro se context.

*h. Rule 1507 (Disposition Without Hearing)*

There are two substantive changes to Rule 1507. First, Rule 1509 is excepted from the provisions of Rule 1507 to the extent that Rule 1509 contains timing requirements for the disposition of petitions in death penalty cases. Second, paragraph (d) has been amended to reflect changes in the PCRA requirements concerning the content of a court's order dismissing a petition without a hearing. Present paragraph (d) contains a requirement that when a judge dismisses a petition without a hearing, the judge must state, in the order, the grounds "on which the case was determined." Pa.R.Crim.P. 1507(d)(1). This language was originally added to implement a statutory requirement to the same effect. See Committee Report at 18 Pa.B. 4239, 4242 (September 17, 1988). Because the 1995 PCRA amendments deleted this requirement, 42 Pa.C.S. § 9546, the Committee agreed to delete the parallel requirement from the rule.

The Rule 1507 Comment has been revised in several ways.

(a) The first paragraph containing rule history has been deleted as no longer necessary.

(b) A cross-reference to 42 Pa.C.S. § 9545(b) has been added to alert the reader to the timing requirements for second and subsequent petitions.

(c) As more fully discussed in the explanation of the Rule 1502 Comment above in Section c (3)(d), the paragraph concerning *Commonwealth v. Lawson* has been replaced by a new paragraph which incorporates the standards for disposition of second and subsequent petitions.

(d) Cross-references to Rule 1508 (Hearing) and to 42 Pa.C.S. § 9543(b) have been added to make it clear that a PCRA petition may be dismissed due to delay in filing only upon a Commonwealth motion to dismiss and only after a hearing.

(e) The paragraph referencing Rule 1508(d) has been deleted as unnecessary, because the provisions of Rule 1507(e), as amended, cover the applicable provisions of Rule 1508(d).

*i. Rule 1508 (Hearing)*

Formerly, Rule 1508(a) only required a hearing on issues of material fact raised by the petition and answer, if any. However, in view of the requirements of 42 Pa.C.S. § 9543(b) that there be a hearing whenever the Commonwealth moves to dismiss a petition due to the defendant's delay in filing the petition, paragraph (a) has been amended to incorporate this requirement.

Paragraph (d) sets forth the actions which the court must take at the conclusion of a hearing held under the rule. Paragraph (d)(1) has been amended to make it clear that the judge must determine all issues raised, not only issues raised by the defendant's petition, but also issues raised by the Commonwealth's answer, and issues raised by the Commonwealth's motion to dismiss, if any.

The requirement in paragraph (d)(2) that the judge state in the order the grounds on which the case was determined has been deleted, because this statutory requirement was deleted when the PCRA was amended in 1995. See 42 Pa.C.S. § 9546(b). Finally, paragraph (d)(3) has been deleted because the Committee's review of its history revealed that it was an anomaly inadvertently carried over from original Rule 1506, adopted in 1968.

The Rule 1508 Comment has been revised in several ways.

(a) The first paragraph, which was intended as an aid to the bench and bar when the rule was new, contains case law concerning what constitutes "material issues" under the rule. The Committee agreed that it was no longer necessary and should therefore be deleted.

(b) Several new paragraphs have been added to the Comment to highlight the 1995 amendments to the PCRA.

(i) The Comment underscores the statutory requirement that there must be a hearing on every Commonwealth motion to dismiss due to delay in the filing of a PCRA petition. See 42 Pa.C.S. § 9543(b).

(ii) A cross-reference to new Rule 1509, which provides the timing requirements for the hearing and disposition of petitions in death penalty cases, has been added.

(iii) The Comment cross-references the express statutory limitations on discovery, 42 Pa.C.S. § 9545(d)(2), and

the exception in the rules for first counseled petitions in death penalty cases, Rule 1502(e)(2).

*j. Rule 1509 (Procedures for Petitions in Death Penalty Cases: Hearing; Disposition)*

In view of the suspension of CURA, and in keeping with the rationale for requiring a Commonwealth answer on the first counseled death penalty petition within 120 days, see Rule 1506(e) and 42 Pa.C.S. § 9574, the Committee concluded that there was a need—for all parties and for the judicial system as a whole—to impose time limits on the disposition of petitions in death penalty cases. To this end, the Committee agreed that there should be a separate rule, Rule 1509, governing hearings and dispositions in death penalty cases. We examined the timing provisions in CURA, 42 Pa.C.S. §§ 9575–9576, and agreed to incorporate similar requirements in new Rule 1509, which applies to first, second, and subsequent petitions in death penalty cases. Accordingly, new Rule 1509 provides the following time frames for death penalty cases.

(a) Pursuant to paragraph (a), the filing of the Commonwealth's answer, or if no answer is required or filed, the expiration of the time limit for filing an answer, triggers the 20-day time limit on the judge's determination concerning whether an evidentiary hearing is required.

(b) If no evidentiary hearing is required, the judge proceeds under paragraph (b), which, except for the oral argument provision in (b)(2), largely parallels Rule 1507(a). Paragraph (b)(2) poses a 20-day limit on the time within which the defendant may respond to a proposed dismissal by filing a request for oral argument. The Committee agreed that 20 days was sufficient time for the defendant to respond to the judge's notice to dismiss.

(c) Paragraph (b)(3) sets forth a 90-day time limit for disposition of the petition under paragraph (b). This time limit is triggered by the judge's notice in paragraph (b)(1), when no oral argument has been requested, or by the date of oral argument, if granted pursuant to paragraph (b)(2).

(d) Paragraph (c) sets forth a 90-day time limit for the disposition of the petition following the evidentiary hearing.

(e) Paragraph (d) cautions that sanctions may be imposed if the judge fails to dispose of the petition within 90 days, as required by paragraphs (b)(3) and (c).

Because Rule 1509 is a timing rule, the Comment explains that the provisions of Rule 1508(c), (d), and (e), concerning the defendant's presence at the hearing and counsel, the judge's responsibilities at the conclusion of the hearing, and notice of appeal rights, apply in death penalty cases when an evidentiary hearing is to be conducted.

*k. Rule [ 1509 ] 1510 (Appeal)*

Former Rule 1509 has been renumbered Rule 1510, and the Comment has been revised to include a cross-reference to Rule 1509(b)(3)(i) for purposes of what constitutes a final order.

[Pa.B. Doc. No. 97-1341. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Amendment of Phila. Civ. R. No. 7109; President Judge General Court Regulation No. 97-02

##### Order

*And Now*, this 8th day of August, 1997, in order to fully implement the aims of the Mental Health Procedures Act of 1976, as amended, *It Is Hereby Ordered, Adjudged and Decreed* that the following provisions of Phila. Civ. R. No. 7109, effective July 1, 1997, are amended as follows:

(1) Subsection (d) is amended to read as follows:

(d) **Form of Applications, Petitions and Certifications.** All Applications, Petitions and Certifications filed pursuant to the Mental Health Procedures Act shall be on forms approved by the Department of Public Welfare. **Provided, however, that the parties shall attach a cover sheet with all Applications, Petitions and Responses in the form set forth hereunder or as modified by the Court from time to time.**

(2) Subsection (e)(3) is amended to read as follows:

(e)(3) **Filing and Service of Petition.** The Petition must be filed with the Prothonotary within 120 hours of commencement of involuntary emergency treatment rendered pursuant to Section 302, and served by the Petitioner as soon as practicable on the person, **his/her attorney, the City Solicitor and the Mental Health Review Officer.**

(3) Subsection (e)(4) is amended to read as follows:

(e)(4) **Scheduling of Conference.** An informal conference shall be **[ scheduled and held ]** listed within 24 hours after the application is filed, **[ and concluded ]** with Court intervention to occur within 120 hours of the commencement of involuntary emergency treatment rendered pursuant to Section 302.

(4) Subsection (f)(1)(D) is amended to read as follows:

(f)(1)(D) **Scheduling of Hearing.** A hearing **[ must be scheduled for a date ]** shall be held not more than five (5) days after the filing of the Petition.

(5) Subsection (f)(1)(F)(iv) is amended to read as follows:

(f)(1)(F)(iv) Testimony by a physician who examined the person **[ ; ]**.

(6) Subsection (f)(1)(F)(v) is deleted in its entirety.

(7) Subsection (f)(2)(F)(iii) is amended to read as follows:

(f)(2)(F)(iii) Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment **[ , even if such information is normally excludable under the rules of evidence, provided the information is found to be reliable. ]**

(8) Subsection (g)(4) is amended to read as follows:

(g)(4) **Scheduling of Hearing.** A hearing [ **must be scheduled and** ] shall be held not more than five (5) days after the filing of the Petition.

(9) Subsection (g)(6)(D) is amended to read as follows:

(g)(6)(D) [ **Any other relevant information, even if normally excludable under the rules of evidence, provided the information is found to be reliable.** ] **Any other information relevant to the issue of whether the person is severely mentally disabled and in need of treatment.**

(10) Subsection (h)(2)(B) is amended to read as follows:

(h)(2)(B) transfers which constitute a greater restraint cannot be accomplished unless **before the expiration of the period of involuntary treatment a petition is filed as provided in this rule and** the Mental Health Review Officer [ **holds** ], after a hearing, [ **and** ] finds the transfer to be necessary and appropriate.

(11) Subsection (i)(3) is amended to read as follows:

(i)(3) **Preparation of Record for the Court.** The Mental Health Review Officer shall **produce the record of the proceedings held by the Mental Health Review Officer [ cause the transcription of the underlying proceedings for presentation ]** to the Review Judge no later than the hearing date, and shall ensure that the evidence relied upon by the Mental Health Review Officer is available to the Review Judge.

(12) Subsection (k) is amended to read as follows:

(k) **Appointment of Counsel.** [ **The Public Defender is appointed** ] **The President Judge, or his designee, shall appoint counsel** to represent all persons who may be subject to involuntary medical examination and treatment, unless it appears that any such person can afford, and desires to have, private representation. [ **In the event a conflict prevents the Public Defender from representing any eligible person, conflict counsel shall be appointed as directed by the President Judge.** ]

This General Court Regulation is issued in accordance with Phila. Civ.R.No. \*51 and Pa.R.C.P. 239 and shall become effective immediately. As required by Pa.R.C.P. No. 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library, and the law library for the First Judicial District.

ALEX BONAVIDACOLA,  
*President Judge*



First Judicial District of Pennsylvania  
Court of Common Pleas  
Philadelphia County  
**Mental Health Procedures Act**

**In Re:**

NAME	
SS #	DATE OF BIRTH
ADDRESS	

<i><b>Docket Number</b></i>
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PETITIONER	
FACILITY	
TYPE OF FILING	
<input type="checkbox"/> 303 <input type="checkbox"/> 304(b) <input type="checkbox"/> 304(c) <input type="checkbox"/>	<input type="checkbox"/> 305 <input type="checkbox"/> 306 <input type="checkbox"/> Petition for Review

Instant Commitment Under Section _____
Expires on _____ at _____ AM/PM.
Requested hearing date: _____
Time: _____
Location: _____

NAME OF PETITIONER'S ATTORNEY	
ADDRESS	
PHONE	SUPREME COURT I.D. NO.
SIGNATURE	

NAME OF PERSON/PATIENT'S ATTORNEY	
ADDRESS	
PHONE	SUPREME COURT I.D. NO.
SIGNATURE	

**Order**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, upon consideration of the attached Application or Petition, an Informal Conference or Hearing shall be held by a Mental Health Review Officer pursuant to Phila. R. Civ. P. No. 7109 on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_ at \_\_\_\_\_ AM/PM at the following location:

- ☐ Albert Einstein Medical Center  
☐ Allegheny University Hospital  
☐ Girard Medical Center  
☐ \_\_\_\_\_

- ☐ Norristown State Hospital  
☐ EPPI  
☐ Kirkbride Center

Petitioner shall serve all interested parties.

By the Court:

  
 Alex Bonavitacola  
 President Judge, Court of Common Pleas

**INSTRUCTIONS**

1. The original Application, Petition and Cover Sheet must be filed with the Prothonotary's Office, First Filing, Room 278 City Hall. Service copies shall also be filed with the Prothonotary who will attest and return them to the Petitioner for service on all interested parties. No Filing Fee shall be payable.

2. Upon filing of the Application or Petition, the Court will enter an Order listing a conference or hearing. The Petitioner must serve a copy of the Application or Petition and Order on all interested parties: the Patient, his/her attorney, persons designated to be kept informed as provided in Section 302(c), the City Solicitor and the Mental Health Review Officer, as required by the Mental Health Procedures Act of 1976 as amended, and Phila. R.C.P. No. 7109. Petitions for Review shall be forthwith served on the City Solicitor, the patient, the patient's attorney of record, the Mental Health Review Officer and the Court. An Affidavit of Service shall be filed on the hearing date.

3. A hearing or conference will be listed or held as follows:

(a) within 24 hours after the filing of an Application pursuant to Section 303 of the Act; provided, however, that Applications filed on Friday will likely be listed for the next business day;

(b) within 5 days after the filing of a Petition pursuant to Sections 304, 305 and 306 of the Act;

(c) within 3 days after a Petition for Review is filed.

**Location of Mental Health Hearing Sites**

Albert Einstein Medical Center  
5583 Park Avenue  
Philadelphia, PA 19141  
(215) 456-7095

Allegheny University Hospital  
Broad and Vine Streets  
11th Floor—South  
Philadelphia, PA 19102  
(215) 762-7403

Girard Medical Center  
8th Street and Girard Avenue  
Philadelphia, PA 19122  
(215) 787-2048

Norristown State Hospital  
1001 Stergiere, Bldg. 10 and 52  
Norristown, PA 19406  
(610) 270-1357

EPPI  
3200 Henry Avenue  
Main Building  
Philadelphia, PA 19129  
(215) 842-4377

Kirkbride Center  
111 N. 49th Street  
Philadelphia, PA 19139  
(215) 471-2839

*Please Note: The Information Contained Herein May Change Without Notice (8/97)*

[Pa.B. Doc. No. 97-1342. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### CUMBERLAND COUNTY

#### Enactment of Rule Governing Approval of Police Complaints and Arrest Warrant Affidavits; 97-239 Miscellaneous

##### Order of Court

*And Now*, this 30th day of July, 1997, *whereas*, the District Attorney has filed a Certification with the Court pursuant to and in compliance with, Pa.R.Crim.P. 107, it is hereby *Ordered and Directed* that Rule 107.1 of the Cumberland County Local Rules of Court be enacted, said rule shall be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin* in accordance with Pa.R.Crim.R. 6, shall apply to all police complaints and arrest warrant affidavits filed on or after said date and shall read as follows:

##### **Rule 107.1. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

The District Attorney of Cumberland County having filed a certification pursuant to Pa.R.Crim.P. 107, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging one (1) or more of the following offenses:

(a) All offenses set forth in Chapter 25 of the Pennsylvania Crimes Code entitled "Criminal Homicide;"

(b) The following offenses set forth in Chapter 27 of the Pennsylvania Crimes Code entitled "Assault:"

(i) Aggravated Assault in violation of 18 Pa.C.S. § 2702;

(ii) Assault by Prisoner in violation of 18 Pa.C.S. § 2703;

(iii) Assault by Life Prisoner in violation of 18 Pa.C.S. § 2704;

(iv) Stalking (second or subsequent offense) in violation of 18 Pa.C.S. § 2709(b);

(v) Ethnic Intimidation in violation of 18 Pa.C.S. § 2710;

(vi) Neglect of care-dependent person (serious bodily injury suffered) in violation of 18 Pa.C.S. § 2713;

(c) The following offenses set forth in Chapter 29 of the Pennsylvania Crimes Code entitled "Kidnapping;"

(i) Kidnapping in violation of 18 Pa.C.S. § 2901;

(ii) Interference with Custody of Children in violation of 18 Pa.C.S. § 2904;

(iii) Interference with Custody of Committed Persons in violation of 18 Pa.C.S. § 2905;

(iv) Criminal Coercion in violation of 18 Pa.C.S. § 2906;

(v) Disposition of Ransom in violation of 18 Pa.C.S. § 2907;

(vi) Concealment of Whereabouts of a Child in violation of 18 Pa.C.S. § 2909;

(vii) Luring a Child into a Motor Vehicle in violation of 18 Pa.C.S. § 2910;

(d) The following offenses set forth in Chapter 31 of the Pennsylvania Crimes Code entitled "Sexual Offenses:"

(i) Rape in violation of 18 Pa.C.S. § 3121;

(ii) Statutory Sexual Assault in violation of 18 Pa.C.S. § 3122.1;

(iii) Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S. § 3123;

(iv) Sexual Assault in violation of 18 Pa.C.S. § 3124.1;

(v) Aggravated Indecent Assault in violation of 18 Pa.C.S. § 3125;

(vi) Indecent Assault (if victim less than 16 years of age and/or impaired by mental disability or intoxicants) in violation of 18 Pa.C.S. § 3126;

(vii) Indecent Exposure (if victim present less than 16 years of age) in violation of 18 Pa.C.S. § 3127;

(e) All offenses set forth in Chapter 32 of the Pennsylvania Crimes Code entitled "Abortion;"

(f) The following offenses set forth in Chapter 33 of the Pennsylvania Crimes Code entitled "Arson, Criminal Mischief and Other Property Destruction:"

(i) Arson and Related Offenses in violation of 18 Pa.C.S. § 3301;

(ii) Causing or Risking Catastrophe in violation of 18 Pa.C.S. § 3302;

(iii) Criminal Mischief (pecuniary loss in excess of \$5,000) in violation of 18 Pa.C.S. § 3304;

(iv) Institutional Vandalism (pecuniary property loss in excess of \$5,000) in violation of 18 Pa.C.S. § 3307;

(v) Agricultural Vandalism (pecuniary loss in excess of \$5,000) in violation of 18 Pa.C.S. § 3309;

(g) The following offenses set forth in Chapter 35 of the Pennsylvania Crimes Code entitled "Burglary and Other Criminal Intrusion:"

(i) Burglary in violation of 18 Pa.C.S. § 3502;

(ii) Criminal Trespass in violation of 18 Pa.C.S. § 3503(a)(1)(i) and (ii);

(h) All offenses set forth in Chapter 37 of the Pennsylvania Crimes Code entitled "Robbery;"

(i) The following offenses set forth in Chapter 39 of the Pennsylvania Crimes Code entitled "Theft and Related Offenses;"

(i) Theft by Unlawful Taking or Disposition (over \$25,000 and/or committed during disaster as defined in 18 Pa.C.S. § 3903 and/or the property is a Motor Vehicle as defined by 75 Pa.C.S. § 102 and/or the property is a firearm as defined by 18 Pa.C.S. § 6102(2)) in violation of 18 Pa.C.S. § 3921;

(ii) Theft by Deception (over \$25,000 and/or victim over 60 years of age and/or the property is a Motor Vehicle as defined by 75 Pa.C.S. § 102 and/or the property is a firearm as defined by 18 Pa.C.S. § 6102(2)) in violation of 18 Pa.C.S. § 3922;

(iii) Theft by Extortion (over \$2,000 and/or the property is a Motor Vehicle as defined by 75 Pa.C.S. § 102 and/or the property is a firearm as defined by 18 Pa.C.S. § 6102(2)) in violation of 18 Pa.C.S. § 3923;

(iv) Theft of Property Lost, Mislaid or Delivered by Mistake (over \$25,000 and/or the property is a Motor Vehicle as defined by 75 Pa.C.S. § 102 and/or the property is a firearm as defined by 18 Pa.C.S. § 6102(2)) in violation of 18 Pa.C.S. § 3924;

(v) Theft by Receiving Stolen Property (over \$25,000 and/or committed during disaster as defined in 18 Pa.C.S. § 3903 and/or the receiver is in the business of buying or selling stolen property and/or the property is a Motor Vehicle as defined by 75 Pa.C.S. § 102 and/or the property is a firearm as defined by 18 Pa.C.S. § 6102(2)) in violation of 18 Pa.C.S. § 3925;

(vi) Theft of Services (over \$25,000) in violation of 18 Pa.C.S. § 3926;

(vii) Theft by Failure to Make Required Disposition of Funds Received (over \$25,000) in violation of 18 Pa.C.S. § 3927;

(viii) Unauthorized Use of Automobile and Other Vehicles (committed during disaster as defined in 18 Pa.C.S. § 3903) in violation of 18 Pa.C.S. § 3928;

(ix) Retail Theft (committed during disaster as defined in 18 Pa.C.S. § 3903) in violation of 18 Pa.C.S. § 3929;

(x) Theft of Trade Secrets in violation of 18 Pa.C.S. § 3930;

(xi) Theft of Leased Property (over \$25,000) in violation of 18 Pa.C.S. § 3932;

(j) The following offenses set forth in Chapter 41 of the Pennsylvania Crimes Code entitled "Forgery and Fraudulent Practices:"

(i) Fraudulent Destruction, Removal or Concealment of Recordable Instruments in violation of 18 Pa.C.S. § 4103;

(ii) Tampering with Records or Identification in violation of 18 Pa.C.S. § 4104;

(iii) Deceptive or Fraudulent Business Practices in violation of 18 Pa.C.S. § 4107;

(iv) Commercial Bribery and Breach of Duty to Act Disinterestedly in violation of 18 Pa.C.S. § 4108;

(v) Rigging Publicly Exhibited Contest in violation of 18 Pa.C.S. § 4109;

(vi) Defrauding Secured Creditors in violation of 18 Pa.C.S. § 4110;

(vii) Fraud in Insolvency in violation of 18 Pa.C.S. § 4111;

(viii) Receiving Deposits in a Failing Financial Institution in violation of 18 Pa.C.S. § 4112;

(ix) Misapplication of Entrusted Property and Property of Government or Financial Institution in violation of 18 Pa.C.S. § 4113;

(x) Securing Execution of Documents by Deception in violation of 18 Pa.C.S. § 4114;

(xi) Copying; Recording Devices in violation of 18 Pa.C.S. § 4116;

(xii) Insurance Fraud in violation of 18 Pa.C.S. § 4117;

(xiii) Washing Vehicle Titles in violation of 18 Pa.C.S. § 4118;

(xiv) Trademark Counterfeiting in violation of 18 Pa.C.S. § 4119;

(k) The following offenses set forth in Chapter 43 of the Pennsylvania Crimes Code entitled "Offenses Against the Family:"

(i) Bigamy in violation of 18 Pa.C.S. § 4301;

(ii) Incest in violation of 18 Pa.C.S. § 4302;

(iii) Concealing Death of Child Born Out of Wedlock in violation of 18 Pa.C.S. § 4303;

(iv) Dealing in Infant Children in violation of 18 Pa.C.S. § 4305;

(l) All offenses set forth in Chapter 47 of the Pennsylvania Crimes Code entitled "Bribery and Corrupt Influence;"

(m) The following offenses set forth in Chapter 49 of the Pennsylvania Crimes Code entitled "Falsification and Intimidation:"

(i) Perjury in violation of 18 Pa.C.S. § 4902;

(ii) Witness or Informant Taking Bribe in violation of 18 Pa.C.S. § 4909;

(iii) Tampering With or Fabricating Physical Evidence in violation of 18 Pa.C.S. § 4910;

(iv) Tampering With Public Records or Information in violation of 18 Pa.C.S. § 4911;

(v) Impersonating a Public Servant in violation of 18 Pa.C.S. § 4912;

(vi) Impersonating a Notary Public in violation of 18 Pa.C.S. § 4913;

(vii) Intimidation of Witnesses or Victims (if graded a felony) in violation of 18 Pa.C.S. § 4952;

(viii) Retaliation Against Witness or Victim in violation of 18 Pa.C.S. § 4953;

(n) All offenses set forth in Chapter 51 of the Pennsylvania Crimes Code entitled "Obstructing Governmental Operations;"

(o) All offenses set forth in Chapter 53 of the Pennsylvania Crimes Code entitled "Abuse of Office;"

(p) The following offenses set forth in Chapter 55 of the Pennsylvania Crimes Code entitled "Riot, Disorderly Conduct and Related Offenses:"

(i) Riot in violation 18 Pa.C.S. § 5501;

(ii) Abuse of Corpse in violation of 18 Pa.C.S. § 5510;

(iii) Lotteries, Etc. in violation of 18 Pa.C.S. § 5512;

(iv) Gambling Devices, Gambling, Etc. in violation of 18 Pa.C.S. § 5513;

(v) Pool Selling and Bookmaking in violation of 18 Pa.C.S. § 5514;

(vi) Prohibiting of Paramilitary Training in violation of 18 Pa.C.S. § 5515;

(q) All offenses set forth in Chapter 57 of the Pennsylvania Crimes Code entitled "Wiretapping and Electronic Surveillance;"

(r) The following offenses set forth in Chapter 59 of the Pennsylvania Crimes Code entitled "Public Indecency:"

(i) Prostitution and Related Offenses (if graded a felony) in violation of 18 Pa.C.S. § 5902;

(ii) Obscene and Other Sexual Material and Performances in violation of 18 Pa.C.S. § 5903;

(s) Certain Bullets Prohibited in violation of 18 Pa.C.S. § 6121;

(t) The following offenses set forth in Chapter 63 of the Pennsylvania Crimes Code entitled "Minors:"

(i) Corruption of Minors in violation of 18 Pa.C.S. § 6301;

(ii) Sexual Abuse of Children in violation of 18 Pa.C.S. § 6312;

(u) The following prohibited acts set forth in "The Controlled Substance, Drug Device and Cosmetic Act:"

(i) Acquisition of Controlled Substance by Fraud (Narcotics of Schedule I and II, Cocaine, PCP, or Methamphetamine/Phencyclidine and/or Amphetamine, if the police officer has reason to believe that the weight of the substance involved is greater than 2.5 grams and/or Marijuana, if the police officer has reason to believe that the weight of the Marijuana involved is greater than 10 pounds or involved more than 21 live plants and/or Methaqualone, if the police officer has reason to believe that the offense involves more than 50 tablets or 25 grams) in violation of 35 P. S. § 780-113(a)(12);

(ii) Delivery by Practitioner (Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine/Phencyclidine, and/or Amphetamine, if the police officer has reason to believe that the weight of the substance involved is greater than 2.5 grams and/or Marijuana, if the police officer has reason to believe that the weight of the Marijuana involved is greater than 10 pounds or involved more than 21 live plants and/or Methaqualone, if the police officer has reason to believe the offense involves more than 50 tablets or 25 grams and/or the offense involved the administration, dispensing, delivery, gift or prescription to a minor under the age of 18 and/or the police officer has reason to believe the offense occurred within 1,000 feet of a public or private elementary or secondary school) in violation of 35 P. S. § 780-113(a)(14);

(iii) Manufacture, Delivery, or Possession with Intent to Deliver (Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine/Phencyclidine, and/or Amphetamine, if the police officer has reason to believe that the weight of the substance involved is greater than 2.5 grams and/or Marijuana, if the police officer has reason to believe that the weight of the Marijuana involved is greater than 10 pounds or involved more than 21 live plants and/or Methaqualone, if the police officer has reason to believe that the offense involves more than 50 tablets or 25 grams and/or the offense involved manufacture, delivery or possession with intent to deliver to a minor under the age of 18 and/or the police officer has reason to believe the offense occurred within 1,000 feet of a public or private elementary or secondary school) in violation of 35 P. S. § 780-113(a)(30);

(iv) Possession of Anabolic Steroids or Substance Labeled as a Dispensed Prescription (Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine/Phencyclidine, and/or Amphetamine, if the police officer has reason to believe that the weight of the substance involved is greater than 2.5 grams and/or Marijuana, if the police officer has reason to believe that the weight of the Marijuana involved is greater than 10 pounds or involved more than 21 live plants and/or Methaqualone, if the police officer has reason to believe that the offense involves more than 50 tablets or 25 grams) in violation of 35 P. S. § 780-113(a)(37);

(v) Manufacture of Amphetamines in violation of 35 P. S. § 780-113(k);

(v) Transports, etc. Hazardous Waste Without Permit in violation of "Solid Waste Management Act," 35 P. S. § 6018.101—6018.1002;

(w) Knowingly Releases Hazardous Air Pollutant in violation of "Air Pollution Control Act," 35 P. S. § 691.1—691.1001;

(x) Homicide by Vehicle in violation of 75 Pa.C.S. § 3732;

(y) Homicide by Vehicle While Driving Under the Influence in violation of 75 Pa.C.S. § 3735;

(z) Aggravated Assault by Vehicle While Driving Under the Influence in violation of 75 Pa.C.S. § 3735.1;

(aa) Accidents Involving Death or Personal Injury (if the officer has reason to believe that the victim has suffered or may suffer serious bodily injury as defined in the statute) in violation of 75 Pa.C.S. § 3742;

(bb) Corrupt Organizations in violation of 18 Pa.C.S. § 911;

(cc) Possession of Weapon on School Property in violation of 18 Pa.C.S. § 912;

(dd) Possession of Firearm or Other Dangerous Weapon in Court Facility in violation of 18 Pa.C.S. § 913;

(ee) Attempt, Solicitation, or Conspiracy to Commit any offense which itself requires the approval of the Attorney for the Commonwealth prior to filing, 18 Pa.C.S. § 901, 902 and 903

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an Attorney for the Commonwealth prior to filing.

It is *Further Ordered and Directed* that the Cumberland County Prothonotary file seven (7) certified copies of the rule with the Administrative Office of the Pennsylvania Courts, distribute two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one (1) certified copy with the Criminal Procedural Rules Committee of the Pennsylvania Supreme Court.

It is *Further Ordered and Directed* that a copy of this rule shall be kept continuously available for public inspection and copying in the office of the Cumberland County Prothonotary and the Cumberland County Clerk of Court.

*By the Court*

HAROLD E. SHEELY,  
*President Judge*

[Pa.B. Doc. No. 97-1343. Filed for public inspection August 22, 1997, 9:00 a.m.]

## CUMBERLAND COUNTY

### Enactment of Rule Governing Approval of Search Warrant Applications; 97-240 Miscellaneous

#### Order of Court

And Now, this 30th day of July, 1997, *whereas*, the District Attorney has filed a Certification with the Court pursuant to and in compliance with, Pa.R.Crim.P. 2002A, it is hereby *Ordered and Directed* that Rule 2002A.1 of the Cumberland County Local Rules of Court be enacted, said rule shall be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin* in accordance

with Pa.R.Crim.R. 6, shall apply to all search warrant applications filed on or after said date and shall read as follows:

#### Rule 2002A.1. Approval of Search Warrant Applications by Attorney for the Commonwealth.

The District Attorney of Cumberland County having filed a certification pursuant to Pa.R.Crim.P. 2002A, all search warrants, as defined in the Rules of Criminal Procedure, shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an Attorney for the Commonwealth prior to filing.

It is *Further Ordered and Directed* that the Cumberland County Prothonotary file seven (7) certified copies of the rule with the Administrative Office of the Pennsylvania Courts, distribute two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one (1) certified copy with the Criminal Procedural Rules Committee of the Pennsylvania Supreme Court.

It is *Further Ordered and Directed* that a copy of this rule shall be kept continuously available for public inspection and copying in the office of the Cumberland County Prothonotary and the Cumberland County Clerk of Court.

*By the Court*

HAROLD E. SHEELY,  
*President Judge*

[Pa.B. Doc. No. 97-1344. Filed for public inspection August 22, 1997, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated July 10, 1997, 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 August 9, 1997 for Compliance Group 3 due *December 31, 1996*.

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

EVAN A. BAKER  
Morristown, NJ

MYRALINN BEAVER  
Del Mar, CA

KRISTINE M. BERGMAN  
Howell, NJ

ANDREW BOYAR  
Eldred, NY

JAMES RUDOLPH BOYKINS  
Washington, DC

PATRICK J. BRADSHAW  
New Brunswick, NJ

MICHAEL J. BROWN  
Haddon Heights, NJ

THOMAS EDWARD BUCK  
Wheeling, WV

PETER S. BURCAT  
San Jose, CA

DAVID LOWELL CHAMPI  
Houston, TX

SUSAN DIANE CHENOWITH  
Lady Lake, FL

BARRY EDWARD COHEN  
Beverly Hills, CA

JAMES J. COOK  
Monterey, CA

PAUL N. DALY  
Lawrenceville, NJ

PETER J. DAWSON  
Magnolia, NJ

JAMES STEPHEN DeSORDO  
Manassas, VA

CARLO VALERIANO DiFLORIO  
Washington, DC

JOAN CAMPION FITZPATRICK  
Chicago, IL

SAMUEL FOLEY, JR.  
Cherry Hill, NJ

ERYK A. GAZDZINSKI  
Voorhees, NJ

ANDREW JOSEPH GENNA  
Cornwall, NY

LEONARD L. GRASSO, JR.  
Sicklerville, NJ

FRANCOISE MARIE HAAN  
Washington, DC

BRIDGETTE HARRIS  
Washington, DC

LISA YVETTE HENDERSON  
Atlanta, GA

JAMES W. HUNTER  
Fairfax, VA

CAROLE D. IANNELLI  
Atlantic City, NJ

JOHN A. MURPHY JONES  
Honolulu, HI

DAVID E. KAPUR  
Endicott, NY

STEPHEN RUSSELL KASMAR  
Cherry Hill, NJ

PATRICK GERARD KAVANAGH  
Washington, DC

AUGUST EVERETT KNESTAUT  
Turnersville, NJ

PAMELA K. LACOVICZ  
Wheeling, WV

ROBERT LANDEL  
Franklin Lakes, NJ

ANTHONY LANDOLFI  
Mantua, NJ

SYLVIA J. LANG  
Washington, DC

LINDA S. LEPARULO  
Warren, NJ

JOHN PAUL LEWIS, JR.  
Dallas, TX

ALFRED M. LOW-BEER  
Kendall Park, NJ

PAUL LOWENSTEIN  
Morristown, NJ

JOHN E. LUBY, JR.  
Williamstown, NJ

JOHN L. McDERMOTT  
Millburn, NJ

KEVIN JOHN McGEE  
Union, NJ

ANTOINETTE McLAUGHLIN  
Pitman, NJ

KENNETH L. MOIR, JR.  
Ann Arbor, MI

WILLIAM F. MONGAN  
Wilmington, DE

WILLIAM R. MUENCH  
Jackson, NJ

RICHARD MICHAEL MULVIHILL  
Hackensack, NJ

SHARI B. NEIFELD  
St. Petersburg, FL

JONATHAN P. NEIPRIS  
Wilmington, DE

JEFFREY S. NEWMAN  
Concord, NH

WILLIAM B. NOLL  
Hockessin, DE

DEMETRIOS PAVLOU  
West Orange, NJ

MICHAEL E. PETRELLA  
Moorestown, NJ

NEAL A. PHILLIPS  
Wilmington, DE

KARA M. RAMOS  
Miami, FL

CHRISTOPHER L. ROACH  
Palatine, IL

PAUL JOSEPH RUSSONIELLO  
Cherry Hill, NJ 08002

ANN TYBURSKI SCUCCI  
Denville, NJ

HAL JONATHAN SHAFFER  
Cherry Hill, NJ

MICHAEL BARRY SHAPANKA  
Neshanic Station, NJ

KENNETH H. SHEPHERD  
Washington, DC

STUART L. SOBERMAN  
Washington, DC

ERIC JOSEPH SZOKE  
Bedminster, NJ

JEFFREY JAY WALDMAN  
Linwood, NJ

RENE LEA TODD  
San Francisco, CA

JAMES G. WALSH III  
Boston, MA

MICHAEL WAYNE WARREN  
Brooklyn, NY

DANIEL B. WELCH  
Washington, DC

BRETT THOMAS WHITESIDE  
Burlington, NJ

MARC KEVIN WILKERSON  
Emeryville, CA

ROBERT LEE WITEK  
Long Branch, NJ

MARK KENNETH YOUNG  
Holmdel, NJ

KENT JAY YOUNGBERG  
New York, NY

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 97-1345. Filed for public inspection August 22, 1997, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 28—HEALTH AND SAFETY

### DEPARTMENT OF HEALTH [28 PA. CODE CH. 23] School Immunizations

The Department of Health (Department) and the State Advisory Health Board (Board) are amending Chapter 23, Subchapter C (relating to immunization) by adding hepatitis B to the list of diseases requiring proof of immunization for entrance to school and by amending the requirements for vaccination against polio, measles (rubeola), tetanus, diphtheria, mumps and rubella (German measles) to read as set forth in Annex A. There are, additionally, several miscellaneous amendments to existing school immunization regulations, such as allowing for schools to store immunization data electronically.

#### *Summary and Purposes*

Subchapter C is amended by dividing school immunization requirements into those required for entrance into school for the first time, those required for attendance at school (any grade) and those which will be required for attendance beginning the school year 2000/2001. The regulations add hepatitis B to the list of diseases which require immunization for entry into school. This addition is required by a recently-enacted statute, the Hepatitis B Prevention Act (act) (35 P. S. §§ 630.1—630.3). That act requires that standards for hepatitis B immunization be made a condition for entry into school effective for the school year beginning in August/September 1997. The regulation requires all first-time entrants to school to show proof of having had three properly-spaced doses of hepatitis B vaccine.

The Department decided to take this opportunity to also update the other, outdated school immunization regulations to conform with the recommendations of the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services, the American Academy of Pediatrics and the American Academy of Family Physicians. To that end, the Department will require that children who are entering school for the first time have received the following: four or more doses of diphtheria toxoid; four or more doses of tetanus toxoid; three or more doses of polio vaccine; and two doses of measles (rubeola) vaccine. These requirements will also be effective for the upcoming school year, beginning in August/September 1997.

Beginning in the school year 2000/2001, the Department will require a second dose of measles (rubeola) vaccine or proof of measles immunity for attendance at school in all grades. Information previously recorded and stored by schools on the paper "Certificate of Immunization" may now be recorded and maintained in a computer data base. Children who attend school in home education programs will now be specifically included in the list of categories of persons who are affected by these regulations. The Department now recommends the administration of combined vaccines for measles, mumps and rubella (MMRII) and for diphtheria, tetanus and pertussis (DTP), rather than a single antigen vaccine.

Under section 204(3) of the act July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)) (CDL), the Department and the Board are dispensing with notice of proposed rule-making and the procedures for adopting final form regulations, as specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202). The Department and the Board find that those procedures are, in the circumstances, contrary to the public interest because the vaccinations required by the regulations are either required by law (hepatitis B) or strongly recommended by the highest and most qualified relevant government and professional bodies: 1) the ACIP; 2) the American Academy of Pediatrics; and 3) the American Academy of Family Medicine. Furthermore, there is a significant time deadline involved. The act requires hepatitis B immunization for children who are entering school in August/September 1997. The sooner Pennsylvania schoolchildren are appropriately immunized, the better protected they will be against highly contagious diseases which can have serious, lifelong consequences, including acutely disabling illness, which requires both the child and a parent or other adult to stay home. It is now well known, for example, that requiring only one dose of measles (rubeola) vaccine, as is presently the case in this Commonwealth, can lead to a significant number of measles cases, as one dose is insufficient to provide continued immunity to 5 of every 100 vaccine recipients. Medical knowledge changes periodically and the Department's regulations must be updated in a timely fashion to reflect new and important information.

A brief discussion of each affected section follows:

§ 23.81. *Purpose and scope.* The category of children who attend school at home is specifically included in the scope of the regulations under the rubric "home education programs." The term "home education programs" appears in this rulemaking wherever there is a reference to categories of children who attend school. See, for example, § 23.83(a).

§ 23.82. *Definitions.* The definition for "certificate of immunization" is expanded to include the option of schools maintaining immunization information in a computer database.

§ 23.83. *Immunization requirements.* The current regulation, as that portion is revised, is presented in subsection (a), which pertains to immunization required as a condition for attendance at school. For polio vaccination, the Department now requires three doses of either oral polio vaccine or enhanced inactivated polio vaccine, but if a child received any doses of inactivated polio vaccine before 1988, a fourth dose of inactivated vaccine is required. The fourth dose of inactivated polio vaccine is required because of evidence that this vaccine, in the form administered before 1988, is less effective in achieving lasting protection against polio.

For measles (rubeola), mumps and rubella (German measles) immunizations, the Department recommends the combined MMRII vaccine instead of single antigen vaccines, to avoid placing the unnecessary burden of three times the number of injections, with the attendant risk of noncompliance and decreased protection, increased expense, and additional suffering of the recipient children and their caregivers.



Subsection (b) is new and pertains to immunizations required as a condition for entry into school. It provides that three properly-spaced doses of hepatitis B vaccine are required for entry to school for the first time, to comply with the act. It also requires an additional dose of both diphtheria and tetanus toxoid, with one dose administered on or after the fourth birthday, to meet the recommendations of the CDC and relevant professional organizations. The Department is recommending that a combined vaccine, DTP, be administered, for the same reasons cited in the discussion of subsection (a).

Three or more properly spaced doses of any combination of oral polio vaccine or enhanced inactivated polio vaccine are required, to meet the recommendations of the CDC and relevant professional organizations.

The Department is requiring an additional dose of measles (rubeola) vaccine, with the first dose administered at 12 months of age or older, or a history of measles immunity proved by serological evidence, to improve the status of schoolchildren immunity, thereby increasing the percentage of children who will be protected from this disease. This section meets the recommendations of the CDC and relevant professional organizations. The Department also recommends that a combined vaccine be used, the MMRII vaccine, rather than a single antigen vaccine, for the same reasons cited previously.

Subsection (c) is also new and pertains to immunizations required as a condition for attending school beginning in the school year 2000/2001. It requires that all children who attend school, beginning in the school year 2000/2001, have a second dose of measles (rubeola) vaccine or have a proved history of measles immunity. The first dose of measles vaccine must be administered at age 12 months or after. The Department is making this requirement to increase the number of children protected against measles (rubeola), to make sure this sector of the population is protected well into adulthood, and to comply with the recommendations of the CDC and relevant professional organizations. The Department recommends that a combined measles vaccine be used, the MMRII vaccine, rather than a single antigen vaccine, for the same reasons cited previously.

Sections 23.85 and 23.87 (relating to responsibilities of schools and school administrators; and responsibilities of the Department) are being changed to allow for contemporary methods of capturing and storing information, and to save money and promote efficiency. Section 23.85 (a), (e) and (f) and § 23.87 (b) are amended by adding the option of allowing schools to record and maintain immunization information in a computer database. Instead of the paper certificate of immunization, previously required by § 23.85 (f), the amendments will permit schools to issue a computer-generated facsimile of the certificate of immunization.

#### *Fiscal Impact*

The fiscal impact resulting from these amendments will be limited because most children who are entering school for the first time have already been appropriately immunized. In the longer term, the fiscal impact, although difficult to measure, should be positive because of the savings resulting from better health, more productive use of time and lower medical costs which result by decreasing the numbers of children and adults who contract hepatitis B, polio, measles (rubeola), rubella (German measles), mumps, diphtheria, tetanus and pertussis (whooping cough). The amendments add three doses of hepatitis B vaccine and one dose each of measles, diph-

theria and tetanus vaccines, and in some cases, one dose of polio vaccine to school entry and attendance requirements.

Hepatitis B vaccine was added in 1991 to the Recommended Childhood Immunization Schedule, to be given routinely to all normal infants and children. For the past 4 years, hepatitis B vaccine has been provided through the public clinics in the State to all babies born in this Commonwealth. According to the latest National Immunization Survey (NIS) conducted by the CDC, 60% of 2-year old children in this Commonwealth have received three doses of hepatitis B vaccine. The Department estimates that at least 70% of the children affected by these amendments (children who are about 5 years old) have received the required doses of hepatitis B vaccine.

The CDC and the American Academy of Pediatrics have recommended since 1989 that all children 1 year of age and older in the United States should receive two doses of MMRII vaccine (a combined vaccine for measles, mumps and rubella), unless there is a medical contraindication. Two doses of MMRII have routinely been administered to children at State clinics since 1990, yet the requirements for admission to school have not changed. According to the latest NIS surveys published by the CDC, 93% of 2-year old children in this Commonwealth have received at least one dose of MMRII vaccine. The Department estimates that at least 70% of the children affected by these regulations have received two doses of MMRII vaccine. By the school year 2000/2001, when students in all grades will be required to have received two doses of MMRII vaccine, nearly all children will be immunized when they come to school.

The addition of a fourth dose to the requirement for diphtheria and tetanus vaccines should have a similarly minimal cost to the public and a positive long-term fiscal impact. The combined DTP (diphtheria, tetanus and pertussis) vaccine has been available to the general public for over 30 years. Five doses are now generally recommended to be administered from 2 months to 4 years of age. The latest NIS results show 83% of 2-year olds in this Commonwealth have had four doses of DTP vaccine. The Department estimates that at least 90% of new school students will have had the required four doses.

It is unlikely that all persons affected by these amendments, who do not already have the additionally required vaccines, will opt to receive them from public clinics. If they do, however, the total fiscal impact on the Department is estimated to be \$2.1 million. The most likely scenario is this: the parents of 15,000 affected children will have to pay about \$200 each (or a total of \$3 million) to their physicians to receive the additional vaccines required. The Department will provide any extra vaccines needed to the remaining 30,000 affected children for a cost of approximately \$1.4 million.

Some additional assumptions have been made in calculating the costs resulting from these regulations. If a child is vaccinated by a private physician, it will cost about \$150 for the three doses of hepatitis B vaccine and \$50 for each dose of MMRII vaccine. The cost to the Department of these vaccines, if given in public clinics, is \$23 for all three doses of hepatitis B vaccine, \$16 for one dose of MMRII vaccine and \$6 for one dose of DTP vaccine. Typically, 10—15% of the Commonwealth's children receive vaccines from public clinics. Just in terms of the cost of the Department's disease control interventions when there is an outbreak of one of these diseases in the school population, the benefits of these amendments would negate the costs of immunization in only 2 to 3

years. In terms of the bigger picture, however, immunizations are one of the most cost-beneficial medical procedures available. For example, every \$1 spent on purchasing and administering childhood vaccines saves an average of \$14 in physician and hospital fees, laboratory costs and other medical expenses. If indirect cost savings are considered, such as health effects, productive time (or lost work time), and medical costs which result by decreasing the numbers of children and adults who contract hepatitis B, polio, measles (rubeola), rubella (German measles), mumps, diphtheria, tetanus and pertussis (whooping cough), then the overall benefit of immunization would be considerably higher.

The vaccines required by these amendments are safe and effective; they are available at no cost or low cost at public clinics for those who cannot afford to pay for them; they are recommended by the ACIP, the American Academy of Family Physicians and the American Academy of Pediatrics; most states already require them for school entry; and sufficient Federal grant funds are available through the Department to underwrite the modest additional costs which will result from these amendments.

#### *Paperwork Requirement*

Eventually, with computerization of immunization certificates, the paperwork requirement should decrease. Otherwise, no significant additional paperwork is contemplated.

#### *Effective Date/Sunset Date*

Since the act provides an effective date of August/September 1997, it makes sense to coordinate the effective date for all the changes in the school immunization regulations. The Department published a notice on December 28, 1996, of its intent to have these regulations go into effect for the 1997-98 school year, so that schools, families and health care providers could prepare for the statutory deadline for hepatitis B immunization.

There is no sunset date for any of the related statutes or regulations. The Department continually monitors school immunization needs and related clinical and research evidence and, on that basis, decides when new regulations are necessary.

#### *Statutory Authority*

The act mandates that the Department establish a Statewide program for the prevention of hepatitis B through immunization of children consistent with the recommendations of the ACIP. Furthermore, the statute requires the Secretary of Health to place hepatitis B on the list of diseases that require immunization for entry into school after August 1, 1997.

Section 1303 of the Public School Code of 1949 (24 P. S. § 13-1303a), requires school administrators to determine whether school children are immunized in accordance with the directions of the Secretary of Health, against diseases which may appear on a list to be made and reviewed by the Board and as evidenced by a certificate of immunization.

Section 16 (a)(6) and (7) of the Disease Prevention and Control Law of 1955 (35 P. S. § 521.16(a)(6) and (7)) authorizes the Department, with the approval of the Board, to issue rules and regulations with regard to immunization of persons to protect against reportable communicable diseases and the prevention and control of disease in public and private schools. All the diseases affected by these regulations are reportable and must be prevented and controlled in this Commonwealth's schools.

Section 2111 (c.1) of The Administrative Code of 1929 (71 P. S. § 541(c.1)) mandates that the Board shall make and revise a list of communicable diseases against which children shall be required to be immunized as a condition of attendance at any school in this Commonwealth. That list shall be promulgated by the Secretary of Health, along with necessary rules and regulations for effectiveness and verification.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5.1(c)), on July 17, 1997, the Department of Health submitted a copy of these amendments with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the amendments were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In addition to submitting the 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.

In accordance with section 5.1(d) and (e) of the Regulatory Review Act, these amendments were deemed approved by the House Committee on Health and Human Services on August 6, 1997, and by the Senate Committee on Public Health and Welfare on August 6, 1997. IRRC met on August 7, 1997, and approved the amendments.

#### *Contact Persons*

For an explanation of these regulations or to receive a copy of the regulations in an alternative format, contact Alice Gray, Division Director, Division of Immunization, Bureau of Communicable Disease, Room 1006, P. O. Box 90, Harrisburg PA 17108 or Robert E. Longenecker, Public Health Advisor, Immunization Program, at the same address. The telephone number is (717) 787-5681.

#### *Findings*

The Department and the Board find that:

(1) The amendments to existing regulations may be adopted under section 204(3) of the CDL with the omission of notice of proposed rulemaking otherwise required under sections 201 and 202 of the CDL because the procedures specified in sections 201 and 202 of the CDL are, in the circumstances, contrary to the public interest. The sooner Commonwealth schoolchildren are appropriately immunized, the better protected they will be against highly contagious diseases which can have serious, life-long consequences.

(2) The regulations are necessary and appropriate for the administration and enforcement of the authorizing statutes. The vaccinations required by these regulations are either required by law (hepatitis B) or strongly recommended by the highest and most qualified relevant government and professional bodies. Significant time deadlines are involved, since the school year begins in August/September and one relevant statute requires children entering school in kindergarten or first grade for the first time in 1997 should already have been immunized.

#### *Order*

The Department and the Board, acting under the authorizing statutes, order that:

(a) The regulations of the Department and the Board, 28 Pa. Code Chapter 23, are amended by amending §§ 23.81—23.87 to read as set forth in Annex A.

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

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

(d) These amendments are effective upon publication.

DANIEL F. HOFFMANN,  
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4400 (August 23, 1997).)

**Fiscal Note:** 10-151. (1) General Fund; (2) Implementing Year 1997-98 is \$1,300,00; (3) 1st Succeeding Year 1999-99 is \$650,000; 2nd Succeeding Year 1999-00 is \$325,000; 3rd Succeeding Year 2000-01 is \$0; 4th Succeeding Year 2001-02 is \$0; 5th Succeeding Year 2002-03 is \$0; (4) FY 1996-97 \$10,900,000; FY 1995-96 \$10,200,000; FY 1994-95 \$9,200,000; (7) State Health Care Centers; (8) recommends adoption. In the third succeeding fiscal year cost savings are expected to exceed the cost of providing the immunizations.

## ANNEX A

### TITLE 28. HEALTH AND SAFETY

#### PART III. PREVENTION OF DISEASES

#### CHAPTER 23. SCHOOL HEALTH

#### Subchapter C. IMMUNIZATION

Sec.	
23.81.	Purpose and scope.
23.82.	Definitions
23.83.	Immunization requirements.
23.84.	Exemption from immunization.
23.85.	Responsibilities of schools and school administrators.
23.86.	School reporting.
23.87.	Responsibilities of the Department.

#### § 23.81. Purpose and scope.

This subchapter has been promulgated to insure that school children are immunized against diseases which spread easily in schools and interrupt school life and learning for individuals and groups. This subchapter affects public, private and parochial schools, including kindergartens, special education classes, home education programs and vocational classes in this Commonwealth.

#### § 23.82. Definitions.

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

*Ascertain*—To determine whether or not a child is immunized as defined in this subchapter.

*Attendance at school*—The attendance at a grade, or special classes, kindergarten through 12th grade, including public, private, parochial, vocational, intermediate unit and home education students.

*Certificate of immunization*—The official form furnished by the Department. The certificate is filled out by the parent or health care provider and signed by the health care provider, public health official or school nurse or a designee. The certificate is given to the school as proof of

immunization. The school maintains the certificate as the official school immunization record or stores the details of the record in a computer data base.

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

*Immunization*—The requisite number of dosages of the specific antigens at the recommended time intervals under this subchapter.

*Record of immunization*—A written document showing the date of immunization—that is, baby book, Health Passport, family Bible, other states' official immunization documents, International Health Certificate, immigration records, physician record, school health records and other similar documents or history.

*Secretary*—The Secretary of the Department.

#### § 23.83. Immunization requirements.

(a) *Required for attendance.* The following immunizations are required as a condition of attendance at school in this Commonwealth.

(1) *Diphtheria.* Three or more properly spaced doses of diphtheria toxoid, which may be administered as a single antigen vaccine, in combination with tetanus toxoid or in combination with tetanus toxoid and pertussis vaccine. The Department recommends the combined DTP vaccine for children under 7 years of age.

(2) *Tetanus.* Three or more properly spaced doses of tetanus toxoid, which may be administered as a single antigen vaccine, in combination with diphtheria toxoid or in combination with diphtheria toxoid and pertussis vaccine. The Department recommends the combined DTP vaccine for children under 7 years of age.

(3) *Poliomyelitis.* Three or more properly spaced doses of either oral polio vaccine or enhanced inactivated polio vaccine, but if a child received any doses of inactivated polio vaccine prior to 1988, a fourth dose of inactivated polio vaccine is required.

(4) *Measles (rubeola).* One dose of live attenuated measles vaccine administered at 12 months of age or older or a history of measles immunity proved by serological evidence showing antibody to measles determined by the hemagglutination inhibition test or a comparable test. Measles vaccine may be administered as a single antigen vaccine. The Department recommends the combined MMRII vaccine.

(5) *German measles (rubella).* One dose of live attenuated rubella vaccine administered at 12 months of age or older or a history of rubella immunity proved by serological evidence showing antibody to rubella determined by the hemagglutination inhibition test or a comparable test. Rubella vaccine may be administered as a single antigen vaccine. The Department recommends the combined MMRII vaccine.

(6) *Mumps.* One dose of attenuated mumps vaccine administered at 12 months of age or older or a physician diagnosis of mumps disease indicated by a written record signed by the physician or the physician's designee. Mumps vaccine may be administered as a single antigen vaccine. The Department recommends the combined MMRII vaccine.

(b) *Required for entry.* The following immunizations are required for entry into school for the first time at the kindergarten or first grade level, at any public, private or parochial school, including special education and home education programs.

(1) *Hepatitis B*. Three properly-spaced doses of hepatitis B vaccine.

(2) *Diphtheria*. Four or more properly-spaced doses of diphtheria toxoid, which may be administered as a single antigen vaccine, in combination with tetanus toxoid or in combination with tetanus toxoid and pertussis vaccine. The Department recommends the combined DTP vaccine. One dose shall be administered on or after the 4th birthday.

(3) *Tetanus*. Four or more properly-spaced doses of tetanus toxoid, which may be administered as a single antigen vaccine, in combination with diphtheria toxoid or in combination with diphtheria toxoid and pertussis vaccine. The Department recommends the combined DTP vaccine. One dose shall be administered on or after the 4th birthday.

(4) *Poliomyelitis*. Three or more properly-spaced doses of any combination of oral polio vaccine or enhanced inactivated polio vaccine.

(5) *Measles (Rubeola)*. Two properly-spaced doses of attenuated measles vaccine, the first dose administered at 12 months of age or older, or a history of measles immunity proved by serological evidence showing antibody to measles as determined by the hemagglutination inhibition test or a comparable test. Each dose of measles vaccine may be administered as a single antigen vaccine. The Department recommends the combined MMRII vaccine.

(c) *Required for the school year 2000/2001*. The following immunization shall be an all-grades requirement at the beginning of the 2000/2001 school year (August/September 2000) for attendance at school in this Commonwealth:

*Measles (Rubeola)*. Two properly-spaced doses of attenuated measles vaccine, the first dose administered at 12 months of age or older, or a history of measles immunity, proved by serological evidence showing antibody to measles as determined by the hemagglutination inhibition test or a comparable test. Each dose of measles vaccine may be administered as a single antigen. The Department recommends the combined MMRII vaccine.

#### **§ 23.84. Exemption from immunization.**

(a) *Medical exemption*. Children need not be immunized if a physician or the physician's designee provides a written statement that immunization may be detrimental to the health of the child. When the physician determines that immunization is no longer detrimental to the health of the child, the child shall be immunized according to this subchapter.

(b) *Religious exemption*. Children need not be immunized if the parent, guardian or emancipated child objects in writing to the immunization on religious grounds or on the basis of a strong moral or ethical conviction similar to a religious belief.

#### **§ 23.85. Responsibilities of schools and school administrators.**

(a) The administrator in charge of a school shall appoint a knowledgeable person to perform the following:

(1) Inform the parent, guardian or emancipated child at registration or prior to registration, if possible, of the requirements of this subchapter.

(2) Ascertain the immunization status of a child prior to admission to school or continued attendance at school.

(i) The parent, guardian or emancipated child shall be asked for a completed certificate of immunization.

(ii) In the absence of a certificate of immunization, the parent, guardian or emancipated child shall be asked for a record or history of immunization which indicates the month, day and year that immunizations were given. This information shall be recorded on the certificate of immunization and signed by the school official or the official's designee, or the details of the record shall be stored in a computer database.

(b) If the knowledgeable person designated by the school administrator is unable to ascertain whether a child has received the immunizations required by § 23.83 (relating to immunization requirements) or by subsection (e) or is exempt under § 23.84 (relating to exemption for immunization), the school administrator may admit the child to school or allow the child's continued attendance at school only according to the requirements of subsections (d) and (e).

(c) The parent or guardian of a child or the emancipated child who has not received the immunizations required by § 23.83 shall be informed of the specific immunizations required and advised to go to the child's usual source of care or nearest public clinic to obtain the required immunizations.

(d) A child not previously admitted to or not allowed to continue attendance at school because the child has not had the required immunizations shall be admitted to or permitted to continue attendance at school only upon presentation to the school administrator or school administrator's designee of a completed certificate of immunization or immunization record, upon submission of information sufficient for an exemption under § 23.84, or upon compliance with subsection (e).

(e) If a child has not received all the antigens described in § 23.83, the child may be provisionally admitted to school only if evidence of the administration of at least one dose of each antigen described in § 23.83 is given to the school administrator or the administrator's designee and the parent or guardian's plan for completion of the required immunizations is made part of the child's health record. The plan for completion of the required immunizations shall be reviewed every 60 days by the school administrator or the administrator's designee. Subsequent immunizations shall be entered on the certificate of immunization or entered in the school's computer database. Immunization requirements described in § 23.83 shall be completed within 8 months of the date of provisional admission to school. If the requirements are not met, the school administrator may not admit the child to school or permit continued attendance.

(f) A school shall maintain on file a certificate of immunization for a child enrolled. An alternative to maintaining a certificate on file is to transfer the immunization information from the certificate to a computer database. The certificate of immunization or a facsimile thereof generated by computer shall be returned to the parent, guardian or emancipated child or the school shall transfer the certificate of immunization (or facsimile) with the child's record to the new school when a child withdraws, transfers, is promoted, graduates or otherwise leaves the school.

**§ 23.86. School reporting.**

(a) A public, private or parochial school shall report immunization data to the Department by October 15 of each year, using forms provided by the Department.

(b) The school administrator or the administrator's designee shall forward the reports to the Immunization Program, Bureau of Communicable Diseases, Post Office Box 90, Harrisburg, Pennsylvania 17108.

(c) Duplicate reports shall be submitted to the county health department if the school is situated in a county with a full-time health department.

(d) Content of the reports shall include the following information:

(1) The identification of the school including the name of the school, the school district, the county, the intermediate unit and the type of school.

(2) The month, day and year of report.

(3) The number of students attending school by grade-level.

(4) The number of students attending school by grade-level who were completely immunized.

(5) The number of students attending school by grade-level who were classed as medical exemptions.

(6) The number of students attending school by grade-level who were classed as religious exemptions.

(7) The number of students provisionally admitted.

(8) The number of children who were denied admission because of their inability to qualify for provisional admission.

(9) Other information as required by the Department.

(e) For purposes of reporting the immunization status of a school's students to the Department, the following grade-levels will be used: kindergarten, grades 1-6, 7-9, 10-12 and special education.

**§ 23.87. Responsibilities of the Department.**

(a) The Department will provide the certificates of immunization to schools.

(b) The Department will monitor school districts for compliance with this subchapter and shall have access to school immunization records whether the records are maintained as certificates or whether the records are contained in a school's computer database.

(c) Questions concerning this subchapter should be addressed to the Immunization Program, Bureau of Communicable Diseases, Post Office Box 90, Harrisburg, Pennsylvania 17108, (717) 787-5681.

[Pa.B. Doc. No. 97-1346. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE [61 PA. CODE CH. 2] Employment Incentive Payment

The Secretary of Revenue, under the authority contained in section 491 of the Public Welfare Code (62 P.S. § 491) and section 6 of the Fiscal Code (72 P.S. § 6), by this notice of final rulemaking, for which proposed rule-

making has been omitted, adopts amendments to §§ 2.1 and 2.3 (relating to general explanation; and issuance of certificate (Form REV-1601)) to read as set forth in Annex A.

The Department of Revenue (Department), under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204) (CDL) and the regulation thereunder, 1 Pa. Code § 7.4, finds that notice of proposed rulemaking is, under the circumstances, unnecessary and contrary to the public interest and, therefore, may be omitted.

Publication of the regulatory changes as proposed rulemaking is unnecessary because there are no parties who would be disadvantaged by the changes.

Extending the deadline for submission of the Employment Incentive Program (Program) certification request to 21 days benefits those businesses that wish to participate in the Program but had difficulty complying with the existing "same day as the person began work" standard. Welfare recipients seeking jobs will benefit because additional employers will be able to participate, and more potential jobs will be available for recipients.

Expanding the methods permitted for submitting the Program certification request to include facsimile or other electronic means will facilitate the certification process. This will benefit employers, and ultimately, the employable welfare recipients.

Publication of the regulatory changes as proposed rulemaking rather than final rulemaking would also be contrary to the public interest.

The Commonwealth, through the Department of Public Welfare, began implementation of Statewide Federal and State welfare reforms on March 3, 1997. As a result, both the Commonwealth and employable welfare recipients face more stringent programmatic employment requirements.

Decreased employment opportunities increase the risk of adverse consequences for both the State and employable recipients. If the Department of Public Welfare fails to meet Federally-mandated participation rates, Federal financial penalties may result. Program participants must meet time-limited eligibility standards for work. The additional time required to give notice of proposed rulemaking would delay implementation of the regulatory provisions, and would therefore cause:

(1) Employers to miss opportunities to participate in the Program.

(2) Employers to delay (or put off altogether) decisions to hire welfare recipients.

(3) The Commonwealth and taxpayers to continue to bear the expense of maintaining unhired persons on public assistance.

#### *Purpose of Regulation*

In 1988, the Department adopted numerous amendments to Chapter 2 (relating to employment incentive payment). Since that time, there have been changes to various Federal programs that have prompted the amendment of § 2.3. This amendment conforms the regulation to be consistent with those Federal programs.

#### *Explanation of Regulatory Requirements*

Section 2.3(b) is amended to extend the time period in which an employer may request a Program certificate from the Department of Public Welfare from the date the

employed welfare recipient begins work to no later than 21 days following the actual date the employed welfare recipient began work. This time period is consistent with the time period under the Federal Work Opportunities Tax Credit Program.

Requests shall be considered timely in compliance with subsection (b) if either:

(1) Received on and date-stamped by a Department of Public Welfare-approved facsimile machine, computer or other electronic device no later than 21 days following the actual date the person began work.

(2) Postmarked by the United States Postal Service no later than 21 days following the actual date the person began work.

The following summarizes the issues prompting the amendments to § 2.3:

One of the amendments adopted in 1988 related to co-promotion of EIP with the similar Federal Targeted Jobs Tax Credit (TJTC) Program. The TJTC Program lapsed more than a year ago, and the Federal Aid to Families with Dependent Children (AFDC) Program terminated March 3, 1997. AFDC has been replaced by the Temporary Assistance for Needy Families Program.

Experience has shown that the existing timeliness criteria deters small employers from participating in the Program, for they are unable to get forms completed and mailed by midnight of the first day a welfare recipient begins to work. The 21-day extension will enable a much larger population of smaller employers to participate in the Program.

The growth of electronic communications offers the potential for more efficient and useful options of requesting Program certification, rather than depending solely upon the United States mail.

#### *Fiscal Impact*

The Department has determined that the final-form regulations will have an unknown fiscal impact on the Commonwealth. In FY 1995-96, credits claimed totaled less than \$700,000. Over the next 3 years, it is improbable that the additional small businesses claiming this credit will cause the total amounts of credits claimed to approach the \$25 million annual cap. The extended filing period for EIP certificates is intended to enable increased numbers of small businesses to utilize the credit. The increase in certificates issued to these businesses will induce an increase in the total amount of credits claimed. In theory, the total costs associated with the EIP credit are more than offset by the savings of the projected future welfare payments if the new hires were to remain unemployed and continue to draw benefits.

#### *Paperwork*

The final-form regulations may generate additional paperwork for the public or the Commonwealth to the extent that there is an increase in the number of businesses utilizing the credit.

#### *Effectiveness/Sunset Date*

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

#### *Contact Person*

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

#### *Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on July 9, 1997, the Department submitted a copy of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(c) of the Regulatory Review Act, the rulemaking was deemed approved by the Senate and House Committees on July 29, 1997. IRRC met on August 7, 1997, and approved the regulations.

#### *Findings*

The Department finds that the regulations are necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary and contrary to public interest and, therefore, may be omitted.

#### *Order*

Acting under the authorizing statute, the Department orders that:

(a) The regulations of the Department, 61 Pa. Code Chapter 2, are amended by amending §§ 2.1 and 2.3 to read as set forth in Annex A.

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

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

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

ROBERT A. JUDGE, Sr.  
*Secretary*

**Fiscal Note:** 15-384. No fiscal impact; (8) recommends adoption.

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 4400 (August 23, 1997).)

#### **Annex A**

#### **TITLE 61. REVENUE**

#### **PART I. DEPARTMENT OF REVENUE**

#### **Subpart A. GENERAL PROVISIONS**

#### **CHAPTER 2. EMPLOYMENT INCENTIVE PAYMENT CREDIT**

#### **§ 2.1. General explanation.**

Under the act of April 8, 1982 (P. L. 231, No. 75) (62 P. S. §§ 201, 403, 404.1, 405.1, 405.2, 408, 408.1, 422, 423, 432, 432.2—432.7A, 432.9, 432.11, 432.12, 432.15, 432.16, 432.19—432.21, 442.1, 443.6, 475, 481, 487 and 489) a tax credit is available for persons who employ certain welfare recipients, with additional tax credit for those who provide day care services for the welfare recipient's child or children. This chapter explains the scope and effect of the employment incentive payment tax credit (the "EIP credit"), the manner in which it is

validated, procedures established by the Department for verification and application of tax credits, and the manner in which they may be used by employers.

**§ 2.3. Issuance of certificate (Form REV-1601).**

(a) The issuance of EIP certificates and verification of entitlement thereto is the responsibility of the Department of Public Welfare. The criteria for issuance of EIP certificates is established by the act of December 19, 1985 (P. L. 356, No. 102) (72 P. S. § 8701-A) and by 55 Pa. Code (relating to Public Welfare).

(b) An EIP Program Certificate shall be issued upon request to an employer who hires a person who is receiving Temporary Assistance to Needy Families or any form of General Assistance at the time of employment. The employer shall request the certificate from the Department of Public Welfare in writing no later than 21 days following the actual date upon which the newly-employed welfare recipient began work. Requests shall be considered to be timely in compliance with this subsection if either:

(1) Received on and date-stamped by a Department of Public Welfare-approved facsimile machine, computer or other electronic device no later than 21 days following the actual date the person began work.

(2) Postmarked by the United States Postal Service no later than 21 days following the actual date the person began work.

(c) An employer may not request an EIP certificate for the employment of the following persons:

(1) A person who displaces another individual, unless the individual was discharged for cause as certified by the Office of Employment Security.

(2) A closely related person to the employer.

(3) A domestic or other household employe in the home of the employer.

(4) Subject to the provisions of subsection (d), a person for whom the employer is simultaneously receiving Federal or State funded job training payments.

(5) An individual who is the employer, such as self-employed.

(6) A shareholder who owns more than 50% of the value of the outstanding stock of the employing corporation, bank, savings institution, company, insurance company or mutual thrift institution.

(7) A member of an employing partnership.

(8) An employe of an estate or trust if the employe is a grantor, beneficiary or fiduciary of the estate or trust.

(d) If for a period an employer receives State or Federally funded payments for on-the-job training for an employe, none of the wages paid to that employe for the training qualify for EIP credit. Wages paid to the employe after completion of the State or Federally funded job training may qualify for EIP credit. In such cases, the EIP certificate shall be requested in writing under subsection (b) no later than the date upon which the employe begins training.

(e) Within 30 days of the date of issuance of the EIP certificate by the Department of Public Welfare, the employer shall forward a copy of the completed certificate to the Department.

[Pa.B. Doc. No. 97-1347. Filed for public inspection August 22, 1997, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 129]

### Equivalency Determinations and Aerospace Manufacturing and Rework—VOC Emission Limitations

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 129 (relating to definitions; and standards for sources) to read as set forth in Annex A.

The changes to Chapter 121 add definitions of terms used in the substantive sections of Chapter 129. A new § 129.73 (relating to aerospace manufacturing and rework) establishes requirements to control volatile organic compound (VOC) emissions from aerospace manufacturing and rework facilities. In addition, § 129.51 (relating to general) is being modified to remove the requirement that equivalency determinations be submitted to the Environmental Protection Agency (EPA) as a State Implementation Plan (SIP) amendment.

This notice is given under Board Order at its meeting of July 15, 1997.

#### A. Effective Date

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

#### B. Contact Persons

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

#### C. Statutory Authority

This action is being taken under the authority of sections 5(a)(1) and 5(a)(13) of the Air Pollution Control Act (35 P. S. §§ 4005(a)(1) and 4005(a)(13)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

#### D. Background of the Amendment

Section 5(a)(13) of the Air Pollution Control Act (35 P. S. § 4005(a)(13)) specifically authorizes the Board to adopt regulations establishing alternative VOC emission limitations for aerospace coatings and solvents, including extreme performance coatings, which are required to be used by the United States Department of Defense, the United States Department of Transportation and the National Aeronautics and Space Administration or to meet military and aerospace specifications provided these alternative limitations are authorized by the Clean Air Act.

The EPA has worked with the aerospace industry to develop control techniques and guidelines related to VOC emissions from aerospace manufacturing and rework operations. These proposed amendments incorporate the

substantive provisions of the draft guidelines into the Department's air quality regulations.

The Department of Environmental Protection (Department) worked with the Air Subcommittee of the Air and Water Quality Technical Advisory Committee (AWQTAC) in the development of these proposed amendments. At its April 17, 1997 meeting, the Air Subcommittee acting on behalf of AWQTAC recommended adoption of the proposed amendments.

#### E. Summary of Regulatory Revisions

The proposed changes to Chapter 121 add definitions of terms used in the substantive provisions in Chapter 129. Most of the definitions are coatings listed in Table II. The definitions include: "ablatative coating," "adhesion promoter," "adhesion bonding primer," "adhesive primer," "aerosol coating," "aerospace coating operation," "aerospace coating unit," "aerospace primer," "aerospace surface preparation," "aerospace topcoat," "aerospace vehicle or component," "aircraft fluid systems," "aircraft transparency," "antichafe coating," "antique aerospace vehicle or component," "aqueous cleaning solvent," "bonding maskant," "chemical agent-resistant coating (CARC)," "chemical milling maskant," "cleaning operation," "cleaning solvent," "closed-cycle depainting system," "commercial exterior aerodynamic structure primer," "commercial interior adhesive," "compatible epoxy primer," "compatible substrate primer," "confined space," "corrosion prevention system," "critical use and line sealer maskant," "cryogenic flexible primer," "cryoprotective coating," "cyanoacrylate adhesive," "electric or radiation-effect coating," "electrostatic discharge and electromagnetic interference (EMI) coating," "elevated temperature skydrol resistant commercial primer," "epoxy polyamide topcoat," "exempt solvent," "fire-resistant (interior) coating," "flexible primer," "flight testing coating," "flush cleaning," "fuel tank adhesive," "fuel tank coating," "hand-wipe cleaning operation," "high temperature coating," "insulation covering," "intermediate release coating," "lacquer," "limited access space," "metalized epoxy coating," "mold release," "nonstructural adhesive," "operating parameter value," "optical antireflection coating," "part marking coating," "pretreatment coating," "radome," "rain erosion-resistant coating," "rocket motor bonding adhesive," "rocket motor nozzle coating," "rubber-based adhesive," "scale inhibitor," "screening print ink," "sealant," "seal coat maskant," "self-priming topcoat," "semiaqueous cleaning solvent," "silicone insulation material," "solids," "solid film lubricant," "space vehicle," "specialty coating," "specialized function coating," "spray gun," "structural autoclavable adhesive," "structural nonautoclavable adhesive," "temporary protective coating," "thermal control coating," "touch-up and repair operation," "Type I chemical etchant," "Type II chemical etchant," "VOC composite vapor pressure," "waterborne (water-reducible) coating," "wet fastener installation coating" and "wing coating".

In addition, the definition of "miscellaneous metal parts and products" is being modified to exclude aerospace vehicles or components from the miscellaneous metal parts and products category.

The changes to § 129.51(a)(6) remove the requirement that alternative compliance methods for meeting the VOC requirements contained in §§ 129.52, 129.67 and 129.73 (relating to surface coating processes; graphic arts systems; and aerospace manufacturing and rework) be submitted to the EPA as a SIP amendment. The proposal



requires the alternative compliance method to be incorporated into a plan approval and operating permit which is subject to EPA review. This will streamline the process for establishing alternative compliance methods.

A new § 129.73 establishes specific allowable VOC content requirements for aerospace coatings. The methodology for calculating the VOC content of coatings is provided in § 129.73(a)(3). Subsection (a)(4) of the proposed amendments establishes application techniques for applying aerospace coatings and subsection (a)(5) establishes exceptions to those coating technique requirements. Subsection (a)(6) establishes limitations for hand-wipe cleaning of aerospace vehicles or components and subsection (a)(7) establishes exceptions to the hand-wipe requirements. Subsection (a)(8)–(10) establishes requirements for cleaning solvent containers, spray gun cleaning and housekeeping. Subsection (a)(11) authorizes compliance through the use of approved air pollution control equipment. Finally, subsection (a)(12) establishes the recordkeeping requirements for aerospace manufacturing and rework facilities.

This regulatory revision will be submitted to the EPA as an amendment to the SIP.

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

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

##### *Benefits*

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they streamline the procedures for implementing the Department's air quality program for establishing equivalencies and implement specific requirements for aerospace manufacturing and rework operations.

##### *Compliance Costs*

These proposed amendments may slightly reduce compliance costs by streamlining the equivalency process. The aerospace requirements should have no effect on compliance costs.

##### *Compliance Assistance Plan*

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

##### *Paperwork Requirements*

The regulatory revisions will reduce the paperwork related to complaints and odor investigations.

#### G. *Sunset Review*

This proposal will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the proposed amendments effectively fulfill the goals for which they were intended.

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 12, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a

detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before publication of the final-form regulations.

#### I. *Public Comment and Board Public Hearings*

##### *Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on the proposed amendments. The hearings will be held at 10 a.m. on the following dates and at the following locations:

September 23, 1997	Department of Environmental Protection 1st Floor Meeting Room Rachel Carson State Office Building 400 Market Street Harrisburg, PA
September 25, 1997	Department of Environmental Protection Southwest Regional Office 500 Waterfront Drive Pittsburgh, PA
September 29, 1997	Upper Merion Township Building 175 West Valley Forge Road King of Prussia, PA

Persons wishing to present testimony at the hearings must contact Kate Coleman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and three written copies of the oral testimony must be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodations to participate, should contact Kate Coleman at (717) 787-4526 or through the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

##### *Written Comments*

In lieu of or in addition to presenting oral testimony at the hearings, interested persons may submit written comments, suggestions or objections regarding the proposed amendments to the Board, 15th Floor Rachel Carson State Office Building, P. O. Box 8477, Harrisburg, PA 17105-8477. Comments received by facsimile will not be accepted. Comments must be received by October 29, 1997. In addition to the written comments, interested persons may also submit a summary of their comments to the Board. This summary may not exceed one page in length and must be received by October 29, 1997. The summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

##### *Electronic Comments*

Comments may be submitted electronically to the Board at Regcomments@a1.dep.state.pa.us. A subject heading of the proposal and return name and

address must be included in each transmission. Comments submitted electronically must also be received by the Board by October 29, 1997.

JAMES M. SEIF,  
Chairperson

(Editor's Note: Proposals to amend § 121.1 remain outstanding at 27 Pa.B. 1822, 1829, 2130 and 4340 (April 12, 1997, May 3, 1997 and August 23, 1997).

**Fiscal Note:** 7-326. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE III. AIR RESOURCES

#### CHAPTER 121. GENERAL PROVISIONS

##### § 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Ablative coating**—A coating that chars when exposed to open flame or extreme temperatures, as would occur during the failure of an engine casing or during aerodynamic heating. The ablative char surface serves as an insulating barrier, protecting adjacent components from the heat or open flame.

\* \* \* \* \*

**Adhesion promoter**—A very thin coating applied to an aerospace vehicle or component substrate to promote wetting and to form a chemical bond with the subsequently applied material.

**Adhesive bonding primer**—A primer applied in a thin film to aerospace components for the purpose of corrosion inhibition and increased adhesive bond strength by attachment. There are two categories of adhesive bonding primers: primers with a design cure at 250° or below and primers with a design cure above 250°.

**Adhesive primer**—A coating applied to an aerospace vehicle or component that does one of the following:

- (i) Inhibits corrosion and serves as a primer when applied to bare metal or other surfaces prior to adhesive application.
- (ii) Is applied to surfaces that can be expected to contain fuel, with the exception of fuel tanks.

**Aerosol coating**—A coating expelled from a hand-held, pressurized, nonrefillable container in a finely divided spray when a valve on the container is depressed.

**Aerospace coating operation**—An operation using a spray booth, tank or other enclosure of an area, such as a hangar, for applying a single type of coating (for example, primer). Using the same spray booth for applying another type of coating (for

example, topcoat) constitutes a separate coating operation for which compliance determinations are performed separately.

**Aerospace coating unit**—A series of one or more coating applicators and any associated drying area or oven wherein a coating is applied, dried and cured. A coating unit ends at the point where the coating is dried or cured, or prior to a subsequent application of a different coating. It is not necessary to have an associated oven or flashoff area to be included in this definition.

**Aerospace primer**—The first layer and subsequent layers of identically formulated coating applied to the surface of an aerospace vehicle or component. Primers are typically used for corrosion prevention, protection from the environment, functional fluid resistance. Adhesion of subsequent coatings. The term does not include primers that are defined as specialty coatings.

**Aerospace surface preparation**—The removal of contaminants from the surface of an aerospace vehicle or component or the activation or reactivation of the surface in preparation for the application of a coating.

**Aerospace topcoat**—A coating that is applied over a primer on an aerospace vehicle or component for appearance, identification, camouflage or protection. The term does not include topcoats that are defined as specialty coatings.

**Aerospace vehicle or component**—A fabricated part, processed part, assembly of parts, or completed unit, with the exception of electronic components, of any aircraft including but not limited to, airplanes, helicopters, missiles, rockets and space vehicles.

\* \* \* \* \*

**Aircraft fluid systems**—Systems that handle hydraulic fluids, fuel, cooling fluids or oils.

**Aircraft transparency**—An aircraft windshield, canopy, passenger windows, lenses and other components which are constructed of transparent materials.

\* \* \* \* \*

**Antichafe coating**—A coating applied to areas of moving aerospace components that may rub during normal operations or installation.

**Antique aerospace vehicle or component**—An antique aircraft, as defined by 14 CFR Part 45 (relating to identification and registration marking), or components thereof. An antique aerospace vehicle would not routinely be in commercial or military service in the capacity for which it was designed.

\* \* \* \* \*

**Aqueous cleaning solvent**—A solvent in which water is at least 80% by weight of the solvent.

\* \* \* \* \*

**Bonding maskant**—A temporary coating used to protect selected areas of aerospace parts from strong acid or alkaline solutions during processing for bonding.

\* \* \* \* \*

**Chemical agent-resistant coating (CARC)**—An exterior topcoat applied to aerospace vehicles or

components designed to withstand exposure to chemical warfare agents or the decontaminants used on these agents.

**Chemical milling maskant**—A coating that is applied directly to aluminum aerospace vehicles or components to protect surface areas when chemically milling the component with a Type I or II etchant. The term does not include bonding maskants, line sealers and critical use and seal coat maskants. The term does not include maskants that must be used on an individual part or subassembly with a combination of Type I or II etchants and any of the above types of maskants (for example, bonding, line sealers, and critical use and seal coat). The term also does not include maskants that are defined as specialty coatings.

**Cleaning operation**—Spray-gun, hand-wipe and flush cleaning operations.

**Cleaning solvent**—A liquid material used for hand-wipe, spray gun or flush cleaning. The term includes solutions that contain VOCs.

\* \* \* \* \*

**Closed-cycle depainting system**—A dust free, automated process that removes permanent coating in small sections at a time, and maintains a continuous vacuum around the area being depainted to capture emissions.

\* \* \* \* \*

**Commercial exterior aerodynamic structure primer**—An aerospace vehicle or component primer used on aerodynamic components and structures that protrude from the fuselage, such as wings and attached components, control surfaces, horizontal stabilizers, vertical fins, wing-to-body fairings, antennae, and landing gear and doors, for the purpose of extended corrosion protection and enhanced adhesion.

**Commercial interior adhesive**—Materials used in the bonding of passenger cabin interior components which meet the Federal Aeronautics Administration (FAA) fireworthiness requirements.

\* \* \* \* \*

**Compatible epoxy primer**—An aerospace vehicle or component primer that is compatible with the filled elastomeric coating and is epoxy based. The compatible substrate primer is an epoxy-polyamide primer used to promote adhesion of elastomeric coatings such as impact-resistant coatings.

**Compatible substrate primer**—Either compatible epoxy primer or adhesive primer applied to aerospace vehicles or components.

\* \* \* \* \*

**Confined space**—A space that is the following:

- (1) Is large enough and so configured that an employee can enter and perform assigned work.
- (2) Has limited or restricted means for entry or exit (for example, fuel tanks, fuel vessels, and other spaces that have limited means of entry).
- (3) Is not suitable for continuous employee occupancy.

\* \* \* \* \*

**Corrosion prevention system**—A coating system applied to aerospace vehicles or components that provides corrosion protection by displacing water and penetrating mating surfaces, forming a protective barrier between the metal surface and moisture. Coatings containing oils or waxes are excluded from this category.

\* \* \* \* \*

**Critical use and line sealer maskant**—A temporary coating applied to aerospace vehicles or components, not covered under other maskant categories, used to protect selected areas of aerospace parts from strong acid or alkaline solutions such as those used in anodizing, plating, chemical milling and processing of magnesium, titanium or high strength steel, high precision aluminum chemical milling of deep cuts, and aluminum chemical milling of complex shapes. Materials used for repairs or to bridge gaps left by scribing operations (that is, line sealer) are also included in this category.

**Cryogenic flexible primer**—A primer applied to aerospace vehicles or components designed to provide corrosion resistance, flexibility, and adhesion of subsequent coating systems when exposed to loads up to and surpassing the yield point of the substrate at cryogenic temperatures (−275°F and below).

**Cryoprotective coating**—A coating applied to aerospace vehicles or components that insulates cryogenic or subcooled surfaces to limit propellant boil-off, maintain structural integrity of metallic structures during ascent or re-entry and prevent ice formation.

\* \* \* \* \*

**Cyanoacrylate adhesive**—A fast-setting, single component adhesive that cures at room temperature. The term is also known as “super glue.”

\* \* \* \* \*

**Electric or radiation-effect coating**—A coating or coating system applied to aerospace vehicles or components engineered to interact, through absorption or reflection, with specific regions of the electromagnetic energy spectrum, such as the ultraviolet, visible, infrared or microwave regions. Uses include, but are not limited to, lightning strike protection, electromagnetic pulse (EMP) protection and radar avoidance. The term excludes coatings that have been designated “classified” by the Department of Defense.

**Electrostatic discharge and electromagnetic interference (EMI) coating**—A coating applied to space vehicles, missiles, aircraft radomes and helicopter blades to disperse static energy or reduce electromagnetic interference.

**Elevated temperature skydrol resistant commercial primer**—A primer, applied primarily to commercial aircraft (or commercial aircraft adapted for military use), that must withstand immersion in phosphate-ester (PE) hydraulic fluid (skydrol 500B or equivalent) at the elevated temperature of 150°F for 1,000 hours.

\* \* \* \* \*

**Epoxy polyamide topcoat**—A coating applied to aerospace vehicles or components when harder films are required or in some areas where engraving is accomplished in camouflage colors.

\* \* \* \* \*

**Exempt solvent**—Specified organic compounds that have been designated by the EPA as having negligible photochemical reactivity and are listed in 40 CFR 51.100 (relating to requirements for preparation, adoption and submittal of Implementation Plans).

\* \* \* \* \*

**Fire-resistant (interior) coating**—For civilian aircraft, fire-resistant interior coatings are used on passenger cabin interior parts that are subject to the FAA fireworthiness requirements. For military aircraft, fire-resistant interior coatings are used on parts that are subject to the flammability requirements of MIL-STD-1630A and MIL-A-87721. For space applications, these coatings are used on parts that are subject to the flammability requirements of SE-R-0006 and SSP 30233.

**Flexible primer**—A primer applied to aerospace vehicles or components that meets flexibility requirements such as those needed for adhesive bond primed fastener heads or on surfaces expected to contain fuel. The flexible coating is required because it provides a compatible, flexible substrate over bonded sheet rubber and rubber-type coatings as well as a flexible bridge between the fasteners, skin, and skin-to-skin joints on outer aircraft skins. This flexible bridge allows more topcoat flexibility around fasteners and decreases the chance of the topcoat cracking around the fasteners. The result is better corrosion resistance.

\* \* \* \* \*

**Flight test coating**—A coating applied to aircraft other than missiles or single-use aircraft prior to flight testing to protect the aircraft from corrosion and to provide required marking during flight test evaluation.

\* \* \* \* \*

**Flush cleaning**—Removal of contaminants such as dirt, grease, oil and coatings from an aerospace vehicle or component or coating equipment by passing solvent over, into or through the item being cleaned. The solvent simply may be poured into the item being cleaned and then drained or assisted by air or hydraulic pressure or by pumping. The term does not include hand-wipe cleaning operations where wiping, scrubbing, mopping or other hand action is used.

\* \* \* \* \*

**Fuel tank adhesive**—An adhesive used to bond aerospace vehicle components exposed to fuel and which must be compatible with fuel tank coatings.

**Fuel tank coating**—A coating applied to aerospace vehicle fuel tank components for the purpose of corrosion or bacterial growth inhibition and to assure sealant adhesion in extreme environmental conditions.

\* \* \* \* \*

**Hand-wipe cleaning operation**—Removing contaminants such as dirt, grease, oil and coatings from an aerospace vehicle or component by physically rubbing it with a material such as a rag, paper or cotton swab that has been moistened with a cleaning solvent.

\* \* \* \* \*

**High temperature coating**—An aerospace vehicle or component coating designed to withstand temperatures of more than 350°F.

\* \* \* \* \*

**Insulation covering**—Material that is applied to foam insulation to protect the insulation from mechanical or environmental damage.

**Intermediate release coating**—A thin coating applied beneath topcoats on aerospace vehicles or components to assist in removing the topcoat in depainting operations and generally to allow the use of less hazardous depainting methods.

\* \* \* \* \*

**Lacquer**—A clear or pigmented coating formulated with a nitrocellulose or synthetic resin to dry by evaporation without a chemical reaction. Lacquers are resolvable in their original solvent.

\* \* \* \* \*

**Limited access space**—Internal surfaces or passages of an aerospace vehicle or component to which coatings cannot be applied without the aid of an airbrush or a spray gun extension for the application of coatings.

\* \* \* \* \*

**Metalized epoxy coating**—A coating applied to aerospace vehicles or components that contains relatively large quantities of metallic pigmentation for appearance or added protection, or both.

**Miscellaneous metal parts and products**—Items made of ferrous or nonferrous metals, including, but not limited to, large farm machinery, small farm machinery, small appliances, commercial and industrial machinery, fabricated metal products, and items listed under the *Standard Industrial Classification Code* 3300 through 3900. The term does not include cans, coils, automobiles, light-duty trucks, metal furniture, magnet wire, large appliances, [ fully assembled exteriors of airplanes ] aerospace vehicles or components and automobile refinishing and customized top coating of automobiles and trucks, if production since January 1, 1987, has not exceeded 34 vehicles per day.

\* \* \* \* \*

**Mold release**—A coating applied to an aerospace vehicle or component mold surface to prevent the molded piece from sticking to the mold as it is removed.

\* \* \* \* \*

**Nonstructural adhesive**—An adhesive applied to aerospace vehicles or components that bonds nonload bearing aerospace components in noncritical applications and is not included in any other specialty adhesive categories.

\* \* \* \* \*

**Operating parameter value**—A minimum or maximum value established for a control equipment or process parameter that, if achieved by itself or in combination with one or more other operating parameter values, determines that an owner or operator has complied with an applicable emission limitation.

**Optical antireflection coating**—A coating, applied to aerospace vehicles or components, with a low reflectance in the infrared and visible wavelength

ranges that is used for antireflection on or near optical and laser hardware.

\* \* \* \* \*

**Part marking coating**—Coating or ink used to make identifying markings on aerospace materials, components and assemblies. These markings may be either permanent or temporary.

\* \* \* \* \*

**Pretreatment coating**—An organic coating that contains at least 0.5% acids by weight and is applied directly to metal surfaces of aerospace vehicles and components to provide surface etching, corrosion resistance, adhesion and ease of stripping.

\* \* \* \* \*

**Radome**—The nonmetallic protective housing for aerospace electromagnetic transmitters and receivers (for example, radar, electronic countermeasures).

**Rain erosion-resistant coating**—A coating or coating system used to protect the leading edges of parts such as flaps, stabilizers, radomes and engine inlet nacelles against erosion caused by rain impact during flight.

\* \* \* \* \*

**Rocket motor bonding adhesive**—An adhesive used in rocket motor bonding applications.

**Rocket motor nozzle coating**—A catalyzed epoxy coating system used in elevated temperature applications on rocket motor nozzles.

\* \* \* \* \*

**Rubber-based adhesive**—A quick setting contact cement applied to aerospace vehicles and components that provides a strong, yet flexible, bond between two mating surfaces that may be of dissimilar materials.

\* \* \* \* \*

**Scale inhibitor**—A coating that is applied to the surface of an aerospace vehicle component prior to thermal processing to inhibit the formation of scale.

\* \* \* \* \*

**Screen print ink**—An ink used in screen printing processes during fabrication of decorative laminates and decals for aerospace vehicles and components.

**Sealant**—A material used to prevent the intrusion of water, fuel, air or other liquids or solids from certain areas of aerospace vehicles or components. There are two categories of sealants: extrudable/rollable/brushable sealants and sprayable sealants.

**Seal coat maskant**—A coating applied over a maskant on aerospace vehicles and components to improve abrasion and chemical resistance during production operations.

\* \* \* \* \*

**Self-priming topcoat**—A topcoat that is applied directly to an uncoated aerospace vehicle or component for purposes of corrosion prevention, environmental protection and functional fluid resistance. More than one layer of identical coating

formulation may be applied to the vehicle or component. The coating is not subsequently topcoated with any other product formulation.

**Semiaqueous cleaning solvent**—A solution in which water is a primary ingredient (>60% by weight of the solvent solution as applied must be water).

\* \* \* \* \*

**Silicone insulation material**—An insulating material applied to exterior metal surfaces of aerospace vehicles for protection from high temperatures caused by atmospheric friction or engine exhaust. These materials differ from ablative coatings in that they are not "sacrificial."

\* \* \* \* \*

**Solids**—The nonvolatile portion of the coating that after drying makes up the dry film.

**Solid film lubricant**—A very thin coating, applied to aerospace vehicles or components, consisting of a binder system which contains as its chief pigment material one or more of the following: molybdenum, graphite, polytetrafluoroethylene (PTFE), or other solids that act as a dry lubricant between faying surfaces.

\* \* \* \* \*

**Space vehicle**—A manmade device, either manned or unmanned, designed for operation beyond earth's atmosphere. This definition includes integral equipment, such as models, mock-ups, prototypes, molds, jigs, tooling, hardware jackets and test coupons. The term also includes auxiliary equipment associated with test, transport and storage, that through contamination can compromise the space vehicle performance.

**Specialty coating**—A coating applied to aerospace vehicles or components that, even though it meets the definition of a primer, topcoat or self-priming topcoat, has additional performance criteria beyond those of primers, topcoats and self-priming topcoats for specific applications. These performance criteria may include, but are not limited to, temperature or fire resistance, substrate compatibility, antireflection, temporary protection or marking, sealing, adhesively joining substrates, or enhanced corrosion protection.

**Specialized function coating**—A coating applied to aerospace vehicles or components that fulfills extremely specific engineering requirements that are limited in application and are characterized by low volume usage. This category excludes coatings included in other specialty coating categories.

**Spray gun**—A device that atomizes a coating or other material and projects the particulates or other material onto a substrate.

\* \* \* \* \*

**Structural autoclavable adhesive**—An adhesive, cured by heat and pressure in an autoclave, that is used to bond load carrying aerospace components.

**Structural nonautoclavable adhesive**—An adhesive that is cured under ambient conditions that is used to bond load carrying aerospace components or other critical functions, such as nonstructural bonding in the proximity of engines.

\* \* \* \* \*

**Temporary protective coating**—A coating applied to provide scratch or corrosion protection during manufacturing, storage or transportation of aerospace vehicles or components. Two types include peelable protective coatings and alkaline removable coatings. These materials are not intended to protect against strong acid or alkaline solutions. The term does not include coatings that provide protection from acid or alkaline chemical processing.

\* \* \* \* \*

**Thermal control coating**—A coating formulated with specific thermal conductive or radiative properties to permit temperature control of the aerospace vehicle or component substrate.

\* \* \* \* \*

**Touch-up and repair operation**—That portion of the coating operation that is the incidental application of coating used to cover minor imperfections in the coating finish or to achieve complete coverage. The term includes out-of-sequence or out-of-cycle coating.

\* \* \* \* \*

**Type I chemical etchant**—A chemical milling etchant which contains varying amounts of dissolved sulfur but which does not contain amines.

**Type II chemical etchant**—A chemical milling etchant that is a strong sodium hydroxide solution containing amines.

\* \* \* \* \*

**VOC composite vapor pressure**—The sum of the partial pressures of the compounds defined as VOC's and is determined by the following calculation:

$$PP_c = \sum_{i=1}^n \frac{(W_i)(VP_i/MW_i)}{\frac{WW}{MW_w} + \frac{We}{MW_e} + \sum_{i=1}^n \frac{W_i}{MW_i}}$$

where:

**W<sub>i</sub>** = Weight of the "i"th VOC compound, grams.

**W<sub>w</sub>** = Weight of water, grams.

**W<sub>e</sub>** = Weight of non-HAP, nonVOC compound, grams.

**MW<sub>i</sub>** = Molecular weight of the "i"th VOC compound, G/G-mole.

**MW<sub>w</sub>** = Molecular weight of water, G/G-mole.

**MW<sub>e</sub>** = Molecular weight of exempt compound, G/G-mole.

**PP<sub>c</sub>** = VOC composite partial pressure at 20°, MM HG.

**VP<sub>i</sub>** = Vapor pressure of the "i"th VOC compound at 20°, MM HG.

\* \* \* \* \*

**Waterborne (water-reducible) coating**—A coating which contains more than 5% water by weight in its volatile fraction, as applied.

\* \* \* \* \*

**Wet fastener installation coating**—A primer or sealant applied to aerospace vehicles or components by dipping, brushing or daubing on fasteners which are installed before the coating is cured.

\* \* \* \* \*

**Wing coating**—A corrosion-resistant topcoat applied to aerospace vehicles or components that is resilient enough to withstand the flexing of the wings.

\* \* \* \* \*

## CHAPTER 129. STANDARDS FOR SOURCES

### SOURCES OF VOC

#### § 129.51. General.

(a) *Equivalency.* Compliance with the requirements of §§ 129.52 and 129.54—[ 129.72 ] 129.73 may be achieved by alternative methods if the following exist:

\* \* \* \* \*

(3) Compliance by a method other than the use of a low VOC coating or ink which meets the applicable emission limitation in §§ 129.52, [ and ] 129.67 and 129.73 (relating to surface coating processes; [ and ] graphic arts systems; and aerospace manufacturing and rework) shall be determined on the basis of equal volumes of solids.

\* \* \* \* \*

(6) The alternative compliance method is [ approved ] incorporated into a plan approval and operating permit reviewed by the EPA [ as a revision to the State Implementation Plan ], including the use of an air cleaning device to comply with § 129.52, § 129.67, [ or ] § 129.68(b)(2) and (c)(2) or § 129.73.

\* \* \* \* \*

(*Editor's Note:* The Department is proposing to add the following section. It is printed in regular type to enhance readability.)

#### § 129.73. Aerospace manufacturing and rework.

Except as provided in subsection (a)(1) applies to the manufacture or rework of commercial, civil or military aerospace vehicles or components at any facility located in any county designated as a severe nonattainment area and which has the potential to emit 25 tons per year of VOC's or more or located in another county in this Commonwealth and that has the potential to emit 50 tons per year or more.

(1) This section does not apply to cleaning and coating of aerospace components and vehicles:

(i) At any source conducting research and development for the research and development activities.

(ii) For quality control and laboratory testing.

(iii) For production of electronic parts and assemblies (except for cleaning and coating of completed assemblies).

(iv) For rework operations performed on antique aerospace vehicles or components.

(v) Using touchup, aerosol and Department of Defense "classified" coatings.

(vi) Coating of space vehicles.

(vii) At facilities that use separate formulations in volumes less than 50 gallons per year to a maximum exemption of 200 gallons total for these formulations annually.

(2) Beginning \_\_\_\_ (Editor's Note: The blank refers to the date of adoption of this proposal in the *Pennsylvania*

*Bulletin*.) a person may not apply to aerospace vehicles or components, aerospace specialty coatings, primers, topcoats and chemical milling maskants including any VOC-containing materials added to the original coating supplied by the manufacturer, that contain VOC's in excess of the limits specified in Table II.

TABLE II

Allowable Content of VOCs in Aerospace Coatings  
Allowable VOC Content

Weight of VOC Per Volume of Coating (Minus Water and Exempt Solvents)

COATING TYPE	LIMIT	
	POUNDS PER GALLON	GRAMS PER LITER
Specialty Coatings		
(1) Ablative Coating	5.0	600
(2) Adhesion Promoter	7.4	890
(3) Adhesive Bonding Primers:		
(a) Cured at 250°F or below	7.1	850
(b) Cured above 250°F	8.6	1,030
(4) Adhesives:		
(a) Commercial Interior Adhesive	6.3	760
(b) Cyanoacrylate Adhesive	8.5	1,020
(c) Fuel Tank Adhesive	5.2	620
(d) Nonstructural Adhesive	3.0	360
(e) Rocket Motor Bonding Adhesive	7.4	890
(f) Rubber-Based Adhesive	7.1	850
(g) Structural Autoclavable Adhesive	0.5	60
(h) Structural Nonautoclavable Adhesive	7.1	850
(5) Antichafe Coating	5.5	660
(6) Chemical Agent-Resistant Coating	4.6	550
(7) Clear Coating	6.0	720
(8) Commercial Exterior Aerodynamic Structure Primer	5.4	650
(9) Compatible Substrate Primer	6.5	780
(10) Corrosion Prevention Compound	5.9	710
(11) Cryogenic Flexible Primer	5.4	645
(12) Cryoprotective Coating	5.0	600
(13) Electric or Radiation-Effect Coating	6.7	800
(14) Electrostatic Discharge and Electromagnetic Interference (EMI) Coating	6.7	800
(15) Elevated Temperature Skydrol Resistant Commercial Primer	6.2	740
(16) Epoxy Polyamide Topcoat	5.5	660
(17) Fire-Resistant (Interior) Coating	6.7	800
(18) Flexible Primer	5.4	640
(19) Flight-Test Coatings:		
(a) Missile or Single Use Aircraft	3.5	420
(b) All Other	7.0	840
(20) Fuel-Tank Coating	6.0	720
(a) High-Temperature Coating	7.1	850
(21) Insulation Covering	6.2	740
(22) Intermediate Release Coating	6.2	750
(23) Lacquer	6.9	830
(24) Maskants:		
(a) Bonding Maskant	10.2	1,230
(b) Critical Use and Line Sealer Maskant	8.6	1,020
(c) Seal Coat Maskant	10.2	1,230
(25) Metallized Epoxy Coating	6.2	740
(26) Mold Release	6.5	780
(27) Optical Anti-Reflective Coating	6.2	750
(28) Part Marking Coating	7.1	850
(29) Pretreatment Coating	6.5	780
(30) Rain Erosion-Resistant Coating	7.1	850
(31) Rocket Motor Nozzle Coating	5.5	660
(32) Scale Inhibitor	7.3	880
(33) Screen Print Ink	7.0	840

COATING TYPE	LIMIT	
	POUNDS PER GALLON	GRAMS PER LITER
(34) Sealants:		
(a) Extrudable/Rollable/Brushable Sealant	2.0	240
(b) Sprayable Sealant	5.0	600
(35) Self-Priming Topcoat	3.5	420
(36) Silicone Insulation Material	7.1	8 50
(37) Solid Film Lubricant	7.3	88 0
(38) Specialized Function Coating	7.4	8 90
(39) Temporary Protective Coating	2.7	320
(40) Thermal Control Coating	6.7	8 00
(41) Wet Fastener Installation Coating	5.6	675
(42) Wing Coating	7.1	8 50
Primers, Topcoats, and Chemical Milling Maskants		
(1) Primers	2.9	350
(2) Topcoats	3.5	420
(3) Chemical Milling Maskants (Type I/II)	1.3	160

(3) The mass of VOC per combined volume of VOC and coating solids, less water and exempt compounds shall be calculated by the following equation:

$$VOC = \frac{(W_v - W_w - W_{ex})(D_c)}{100\% - (W_w)(D_c/D_w) - (W_{ex})D_c/D_{ex}}$$

Where

VOC = VOC content in grams per liter (g/l) of coating less water and exempt solvents,

W<sub>o</sub> = Weight of organic volatiles, % (W<sub>v</sub>-W<sub>w</sub>-W<sub>ex</sub>),

W<sub>v</sub> = Weight of total volatiles, % (100% - Weight % Nonvolatiles),

W<sub>w</sub> = Weight of water, %,

W<sub>ex</sub> = Weight of exempt solvent, %

V<sub>w</sub> = Volume of water,

V<sub>ex</sub> = Volume of exempt solvent, %,

D<sub>c</sub> = Density of coating, g/l at 25°C,

D<sub>w</sub> = Density of water, 0.997 × 10<sup>3</sup> g/l at 25°C, and

D<sub>ex</sub> = Density of exempt solvent, g/l, at 25°C

To convert from grams per liter (g/l) to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345 × 10<sup>-3</sup> (lb/gal/g/l).

(4) Except as provided in paragraph (5), beginning \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposal in the Pennsylvania Bulletin.*) a person shall use one or more of the following application techniques in applying primer or topcoat to aerospace vehicles or components: flow/curtain coat; dip coat; roll coating; brush coating; cotton-tipped swab application; electrodeposition (DIP) coating; high volume low pressure (HVLP) spraying; electrostatic spray; or other coating application methods that achieve emission reductions equivalent to HVLP or electrostatic spray application methods.

(5) The following situations are exempt from application equipment requirements listed in paragraph (4):

(i) The use of an airbrush or an extension on the spray gun to properly apply coatings to limited access spaces.

(ii) The application of specialty coatings.

(iii) The application of coatings that contain fillers that adversely affect atomization with HVLP spray guns and that the applicant has demonstrated and the Department has determined cannot be applied by any of the application methods specified in paragraph (4).

(iv) The application of coatings that normally have a dried film thickness of less than 0.0013 centimeter (0.0005 in.) when the applicant has demonstrated and the Department has determined cannot be applied by any of the application methods specified in paragraph (4).

(v) The use of airbrush application methods for stencil-ing, lettering and other identification markings.

(vi) The use of hand-held spray can application methods.

(vii) Touch-up and repair operations.

(6) Except as provided in paragraph (7), beginning \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposal in the Pennsylvania Bulletin.*) a person may not use solvents for hand-wipe cleaning of aerospace vehicles or components unless the cleaning solvents do one of the following:

(i) Meet the definition of "aqueous cleaning solvent" in § 121.1 (relating to definitions).

(ii) Have a VOC composite vapor pressure less than or equal to 45 millimeters (MM HG) at 20°C.

(7) The following aerospace vehicle and component solvent cleaning operations are exempt from the requirements in paragraph (6):

(i) Cleaning during the manufacture, assembly, installation, maintenance or testing of components of breathing oxygen systems that are exposed to the breathing oxygen.

(ii) Cleaning during the manufacture, assembly, installation, maintenance or testing of parts, subassemblies or assemblies that are exposed to strong oxidizers or reducers (for example, nitrogen tetroxide, liquid oxygen, hydrazine).

(iii) Cleaning and surface activation prior to adhesive bonding.

(iv) Cleaning of electronics parts and assemblies containing electronics parts.



(v) Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid, including air-to-air heat exchangers and hydraulic fluid systems.

(vi) Cleaning of fuel cells, fuel tanks and confined spaces.

(vii) Surface cleaning of solar cells, coated optics and thermal control surfaces.

(viii) Cleaning during fabrication, assembly, installation and maintenance of upholstery, curtains, carpet and other textile materials used in or on the interior of the aircraft.

(ix) Cleaning of metallic and nonmetallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components.

(x) Cleaning of aircraft transparencies, polycarbonate or glass substrates.

(xi) Cleaning and solvent usage associated with research and development, quality control or laboratory testing.

(xii) Cleaning operations, using nonflammable liquids, conducted within 5 feet of any alternating current (AC) or direct current (DC) electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells and tail sections.

(xiii) Cleaning operations identified in an essential use waiver under section 604(d)(1) of the Clean Air Act (42 U.S.C.A. § 7671c(d)(1)) or a fire suppression or explosion prevention waiver under section 604(g)(1) of the Clean Air Act (42 U.S.C.A. § 7671c(g)(1)) which has been reviewed and approved by the EPA and the voting parties of the International Montreal Protocol Committee.

(8) Cleaning solvents (except for semiaqueous cleaning solvents) used in the flush cleaning of aerospace vehicles, components, parts, and assemblies and coating unit components, shall be emptied into an enclosed container or collection system that is kept closed when not in use or captured with wipers which comply with the housekeeping requirements of paragraph (10). Aqueous cleaning solvents are exempt from these requirements.

(9) Spray guns used to apply aerospace coatings shall be cleaned by one of the following:

(i) An enclosed spray gun cleaning system that is kept closed when not in use. Leaks shall be repaired within 14 days from when the leak is first discovered. Each owner or operator using an enclosed spray gun cleaner shall visually inspect the seals and all other potential sources of leaks at least once per month. Each inspection shall occur while the spray gun cleaner is in operation. If the leak is not repaired by the 15th day after detection, the solvent shall be removed and the enclosed cleaner shall be shut down until the leak is repaired or its use is permanently discontinued.

(ii) Atomized discharge of solvent into a waste container that is kept closed when not in use.

(iii) Disassembly of the spray gun and cleaning in a vat that is kept closed when not in use.

(iv) Atomized spray into a waste container that is fitted with a device designed to capture atomized solvent emissions.

(10) The owner or operator of an affected facility shall implement the following housekeeping measures for cleaning solvents.

(i) Fresh and used cleaning solvents, except aqueous and semiaqueous cleaning solvents, used in solvent cleaning operations shall be stored in nonabsorbent, nonleaking containers. The containers shall be kept closed at all times except when filling or emptying.

(ii) Cloth and paper, or other absorbent applicators, moistened with cleaning solvents, except aqueous cleaning solvents, shall be stored in closed, nonabsorbent, nonleaking containers. Cotton-tipped swabs used for very small cleaning operations are exempt.

(iii) Handling and transfer procedures shall minimize spills during filling and transferring the cleaning solvent, except aqueous cleaning solvents, to or from enclosed systems, vats, waste containers and other cleaning operation equipment that holds or stores fresh or used cleaning solvents.

(11) The owner or operator of an affected facility may comply with this section by using approved air pollution control equipment provided that the following exist:

(i) The control system has combined VOC emissions capture and control equipment efficiency of at least 81% by weight.

(ii) The owner or operator received approval from the Department of a monitoring plan that specifies the applicable operating parameter value, or range of values, to ensure ongoing compliance with this section. The monitoring device shall be installed, calibrated, operated and maintained in accordance with the manufacturer's specifications and the Department's approval.

(iii) The owner or operator shall record monitoring parameters as specified in the approved monitoring plan.

(12) The owner or operator of an affected facility shall maintain records in accordance with §§ 129.51 and 129.52 (relating to general; and surface coating processes) including:

(i) A current list of coatings in use categorized in accordance with Table II showing VOC content as applied and usage on an annual basis.

(ii) A current list of cleaning solvents used and annual usage for hand wiping solvents including the water content of aqueous and semiaqueous solvents and the vapor pressure and composite vapor pressure of all vapor pressure compliant solvents and solvent blends.

(iii) A current list and annual usage information for exempt hand-wipe cleaning solvents with a vapor pressure greater than 45 millimeters of mercury (MM HG) used in exempt hand-wipe cleaning operations.

[Pa.B. Doc. No. 97-1348. Filed for public inspection August 22, 1997, 9:00 a.m.]

## [25 PA. CODE CH. 94]

### Municipal Wasteload Management

The Environmental Quality Board (Board) proposes to amend Chapter 94 (relating to municipal wasteload management). The amendments are proposed as the result of the Department of Environmental Protection's (Department) Regulatory Basics Initiative and Executive Order 1996-1 (Regulatory Review and Promulgation). The De-

partment identified specific sections in Chapters 94 as obsolete, too prescriptive or written in a way that causes significant noncompliance. This proposed rulemaking is intended to meet the goals of these initiatives by correcting identified regulatory deficiencies.

This proposal was adopted by the Board at its meeting of June 17, 1997.

#### A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

#### B. *Contact Persons*

For further information contact Milt Lauch, Acting Chief, Division of Wastewater Management, P. O. Box 8465, Rachel Carson State Office Building, Harrisburg, PA 17105-8465, (717)787-8184 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717)787-7060. Information regarding submitting comments on this proposal appears in Section J of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department's Web site (<http://www.dep.state.us>).

#### C. *Statutory Authority*

The proposed rulemaking is being made under the authority of section 5 of The Clean Streams Law (35 P. S. § 691.5) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510.20).

#### D. *Background and Purpose*

Over the past year, the Department has been conducting an overall review of its existing regulations through its Regulatory Basics Initiative as outlined in 25 Pa.B. 3343 (August 19, 1995) and through Governor Ridge's Executive Order 1996-1, (Regulatory Review and Promulgation) dated February 6, 1996. These initiatives were designed with the goal of improving Department regulations. The amendments being proposed in this rulemaking are one of a number of proposed rulemakings resulting from these initiatives.

Chapter 94 establishes the framework for monitoring sewer system and sewage treatment plant loading rates; projecting future loads; limiting additional contributions of sewage to overloaded facilities; and planning for necessary facility expansion. In addition, this chapter represents a vital pollution prevention element of the State water quality management program. Section 94.12 (relating to annual report) has been identified as both overly prescriptive and the source of noncompliance due to its complexity. In addition, other sections of the chapter need to be updated. Sections 94.61—94.64 (relating to industrial waste pretreatment programs) are obsolete since the Department has not received delegation from the Environmental Protection Agency (EPA) to administer the industrial waste pretreatment program and does not intend to seek delegation to administer these provisions. The proposed amendments were reviewed and approved by the Water Subcommittee of the Air and Water Quality Technical Advisory Committee.

#### E. *Summary of Regulatory Requirements*

##### § 94.1 (relating to definitions)

Section 94.1 would be amended by deleting obsolete definitions and definitions related to the pretreatment regulations which are being proposed for deletion. The definitions which would be deleted include "categorical

pretreatment standard," "control authority," "National pretreatment standard or pretreatment standard," "overflow," "pretreatment," "pretreatment program," "pretreatment requirement" and "regional office." Several new definitions are being added to section 94.1 to define terms commonly used in the wasteload management program as well as terms used in the chapter which may have previously been confusing. The definitions proposed for addition include "combined sewer overflow (CSO)," "hydraulic design capacity," "monthly average flow," "organic design capacity," "sanitary sewer overflow" and "separate sanitary sewer system." In addition, several of the definitions currently in § 94.1 are being modified for clarity or to be consistent with definitions in other existing or proposed amendments. These definitions include "combined sewer system," "exception to ban," "hydraulic overload," "official plan" and "publicly owned treatment works (POTW)."

##### § 94.2 (relating to purpose)

This section is proposed to be amended to emphasize the proactive pollution prevention purpose of Chapter 94. In addition, the objectives listed in this section would be deleted. Revised objectives are proposed to be included in § 94.3 (relating to scope).

##### § 94.3 (relating to scope)

The existing language which discusses the impact of Chapter 94 on existing bans and the pretreatment requirements would be deleted because it is obsolete. New language would be added to this section to include an updated description of the scope of the regulations which is currently in § 94.2.

##### § 94.12 (relating to annual report)

Subsection (a) of this section is reworded for clarity. The existing language in subsection (a)(1) and (2), relating to the content of loading graphs, is proposed to be deleted in its entirety and replaced with a new subsection (a)(1) and (2) providing less prescriptive requirements for loading graphs. The text of subsection (a)(4)—(6), relating to overload reduction plans and industrial waste discharges and other proposed new discharges to the sewerage system, are proposed for deletion as too prescriptive. A new subsection (a)(4) is proposed to provide the required format for the annual report related to anticipated future contributions of sewage from new land development, and new subsection (a)(8) proposes rewording of the requirements for reporting industrial wastes discharged to the system. A new subsection (a)(9) contains the same requirement as the deleted subsection (a)(4).

##### § 94.13 (relating to measuring, indicating and recording devices)

The existing text of this section was rewritten for clarity. A new subsection (b) is proposed to establish a new requirement to calibrate flow measuring equipment annually.

##### § 94.14. (relating to approval of official plans and revisions)

The act of December 14, 1994 (P. L. 1250, No. 149) (Act 149) resulted in substantial amendments to the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20). As part of those amendments, the definition of "supplement" was added. A supplement is a new land development planning module reviewed by a local agency delegated authority by the Department to review and approve the modules. In addition, the Act 149 amendments also established an exemption from the planning requirements for certain types of proposals intending the

use of existing public sewerage facilities or extension of public sewers. The proposed amendments incorporate these changes into this section.

*§ 94.15 (relating to pretreatment program development)*

The Commonwealth has not accepted delegation of the pretreatment program from the EPA. The relevant parts of this section related to this delegation would be deleted. The provisions related to the requirement that sewerage facilities owners address industrial contributions of pollutants to publicly-owned treatment works are retained since they are independent of delegation of the Federal pretreatment program.

*§§ 94.61—94.64 (relating to pretreatment program requirements; pretreatment program submission; pretreatment program approval; and reporting requirements for POTWs)*

These sections are also related to the Federal pretreatment program. The Commonwealth has not accepted delegation of the pretreatment program from the EPA and does not intend to accept this delegation in the future. Accordingly, these provisions are unnecessary and are proposed for deletion.

*F. Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments. It also requires a statement of the need for, and a description of forms, reports or other paperwork required as a result of the proposal.

These proposed amendments to Chapter 94 are necessary to implement the Department's Regulatory Basics Initiative and the goals of Executive Order 1996-1. Sections of Chapter 94 were identified as obsolete, overly prescriptive or written in a way that causes significant noncompliance.

*Benefits*

Individuals, consultants and sewage treatment plant permittees will benefit from the proposed amendments. The proposed simplification of the requirements related to the development of an annual report describing the organic and hydraulic wasteload entering a wastewater treatment plant will assist permittees in attaining compliance and should cut costs associated with the development of these reports. Cost savings are estimated at \$753,000 per year. Additionally, eliminating obsolete regulations and modifying regulations which are too prescriptive while clarifying the remaining regulatory language will eliminate confusion regarding the regulations and promote compliance.

*Compliance Costs*

The amendments to Chapter 94 do not create new regulatory requirements; rather, they eliminate unnecessary existing requirements and clarify existing text. The proposed amendments will not impose additional costs on anyone.

*Compliance Assistance Plan*

The Department does not intend to develop a compliance assistance plan because of the lack of an adverse impact on compliance.

*Paperwork Requirements*

There will be no additional forms, reports or other paperwork that will be required as the result of these proposed amendments. This proposal is intended to reduce existing paperwork requirements.

*G. Pollution Prevention*

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, these proposed amendments have incorporated the following provisions and incentives to meet that goal:

Municipal wasteload management as described in Chapter 94 is a pollution prevention program. The proposed amendments require that permittees of wastewater treatment facilities project, through an annual evaluation of the permitted facilities, the potential for either a hydraulic or organic overload 5 years into the future. When these overloads are projected, the permittee is required to take appropriate action to either eliminate the source of the overload or expand or upgrade the wastewater facilities to handle the projected increased loading. The proposed rulemaking would simplify and clarify the annual evaluation process. This should increase compliance with these regulations.

*H. Sunset Review*

This proposal will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the amendments effectively fulfill the goals for which they were intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 12, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before publication of the final-form regulations.

*J. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail; Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by September 22, 1997. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by September 22, 1997. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@dep.state.pa.us and must also be received by the Board by September 22, 1997. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic com-

ments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF,  
Chairperson

**Fiscal Note:** 7-322. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE II. WATER RESOURCES

#### CHAPTER 94. MUNICIPAL WASTELOAD MANAGEMENT

#### GENERAL PROVISIONS

##### § 94.1. Definitions.

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

\* \* \* \* \*

[ *Categorical pretreatment standard*—A national pretreatment standard promulgated by the EPA under section 307(b) and (c) of the Clean Water Act (33 U.S.C.A. § 1317(b) and (c)) as set forth in 40 CFR Chapter 1, Subchapter N (relating to effluent guidelines and standards) for a specific category of industry which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced to a POTW by existing or new source industrial users. ]

\* \* \* \* \*

*Combined sewer system*—A sewer system [ or parts thereof ] which [ carry ] has been designed to serve as both a sanitary [ sewage ] sewer and [ stormwater ] a storm sewer.

*Combined sewer overflow (CSO)*—An intermittent overflow, or other untreated discharge from a municipal combined sewer system (including domestic, industrial and commercial wastewater and stormwater) which results from a flow in excess of the dry weather carrying capacity of the system.

\* \* \* \* \*

[ *Control Authority*—One of the following:

(i) The POTW, if the POTW has received approval from the Department or the EPA for its industrial waste pretreatment program under this chapter.

(ii) The Department, if POTW's pretreatment program has not been approved by the Department or the EPA. ]

\* \* \* \* \*

*Exception to a ban*—An allowable connection to a sewer system even though a ban is in effect[, prohibiting additional connections to that system or a portion of it ].

\* \* \* \* \*

*Hydraulic design capacity*—The highest monthly average flow, expressed in millions of gallons per day, at which a sewage treatment facility is expected to consistently provide the required treatment or at which a conveyance structure, device or pipe is expected to properly function without creating a backup, surcharge or overflow.

*Hydraulic overload*—The condition that occurs when the monthly average flow of the sewage treatment facility or other portion of the sewage system exceeds the hydraulic design capacity for 3 consecutive months out of the proceeding 12 months [ portion of the load, as measured by the average daily flow entering a plant, exceeds the average daily flow upon which the permit and the plant design are based during each month of a recent 3-month period ] or when the flow in a portion of the system exceeds its hydraulic carrying capacity.

\* \* \* \* \*

*Monthly average flow*—The total flow received at a sewerage facility or another portion of the sewer system during any 1-calendar month divided by the number of days in that month. This value is always expressed in millions of gallons per day (MGD).

[ *National pretreatment standard or pretreatment standard*—A regulation containing pollutant discharge limits or prohibitions promulgated by the EPA under section 307(b) and (c) of the Clean Water Act, which applies to industrial users. The term includes general and specific prohibitions under § 97.91(a) and (b) (relating to pretreatment requirements for industrial users), specific local limits established under § 97.91(c) and local prohibitive standards. ]

\* \* \* \* \*

*Official [ Plan ] plan*—A comprehensive plan for the provision of adequate sewage systems adopted by a municipality [ or municipalities ] possessing authority or jurisdiction over the provision of the systems and submitted to and approved by the Department as provided by the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and [ Chapters ] Chapter 71 [ and 73 ] (relating to administration of sewage facilities planning program[; and standards for sewage disposal facilities ]).

\* \* \* \* \*

*Organic design capacity*—The highest daily organic load at which a sewage treatment facility or a portion thereof is expected to provide a specific predetermined level of treatment. This capacity is normally specified in the water quality management permit (part II permit issued under Chapter 91) (relating to general provisions)).

[ *Overflow*—The systematic discharge of a mixture of partially treated or untreated sewage and stormwater from a device or structure of combined sewerage facilities which is in excess of the downstream hydraulic carrying capacity of those facilities.

*POTW*—A publicly owned treatment works as defined by section 212 of the Clean Water Act (33 U.S.C.A. § 1292) which is owned by a state or municipality, as defined by section 502(4) of the

**Clean Water Act (33 U.S.C.A. § 1362(4)), including sewers that convey wastewater to the treatment works. The term does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term includes the municipality, as defined in section 502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from this type of treatment works. ]**

**POTW—Publicly-owned treatment works—**Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality. The term includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

\* \* \* \* \*

**[ Pretreatment—**The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing the pollutants into a POTW. This reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by § 97.91(d)(4). If wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the mixture shall meet an adjusted pretreatment limit calculated under § 97.91(d)(5).

**Pretreatment program—**A program administered by a POTW that meets the criteria established in §§ 94.61 and 94.62 (relating to pretreatment program requirements; and pretreatment program submission) and which has been approved by the EPA under 40 CFR 403.11 (relating to approval procedures for POTW pretreatment programs and POTW granting of removal credits) or the Department under § 94.63 (relating to pretreatment program approval).

**Pretreatment requirement—**A substantive or procedural requirement related to pretreatment, other than a National pretreatment standard, imposed on an industrial user. ]

\* \* \* \* \*

**[ Regional office—**The Regional Water Quality Manager of the Bureau of Water Quality Management of the Department. ]

**Sanitary sewer overflow—**An untreated discharge from a sanitary sewer system (which is not a combined sewer system), which results from a flow in excess of the carrying capacity of the system.

**Separate sanitary sewer system—**A sewer system or part thereof which is specifically designed and intended to carry sanitary sewage separate from stormwater.

\* \* \* \* \*

#### § 94.2. Purpose.

This chapter is intended to [ require ] prevent pollution by requiring the owners and operators of sewerage facilities to manage wasteloads [ discharged to ] entering the sewerage facilities. [ in order to accomplish the following objectives:

(1) Prevent the occurrence of overloaded sewerage facilities.

(2) Limit additional extensions and connections to an overloaded sewer system or a sewer system tributary to an overloaded plant.

(3) Prevent the introduction into POTWs of pollutants which will interfere with the operation of the plant or pass through or otherwise be incompatible with the plant.

(4) Improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. ]

#### § 94.3. Scope.

[ Nothing in this chapter affects the validity of the following:

(1) A final, unappealed ban imposed by the Department prior to the date of adoption of this chapter; except that the ban may be modified or removed under §§ 94.41 and 94.42 (relating to elimination of overload; and reduction of overload), and exceptions to the bans will be granted under §§ 94.51—94.57 (relating to exception to bans).

(2) Pretreatment requirements established by a control authority if the requirements are no less stringent than the national pretreatment standards, limitations established under the Clean Water Act, regulations thereunder or this title. ]

This chapter requires owners of sewerage facilities to properly plan, manage and maintain sewerage facilities in a manner which will do the following:

(1) Anticipate and prevent overloading sewerage facilities.

(2) Limit additional extensions and connections to an overloaded sewer system or a sewer system tributary to an overloaded plant.

(3) Prevent the introduction into POTWS of pollutants which will interfere with the operation of the plant or pass through or otherwise be incompatible with the treatment process or sewerage facility.

(4) Improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

#### § 94.12. Annual report.

(a) [ In order to ] To provide for [ a ] annual review of [ the load on ] sewerage facilities and [ to insure ] ensure that there is sufficient time to address existing operational or maintenance problems or to plan and construct needed additions, [ plant ] sewerage facilities permittees shall submit a complete and accurate wasteload management annual report, in duplicate, by March 31 of each year to the appropriate Regional Office of the Department [ , subject to the review of the Department ]. The report shall use a brief summary form provided by the Department and include the following:

[ (1) A hydraulic loading graph which shall show the following:

(i) The hydraulic loading on the plant plotted from average daily flows for each month of the past 5 years.

(ii) A projection of the anticipated hydraulic loading on the plant for each of the next 5 years.

(iii) The hydraulic loading approved by the permit.

(2) An organic loading graph which shall show the following:

(i) The organic loading on the plant plotted from average daily loads for each month of the past five years.

(ii) A projection of the anticipated organic loading on the plant for each of the next five years.

(iii) The organic loading approved by the permit. ]

(1) A line graph depicting the monthly average flows (expressed in millions of gallons per day) for each month for the past 5 years and projecting the flows for the next 5 years. The graph shall also include a line depicting the hydraulic design flow (also expressed in million of gallons per day) of the facility included in the water quality management permit (Part II permit issued under Chapter 91 (relating to general provisions)).

(2) A line graph depicting the average daily organic loading (expressed as pounds per day of BOD<sub>5</sub>) for each month for the past 5 years and projecting the average daily organic loading for the next 5 years. The graph shall also include a line depicting the organic loading design (also expressed in pounds per day of BOD<sub>5</sub>) of the facility included in the water quality management permit (Part II permit issued under Chapter 91 (relating to general provisions)).

(3) A brief discussion of the basis for the 5 year projections referred to in paragraphs (1) and (2), as well as a description of the time needed to expand the plant to meet the load projections, if necessary. Data used to support those projections should be included in an appendix to the annual report.

[ (4) A proposed plan to reduce or eliminate present or projected overloaded conditions under §§ 94.21 and 94.22 (relating to existing overload; and projected overload).

(5) A report of industrial wastes discharged into the sewer system, which shall include the following:

(i) A copy of the ordinance or regulation governing industrial waste discharges to the sewer system or a copy of amendments adopted since the initial submission under this chapter, if it has not previously been submitted.

(ii) A discussion of the program for surveillance and monitoring of industrial waste discharges into the sewer system during the past year.

(iii) A discussion of specific problems in the sewer system or at the plant, known or suspected to be caused by industrial waste discharges and a summary of the steps being taken to alleviate or eliminate the problems. The discussion should include a list of industries known to be discharging wastes which create problems in the plant or in the sewer system and an action taken to eliminate the problem or prevent its recurrence.

(6) A description accompanied by a plot plan or map of sewer extensions constructed within the past calendar year, sewer extensions approved in

the past year in accordance with the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and the provisions of Chapter 71 (relating to administration of the sewage facilities program), but not yet constructed, and all known proposed projects which shall require public sewers but are in the preliminary planning stages. The description shall include areas and populations served or to be served by each extension. ]

(4) A map showing all sewer extensions constructed within the past calendar year, sewer extensions approved in the past year in accordance with the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20) and Chapter 71 (relating to administration of the sewage facilities program), but not yet constructed, and all known proposed projects which require public sewers but are in the preliminary planning stages. The map shall be accompanied by a list summarizing each extension or project and the population to be served by the extension or project. If a sewer extension approval or proposed project included schedules describing how the project will be completed over time, the listing should include that information and the effect this build-out-rate will have on population served.

[ (7) ] (5) \*\*\*

[ (8) ] (6) \*\*\*

[ (9) ] (7) \*\*\*

(8) A report, if applicable, of industrial wastes discharged into the sewer system. This report shall include the following:

(i) A copy of any ordinance or regulation governing industrial waste discharges to the sewer system or a copy of amendments adopted since the initial submission of the ordinance or regulation under this chapter, if it has not previously been submitted.

(ii) A discussion of the permittee's or municipality's program for surveillance and monitoring of industrial waste discharges into the sewer system during the past year.

(iii) A discussion of specific problems in the sewer system or at the plant, known or suspected to be caused by industrial waste discharges and a summary of the steps being taken to alleviate or eliminate the problems. The discussion shall include a list of industries known to be discharging wastes which create problems in the plant or in the sewer system and action taken to eliminate the problem or prevent its recurrence.

(9) A proposed plan to reduce or eliminate present or projected overloaded conditions under §§ 94.21 and 94.22 (relating to existing overload; and projected overload).

\* \* \* \* \*

§ 94.13. Measuring, indicating and recording devices.

(a) [ If the hydraulic loading on the ] A sewage treatment plant [ exceeds ] or other part of a facility which receives or will receive within the next 5 years, flows exceeding 100,000 gallons per day [ or will exceed 100,000 gallons per day in the next 5

years, and if the plant is not ] shall be equipped to continuously measure, indicate and record the influent flow[ , equipment to continuously measure, indicate and record the flow shall be installed within 6 months of the adoption of this chapter ]. The permittee of the sewage facility shall install equipment within 6 months of the final day for submitting the annual report [ period ] required under § 94.12 (relating to annual report) when such a flow [ became ] becomes evident.

(b) Flow measuring, indicating and recording equipment shall be calibrated annually, and the calibration report shall be included in the annual report submitted under § 94.12.

#### § 94.14. Approval of official plans and revisions.

No official plan [ or ], official plan revision or supplement will be approved [ nor will a supplement be considered adequate ] by the Department or delegated agency, nor will an exemption from the planning requirements be granted under Chapter 71 (relating to administration of the sewage facilities planning program) that is inconsistent with the requirements of this chapter.

#### § 94.15. Pretreatment program development.

[ (a) A POTW, in ] In cases where pollutants contributed by industrial users result in interference or pass through, and the violation is likely to recur, a POTW or other sewerage facilities owner shall develop and implement specific local limits for industrial users and other users, as appropriate, that together with appropriate POTW facility or operational changes, are necessary to ensure renewed or continued compliance with the POTW's NPDES permit or sludge use or disposal practices.

[ (b) A POTW shall develop, submit and implement a pretreatment program under §§ 94.61—94.63 (relating to pretreatment program requirements; pretreatment program submission; and pretreatment program approval) if one of the following applies:

(1) The total design flow of the POTW, or combination of POTWs operated by the same permittee, is greater than 5 million gallons per day (MGD) and contains pollutants from industrial users which pass through or interfere with the operation of the POTW or are otherwise subject to national pretreatment standards.

(2) The total design flow of the POTW, or combination of POTWs operated by the same permittee, is 5 (MGD) or less and the Department or the POTW determines that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge or other circumstances warrant the development of a pretreatment program to prevent interference with the POTW or pass through of pollutants to receiving waters.

(c) The Department may modify or reissue the POTW's NPDES permit to accomplish any of the following:

(1) Put the POTW on a compliance schedule for the development of a POTW pretreatment program where the addition of pollutants into a POTW by an industrial user or combination of industrial users

presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health or the environment.

(2) Coordinate the issuance of a section 201 construction grant with the incorporation into a permit of a compliance schedule for POTW pretreatment program.

(3) Incorporate a modification of the permit approved under section 301(h) or (i) of the Clean Water Act (33 U.S.C.A. § 1311(h) or (i)).

(4) Incorporate an approved POTW pretreatment program in the POTW permit.

(5) Incorporate a compliance schedule for the development of a POTW pretreatment program in the POTW permit.

(d) A POTW required to develop a pretreatment program under subsection (b)(1) or (2) shall have an approved pretreatment program no later than 3 years after the reissuance or modification of its NPDES permit but in no case later than July 1, 1983. A POTW, whose NPDES permit is modified under section 301(h) of the Clean Water Act (33 U.S.C.A. § 1311(h)) shall have a pretreatment program within less than 3 years as provided for in 40 CFR Part 125, Subpart G (relating to criteria for modifying the secondary treatment requirements under section 301(h) of the Clean Water Act). A POTW identified after July 1, 1983 as being required to develop a POTW pretreatment program under subsection (b) shall develop and submit the program for approval as soon as possible, but in no case later than 1 year after written notification from the Department of the identification. The POTW pretreatment program shall meet the criteria in § 94.61 and shall be administered by the POTW to ensure compliance by industrial users and other users as appropriate with applicable pretreatment standards and requirements.

(e) A POTW required to develop a pretreatment program under subsection (b)(1) or (2) shall develop and enforce specific local limits to implement the prohibitions listed in § 97.91(a) and (b) (relating to pretreatment requirements for industrial users). ]

#### INDUSTRIAL WASTE PRETREATMENT PROGRAMS

(Editor's Note: The Department is proposing to delete §§ 94.61—94.64 as they currently appear in the *Pennsylvania Code* at pages 94-20—94-27 (serial pages (228290)—(229297)).

§§ 94.61—94.64. (Reserved).

[Pa.B. Doc. No. 97-1349. Filed for public inspection August 22, 1997, 9:00 a.m.]

#### [25 PA. CODE CHS. 121 AND 123] Regulatory Basics Initiative #3 (Malodors)

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 123 (relating to general provisions; and standards for contaminants) to read as set forth in Annex A.

The changes to Chapter 121 modify the definition of "malodor" and add a definition of "odor investigation."

The changes to Chapter 123 modify the Department of Environmental Protection's (Department) existing program for investigating and addressing malodor complaints. These changes are in response to comments received as part of the Regulatory Basics Initiative concerning malodors.

This notice is given under Board order at its meeting of June 17, 1997.

#### A. *Effective Date*

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

#### B. *Contact Persons*

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

#### C. *Statutory Authority*

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

#### D. *Background of the Amendments*

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

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

These proposed amendments are the third in a series of regulatory proposals implementing changes to the Department's air resource regulations resulting from the Regulatory Basics Initiative. These proposed changes implement recommendations received from both the public and the regulated community concerning the Department's program for addressing malodors.

Approximately 30% of the citizen complaints received by the Department's regional air program offices relate to malodors. The Department investigates each of these complaints and works with facility owners and operators and the public to resolve the complaints. The existing regulations and Court decisions interpreting them make it difficult and time consuming to document and resolve malodor problems. This proposal streamlines both the complaint and investigation process and establishes clear limits of responsibility for facility owners.

The Department worked with the Air Subcommittee of the Air and Water Quality Technical Advisory Committee (AWQTAC) in the development of these regulations. At its

April 17, 1997, meeting, the Air Subcommittee acting on behalf of AWQTAC recommended adoption of the proposed amendments.

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

The proposed change to the definition of "malodor" retains the existing procedure that a member of the public must initially report the malodor and authorizes the Department to document that malodor in the course of an odor investigation. This complaint driven process authorizes the Department to conduct an investigation in response to a citizen complaint. The new definition of "odor investigation" requires the Department to investigate the source and frequency of the odors and establishes that facility inspection, surveillance, affidavits or odor logs can be used to document a malodor.

The changes to the substantive provisions of § 123.31 (relating to limitations) provide, in subsection (c), that a facility which controls malodorous air contaminants through the use of best available technology (BAT) will not be required to further reduce residual odors for a 5-year period. This provision establishes a limit on a facility's obligation based on the technology available to control odors. This limitation on responsibility lasts for a single permit term of 5 years. This provision creates certainty for both the public and facility operators concerning the extent of responsibility for emissions of malodorous air contaminants. Section 123.31(a) is being retained because it establishes the minimum requirements for reducing malodors resulting from volatile organic compounds (VOCs).

The revisions to § 123.31(d) excludes certain types of activities from the regulatory requirement. The exclusions include agricultural commodities in their unmanufactured state, private residences, restaurants and materials odorized for safety purposes such as natural gas. In addition, the Department is authorized by paragraph (5) to identify additional sources for exclusion. Section 123.31(e) requires the Department to establish a list of additional sources through a public notice and comment process which provides both the public and the regulated community an opportunity for input. This provision is patterned after the existing requirement in § 127.14 (relating to exemptions) of the Department's regulations.

Under the proposed revisions to the Department's malodor regulations, a complaint from an individual member of the public will result in an investigation by the Department's Air Quality technical staff to determine the source and frequency of the odor complained of. This investigation will include discussions with the owner of the facility at which the source creating odors is located as well as discussion with the complainants. If as a result of this investigation, the Department documents the objectionable odor, the Department will work with the facility owner to identify control technology, improved housekeeping or other strategies to eliminate the objectionable odor. For objectionable odors caused by the emission of VOCs, the reductions achieved through incineration establish the minimum requirements a facility must meet. For objectionable odors resulting from other pollutants, there is no minimum requirement. In all cases, the facility owners responsibility is limited by the best available technology for odors.

This regulatory revision will be submitted to the Environmental Protection Agency as an amendment to the State Implementation Plan.



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

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

##### *Benefits*

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they streamline the procedures for implementing the Department's air quality program for addressing malodors.

##### *Compliance Costs*

These proposed amendments should, in general, reduce compliance costs by streamlining the complaint and investigation process and by establishing a best available technology based compliance requirement.

##### *Compliance Assistance Plan*

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

##### *Paperwork Requirements*

The regulatory revisions will reduce the paperwork related to complaints and odor investigations.

#### G. *Sunset Review*

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

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 12, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before publication of the final-form regulations.

#### I. *Public Comment and Board Public Hearings*

The Department is specifically requesting comments on three aspects of this proposal:

1. In documenting whether an odor is objectionable, how should the frequency of occurrence and the extent of public objection be evaluated?
2. Should the Department retain its long-standing minimum requirements for malodors resulting from emissions of VOCs?
3. Is the 5-year review period for BAT the appropriate time frame?

#### *Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on the proposed amendments. The hearings will be held at 1 p.m. on the following dates and at the following locations:

- |                    |  |
|--------------------|--|
| September 23, 1997 | Department of Environmental Protection<br>1st Floor Meeting Room<br>Rachel Carson State Office Building<br>400 Market Street<br>Harrisburg, PA |
| September 25, 1997 | Department of Environmental Protection<br>Southwest Regional Office<br>500 Waterfront Drive<br>Pittsburgh, PA                                  |
| September 29, 1997 | Upper Merion Township Building<br>175 West Valley Forge Road<br>King of Prussia, PA  |

Persons wishing to present testimony at the hearings must contact Kate Coleman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and three written copies of the oral testimony must be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodations in order to participate, should contact Kate Coleman at (717) 787-4526 or through the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

#### *Written Comments*

In lieu of or in addition to presenting oral testimony at the hearings, interested persons may submit written comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, 15th Floor Rachel Carson State Office Building, P. O. Box 8477, Harrisburg, PA 17105-8477. Comments received by facsimile will not be accepted. Comments must be received by October 29, 1997. In addition to the written comments, interested persons may also submit a summary of their comments to the Board. This summary may not exceed one page in length and must be received by October 29, 1997. The summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

#### *Electronic Comments*

Comments may be submitted electronically to the Board at [Regcomments@al.dep.state.pa.us](mailto:Regcomments@al.dep.state.pa.us). A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by October 29, 1997.

JAMES M. SEIF,  
*Chairperson*

(*Editor's Note:* Proposals to amend § 121.1 remain outstanding at 27 Pa.B. 1822, 1829 and 2130 (April 12 and May 3, 1997).)

**Fiscal Note:** 7-325. No fiscal impact; (8) recommends adoption.

## Annex A

TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL  
PROTECTIONSubpart C. PROTECTION OF NATURAL  
RESOURCES

## ARTICLE III. AIR RESOURCES

## CHAPTER 121. GENERAL PROVISIONS

## § 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Malodor**—An [odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public] objectionable odor which is first identified by a member of the public and subsequently documented by the Department in the course of an odor investigation to be an objectionable odor.

\* \* \* \* \*

**Odor investigation**—An investigation of the source and frequency of odors which may include, but is not limited to, an inspection of a facility, surveillance activities in the area of a facility, affidavits or odor logs.

\* \* \* \* \*

CHAPTER 123. STANDARDS FOR CONTAMINANTS  
ODOR EMISSIONS

## § 123.31. Limitations.

\* \* \* \* \*

(c) Notwithstanding subsections (a) and (b), if a person controls malodorous air contaminants from a source through the use of the best available technology for odors for that source, as determined by the Department, then no additional measures will be required to further reduce residual odors. After 5 years following implementation of the best available technology, if a malodor exists, the Department may require a new determination of and implementation of best available technology for odors.

(d) The prohibition in subsection (b) does not apply [to odor emissions arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.] when the odor results from the following:

- (1) The production of agricultural commodities in their unmanufactured state.
- (2) Private residences.
- (3) Restaurants.
- (4) Materials odorized for safety purposes.
- (5) Other sources or classes of sources determined to be of minor significance by the Department.
- (e) The Department may establish a list of sources or classes of sources meeting the requirements of subsection (d)(5). The Department will

publish notice of its intention to establish or modify the list in the *Pennsylvania Bulletin* and will establish a comment period of at least 30 days. After the close of the comment period, the Department will publish the final list or any modifications to the final list in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 97-1350. Filed for public inspection August 22, 1997, 9:00 a.m.]

## [25 PA. CODE CHS. 91, 97 AND 101]

## Wastewater Management

The Environmental Quality Board (Board) proposes to amend Chapters 91 and 97 (relating to general provisions; and industrial wastes) and delete Chapter 101 (relating to special water pollution regulations). The amendments are proposed as a result of the Department of Environmental Protection's (Department) Regulatory Basics Initiative and Executive Order 1996-1 (Regulatory Review and Promulgation). This proposed rulemaking is intended to meet the goals of these initiatives by correcting identified regulatory deficiencies.

This proposal was adopted by the Board at its meeting of June 17, 1997.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information contact Milt Lauch, Chief, Division of Wastewater Management, P. O. Box 8465, Rachel Carson State Office Building, Harrisburg, PA 17105-8465, (717)787-8184, or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717)787-7060. Information regarding submitting comments on this proposal appears in Section J of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department's Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of section 5 of The Clean Streams Law (35 P. S. § 691.5) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510.20).

D. *Background and Purpose*

These proposed amendments are intended to support the Department's pollution prevention strategies, eliminate regulations which are more stringent than Federal rules unless justified by a compelling and articulable Commonwealth interest or required by State law, more easily apply new green technologies, eliminate provisions which impose disproportionate economic costs and eliminate obsolete regulations. These changes are likely to affect industries and individuals proposing new or innovative ways to prevent pollution through modifications to waste streams or wastewater processes and those proposing new technologies to treat wastewater by eliminating regulatory barriers to these activities. In addition, the elimination of obsolete regulations will simplify and clarify the existing regulations for those applying for permits for wastewater treatment facilities. The proposed

consolidation of Chapter 101 into Chapter 91 will provide a single source of regulations regarding related wastewater issues. The proposed rulemaking also transfers several sections from Chapter 97 to Chapter 91.

The proposed amendments were reviewed and approved by the Water Subcommittee of the Air and Water Quality Technical Advisory Committee (Committee) on February 20, 1997.

#### E. *Summary of Regulatory Requirements*

##### *§ 91.1 (relating to definitions)*

Section 91.1 proposes new or revised definitions related to the Department's wastewater program intended to clarify previously undefined terms used in the regulations. Terms newly defined include: "application," "facility," "Federal act," "general water quality management permit or general permit," "industrial waste," "notice of intent (NOI)," "National Pollutant Discharge Elimination System (NPDES) permit," "operator," "owner," "person," "pollutant," "schedule of compliance," "sewage," "single residence sewage treatment plant," "stormwater," "wastewater impoundment," "waters of this Commonwealth" and "water quality management permit." The definitions of "Department" and "EPA" are proposed to be deleted since these definitions exist in Chapter 1. Inclusion of the new definitions would provide a single source of uniform definitions directly related to the regulations and program administration.

##### *§ 91.5 (relating to pollution prevention)*

Proposed text of this section is currently in § 97.14 (relating to measures to be used) and is proposed to be moved to Chapter 91. The title of the section is changed from "measures to be used" to "pollution prevention" to more clearly define the intent of the section. In addition, the text of this section is proposed to be modified slightly to include additional examples of pollution prevention methods. Existing § 91.5 (relating to interpretation of regulations) is renumbered as § 91.4.

##### *§ 91.11 (relating to compliance conferences)*

The title of this section is proposed to be changed from "conferences with violators" to "compliance conferences" to more clearly describe the intent of the conferences held to discuss pollution abatement options. The last sentence of this section was deleted since these conferences may not involve orders issued by the Department.

##### *§ 91.12 (relating to conference procedure)*

Subsection (a) contained provisions that prohibited Department employees from recommending specific measures or methods to be used by parties attempting to comply with Department requirements. This section is proposed for deletion because it restricted innovation and hindered the Department's ability to assist persons attempting to comply with Department requirements and was inconsistent with § 91.11. In addition, the term "the staff" would be replaced with "employees of the Department" throughout the section to more clearly define the individuals representing the Department.

##### *§ 91.13 (relating to abatement or treatment required)*

This section is proposed for revision to remove the requirement for submission of detailed plans and specifications for the construction of a treatment works as the only alternative to abatement of pollution. Language is added to allow the consideration of pollution prevention measures or other actions as alternatives to construction of facilities.

##### *§ 91.15 (relating to basin-wide compliance)*

The title of this section is proposed to be changed from "basin-wide plans" to "basin-wide compliance" to more accurately reflect the intent of achieving basin-wide compliance with water quality objectives. A requirement to submit plans and construct treatment plants concurrently for an entire stream basin is proposed for deletion because it is too prescriptive and impracticable. The term "sources of pollution" is proposed to be changed to "pollutant sources" for clarity and because the term "pollutant" is now defined in § 91.1 (relating to definitions). In addition, a conforming change has been made to § 91.14(a) (relating to time for constructing treatment works).

##### *§ 91.21 (relating to applications for permits)*

A minor change to this section is proposed to better define the Department's regional office as the appropriate place to submit permit applications rather than the "regional engineer" which is now an obsolete term. In addition, a subsection has been added which outlines the administrative process to obtain coverage under a proposed General Water Quality Management Permit (see § 91.27 (relating to general water quality management permits)).

##### *§ 91.22 (relating to fees)*

A new subsection (b) is proposed to provide for fees to be established for the Department's review of notices of intent (NOI) submitted for coverage under a general permit. The provisions would authorize the Department to establish a fee for review of the NOI for each type of general permit through publication of the fees when the general permit is published in the *Pennsylvania Bulletin* as described in proposed § 91.27(b)(1). The existing language of this section would be retained in a new subsection (a).

##### *§ 91.25 (relating to experimental projects)*

The proposed amendments would allow field data on experimental projects that have been demonstrated in other states with climatic conditions similar to this Commonwealth to be used as a basis for approval of an innovative treatment process not currently in use in this Commonwealth. This section is intended to remove a current regulatory barrier to the use of innovative technology in this Commonwealth.

##### *§ 91.27 (relating to general water quality management permits)*

This new section would give the Department the authority to issue general water quality management permits. These permits would be issued once Statewide for specific classifications of treatment facilities which will treat the same type of wastewater, involve the same type of operations and require the same type of operating conditions. Applicants for coverage under one of these general permits would submit an NOI to the Department. The proposed amendments would provide that, based on the conditions in the general permit under which coverage is being requested, the applicant may be authorized to begin constructing the wastewater treatment facility after waiting for a specific period of time in the general permit, on the date specified in the general permit, upon notification of inclusion by the Department or upon receipt of the application for coverage by the Department. The amendments include the conditions under which the Department may deny coverage under a general permit as well as when existing coverage under a general permit may be revoked, suspended or terminated by the Depart-

ment and an individual water quality management permit required. These provisions are proposed for inclusion in Chapter 91 to improve the level of compliance and provide a reduction in cost and paperwork for both the Department and regulated community for specific classes of treatment facilities while still protecting the environment through specific conditions in each general permit. The proposed procedures are similar to those used to establish and implement NPDES general permits authorizing wastewater discharges.

#### *Standards for Approval*

The undesignated center heading would be changed from "Standards for Approval" to "Management of Other Wastes" to more clearly describe the modified and new provisions under this heading.

*§ 91.31 (currently relating to "comprehensive water quality management" and proposed to be changed to "wells other than oil and gas")*

The current regulation establishes standards for approving projects relative to comprehensive water quality management plans and supports implementation of the policy statement in The Clean Streams Law (35 P.S. §§ 691.1—691.1001) related to establishing a comprehensive program of watershed management and control. This section is obsolete in that it does not reflect current watershed management concepts and practices. The entire section is proposed to be deleted and replaced by provisions currently in § 97.61 (relating to wells other than oil or gas) with a proposal to change the term "polluting wastes" to "pollutant" which is a defined term. In addition, the reference to "1,000 p.p.m." in existing § 97.61(a) is changed to "1,000 nephelometric turbidity units (NTU)." In subsection (c) the word "receptacle" is inserted between the words "or" and "shall" to be consistent with the use of "receptacle" later in the same subsection.

*§ 91.32 (currently relating to "private projects" and proposed to be changed to "underground injection of wastes")*

The current provisions relating to private projects would be moved to a newly created § 91.37 (relating to private projects).

The Department's regulations relating to underground injection of wastes are currently found in §§ 97.71—97.76. These regulations are more stringent than Federal regulations in that an NPDES Permit is required, but the Federal regulations at 40 CFR 144 (relating to underground injection control program) only require these permits for surface water discharges. The proposed amendments delete §§ 97.71—97.76 and incorporate by reference the Federal regulations in § 91.32. The proposed new provisions provide that any underground injection of waste shall comply with 40 CFR 144 relating to underground injection control.

*§ 91.33 (currently relating to "permit requirements" and proposed to be changed to "incidents causing or threatening pollution")*

Existing § 91.33 is covered by Federal law and is not related to the new content of Chapter 91. The proposed rulemaking deletes this section from Chapter 91. The Department's regulations relating to incidents causing or threatening pollution are currently found in § 101.2. That section includes provisions related to actions to be taken in the event of an accident or incident causing the release of toxic or other harmful pollutants. It also includes an outdated listing of regional office emergency telephone

numbers in § 101.2 (c) and (d). The proposed amendments delete this section, and the provisions of § 101.2 (a), (b) and (e) are moved to § 91.33. Minor changes are proposed to subsection (a) by deleting "or taste and odor producing substances" and changing the word "another" to "any other" in describing the substances covered under these emergency provisions and deleting the word "municipality" in both subsections (a) and (b) since the definition for the word "person" includes municipalities. The Water Subcommittee (Subcommittee) of the Committee recommended the Department change the term "forthwith" (in the original text being transferred) to "as soon as practicable." This section relates to the need to notify the Department of an accident involving a discharge of a toxic substance or other pollutant into waters of this Commonwealth. The Department feels that, because of potential hazards to the environment and public health associated with any delay in notification and the potential for misinterpretation of the phrase "as soon as practicable," the word "immediately" is more appropriate. The provisions which require the reporting of an incident "immediately" are also more stringent than Federal regulations at 40 CFR 122.41 which allow 24 hours for a report. This more stringent requirement has been retained in this proposed rulemaking because it has been proven over many years to prevent hazards to downstream drinking water supplies and other water users and has prevented property damage. The Department feels that the benefits of a quick response outweigh any additional burden placed on the individual to quickly report the incident.

The Subcommittee raised a concern regarding consistency of the phrase "remove from the ground" in § 91.33(b) with the Land Recycling and Environmental Remediation Standards Act (Act 2) (35 P.S. §§ 6026.101—6026.909). The Department has inserted the phrase "this title" between "by" and "the" in the last sentence of the subsection. This change will assure that activities related to removal of pollutants from the ground are conducted in accordance with appropriate Department regulations including regulations promulgated under Act 2.

*§ 91.34 (relating to activities utilizing pollutants)*

The Department's regulations relating to activities utilizing pollutants are currently found in § 101.3 (relating to activities utilizing polluting substances). That section regulates activities such as impoundments or transportation of polluting substances. The proposed amendments move § 101.3 to new § 91.34. The term "polluting substances" is proposed to be changed to "pollutants" in subsection (a) of the transferred text. In addition, the words "municipalities" and "municipality" were deleted because the definition for the word "person" includes these terms.

*§ 91.35 (relating to wastewater impoundments)*

The Department's regulations relating to wastewater impoundments are currently found in § 101.4 (relating to impoundments). That section regulates the proper operation, maintenance and use of impoundments used for the production, processing, storage, treatment or disposal of polluting substances. The proposed amendments move § 101.4 to new § 91.35. The title of the section would be changed from "Impoundments" to "Wastewater impoundments" to make it clear that these requirements do not relate to other impounded waters such as ponds, lakes and reservoirs. The word "municipality" has been deleted in subsection (a) and (b) because the definition of "person" includes this term.

*§ 91.36 (relating to pollution control and prevention at agricultural operations)*

The Department's regulations relating to pollution control and prevention at agricultural operations are currently found in § 101.8. The proposed amendments move the content of § 101.8 to new § 91.36. Minor changes to the existing text are proposed. The term "polluting substances" is proposed to be changed to "pollutants" in subsections (a) and (b) of the transferred text.

The Subcommittee raised a concern that existing § 101.8(b) (§ 91.36(b) of the proposal) be reviewed for potential conflicts with nutrient management regulations in Chapter 83 (relating to State Conservation Commission), published as final at 27 Pa.B. 3161 (June 28, 1997), effective October 1, 1997. To better identify the relationship between these proposed amendments and the nutrient management regulations, the following sentence has been added at the end of § 91.36(b): "Operations which are required to or volunteer to submit nutrient management plans shall comply with Chapter 83." Similar language has been added at the end of subsection (a).

*§ 91.37 (relating to private projects)*

This section was previously § 91.32. The text of this section has not been modified.

*§ 91.38 (relating to algicides, herbicides and fish control chemicals)*

Section 101.5 of the current regulations describes an approval process to obtain permission to apply algicides, herbicides or fish control chemicals to sources of public drinking water supply to control algae. An additional provision describes a joint approval given by the Department and the Fish and Boat Commission to control aquatic plants in surface waters using chemicals. The proposed amendments would move § 101.5 to new § 91.38 and revise "Fish Commission" to "Fish and Boat Commission."

*§ 101.1 (relating to definitions)*

The definitions are proposed to be deleted.

*§ 101.6 (relating to protection of Wallenpaupack Lake)*

This section of the existing regulations describes special pollution prevention measures to be put in place specifically for Wallenpaupack Lake. These provisions are obsolete. The proposed amendments would delete this section in its entirety.

**F. Benefits, Costs and Compliance**

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments. It also requires a statement of the need for, and a description of forms, reports or other paperwork required as a result of the proposal.

These proposed amendments to Chapter 91 and 97 and deletion of Chapter 101 are necessary to implement the Department's Regulatory Basics Initiative and the goals of Executive Order 1996-1. The regulatory amendments will result in the promotion of pollution prevention strategies, eliminate regulations which inhibit the application of green technologies and eliminate obsolete regulations or regulations which are more stringent than Federal rules without a compelling and articulable Pennsylvania public interest or required by State law.

*Benefits*

Individuals, consultants and sewage treatment plant permittees will benefit from the proposed amendments without reductions in protection of public health or the environment. The amendments will allow the Department

staff more flexibility to recommend innovative remediation measures to attain compliance. In addition, the proposed provisions regarding pollution prevention will provide new options when considering sewage treatment/operational alternatives to achieve compliance. The amendments to the provisions regarding experimental facilities will allow the use of new innovative technologies to be considered for use in this Commonwealth. Additionally, the elimination of obsolete regulations and the proposal to incorporate appropriate sections of Chapter 101 into Chapter 91, while clarifying some regulatory language, will eliminate confusion among the regulated community as to which regulations are applicable. These changes should result in increased compliance and improve the environment. The cost savings associated with these changes is estimated to be \$2,812,500.

*Compliance Costs*

The proposed amendments to Chapters 91 and 97 and deletion of Chapter 101 do not create new regulatory requirements; rather, they eliminate unnecessary existing requirements, combine related regulations from several different chapters of regulations into one chapter and clarify existing text. The proposed amendments which provide new alternatives for compliance will not impose additional costs on anyone.

*Compliance Assistance Plan*

The Department does not intend to develop a compliance assistance plan because there is no expected adverse impact on compliance.

*Paperwork Requirements*

There will be no additional forms, reports or other paperwork that will be required as the result of these proposed amendments.

**G. Pollution Prevention**

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, these proposed amendments have incorporated the following provisions and incentives to meet that goal:

Regulations currently in § 97.14 (relating to measures to be used) would be transferred to § 91.5. This section would be renamed "pollution prevention" to more clearly identify the intent.

Section 91.13 (relating to abatement or treatment required) would be rewritten to emphasize that pollution prevention is a key factor to be used when options to abate pollution are being considered by a permittee.

Section 91.34 (relating to activities utilizing pollutants) requires persons and municipalities engaged in an activity which includes pollutants to develop a report describing the nature of preventative measures taken to keep these pollutants from the waters of this Commonwealth.

**H. Sunset Review**

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

**I. Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 12, 1997, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a

detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before publication of the final-form regulations.

#### J. Public Comments

**Written Comments**—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail; Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by September 22, 1997. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by September 22, 1997. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

**Electronic Comments**—Comments may be submitted electronically to the Board at RegComments@A1.dep.-state.pa.us and must also be received by the Board by September 22, 1997. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF,  
Chairman

**Fiscal Note:** 7-323. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE II. WATER RESOURCES

#### CHAPTER 91. GENERAL PROVISIONS

#### GENERAL

##### § 91.1. Definitions.

The definitions set forth in section 1 of the act of June 22, 1937 (P. L. 1987, No. 394) (35 P. S. § 691.1) [applies] apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Application**—The Department's form for requesting approval to construct and operate a wastewater collection, conveyance or treatment facility under a new water quality management permit, or the

modification, revision or transfer of an existing water quality management permit.

[ **Department**—The Department of Environmental Resources of the Commonwealth or, where appropriate, the Sanitary Water Board, Environmental Quality Board or Environmental Hearing Board of the Commonwealth.

**EPA**—The United States Environmental Protection Agency. ]

**Facility**—A structure built to collect, convey or treat wastewater which requires coverage under a Water Quality Management Permit.

**Federal act**—The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1387).

**General water quality management permit or general permit**—A Water Quality Management Permit that is issued for a clearly described category of wastewater treatment facilities, which are substantially similar in nature.

**Industrial waste**—A liquid, gaseous, radioactive, solid or other substance resulting from manufacturing or industry, or from any establishment, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations. The term includes all substances whether or not generally characterized as waste. The term does not include sewage.

**National Pollutant Discharge Elimination System (NPDES) permit**—A permit or equivalent document or requirements issued by the Administrator of the EPA or, when appropriate, by the Department to regulate the discharge of pollutants under section 402 of the Federal act (33 U.S.C.A. § 1342).

**Notice of intent (NOI)**—A complete form submitted as a request for general water quality management permit coverage.

**Operator**—A person or other legal entity responsible for the operation or maintenance of a facility or activity subject to this chapter.

**Owner**—The person or other legal entity holding legal title to a facility or activity subject to this chapter.

**Person**—An individual, public or private corporation, partnership, association, municipality, political subdivision of the Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary, department, agency or instrumentality of State, Federal or local government, or an agent or employee thereof, or any other legal entity.

**Pollutant**—A contaminant or other alteration of the physical, chemical or biological properties of surface water which causes or has the potential to cause pollution as defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

**Schedule of compliance**—A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with effluent limitations, other limitations, prohibitions or standards.

**Sewage**—A substance that contains waste products or excrementitious or other discharge from the bodies of human beings or animals.

**Single residence sewage treatment plant**—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot which collects, disposes and treats solely direct or indirect sewage discharges from the residences into waters of this Commonwealth.

**Stormwater**—Stormwater runoff, snow melt runoff, and surface runoff and drainage.

**Wastewater impoundment**—A depression, excavation or facility situated in or upon the ground, whether natural or artificial and whether lined or unlined.

**Water quality management permit**—A permit or equivalent document or requirements issued by the Department to authorize one of the following:

(i) The construction, erection and location of a wastewater collection, conveyance or treatment facility.

(ii) A discharge of wastewater to groundwaters of this Commonwealth. This permit is also known as a "Part II" permit.

**Waters of this Commonwealth**—Rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth. The term includes surface waters as defined in Chapter 93 (relating to water quality standards).

#### § 91.6. Pollution prevention.

The pollutant loading of wastes should be reduced to the maximum extent practical by process changes, materials substitution, segregation of strong wastes, reduction in volume of water use, recycling and reuse of water, and by general measures of "good housekeeping" within the plant or facility. The term "practical" is not limited to that which is profitable or economical.

#### ADMINISTRATION AND ENFORCEMENT

#### § 91.11. [ Conferences ] Compliance conferences [ with violators ].

(a) The Department will confer with the representatives of organizations required to abate their pollution of the waters of this Commonwealth and offer advice and suggestions regarding possible means for the abatement, [ or ] treatment or prevention of the pollution in question. [ The staff shall interpret the orders of the Department. ]

\* \* \* \* \*

#### § 91.12. Conference procedure.

[ (a) The staff may not select or recommend specific measures or methods to be adopted by the party attempting to comply with the requirements of the Department.

(b) [ (a) [ The staff ] Employees of the Department may not act as [ a ] consulting [ engineer ] engineers for a party or recommend the employment of a particular

consultant, gather the data for the design of his treatment plant, prepare plans or act as an inspector on the construction of the project.

[ (c) ] (b) [ The Department and the staff ] Employees of the Department will not guarantee directly or by implication the efficacy of a proposed method of pollution abatement.

[ (d) ] (c) [ The staff ] Employees of the Department shall exercise their best judgment in assisting the party and his engineers, but the responsibility for abating pollution shall rest entirely upon the one causing the pollution.

#### § 91.13. Abatement or treatment required.

The Department will require either abatement of the pollution or the submission of a [ report with detailed construction plans and specifications for a proposed treatment works ] plan and schedule for bringing the source's pollutants into compliance through pollution prevention measures, treatment or other means by a specific date, and shall require progress reports thereon, usually at monthly or bimonthly intervals as the Department will deem appropriate.

#### § 91.14. Time for constructing treatment works.

(a) If, in lieu of abatement, a notified party elects to provide waste treatment works and submits plans therefor, the Department, upon approving the plans, will set a time within which the treatment works shall be constructed and placed in operation or will notify the party to be prepared to construct the plant upon notice from the Department, depending upon the status of the Department's program of construction for the basin in which the receiving stream lies as specified in § 91.15 (relating to basin-wide [ plans ] compliance).

\* \* \* \* \*

#### § 91.15. Basin-wide [ plans ] compliance.

(a) In general, the Department will require [ submission of plans and construction of plants concurrently for a whole stream basin ] sources of pollutants in a basin, watershed or surface waters as defined in Chapter 93 (relating to water quality standards) to concurrently comply with the water quality standards and protection levels set forth in Chapter 93 and Chapters 16 and 95 (relating to water quality toxics management strategy; and treatment requirements).

(b) [ If ] Notwithstanding subsection (a), if certain sources of [ pollution ] pollutants especially affect the public interests, [ however, ] the Department may act to require the abatement of the sources of pollution individually in the general order of degree of adverse effect upon the public interest.

\* \* \* \* \*

#### APPLICATIONS AND PERMITS

#### § 91.21. Applications for permits.

\* \* \* \* \*

(c) Applications and their accompanying papers shall be submitted to the [ Department through the regional engineer in whose region ] Department's regional office covering the area where the project will be located.

(d) To qualify for coverage under a general water quality management permit under this chapter, an administratively complete notice of intent (NOI) shall be submitted to and approved by the Department in accordance with § 91.27 (relating to general water quality management permit).

**§ 91.22. Fees.**

(a) \* \* \*

(b) A notice of intent (NOI) for coverage under a general water quality management permit shall be accompanied by a check payable to the "Commonwealth of Pennsylvania," in the amount no greater than \$500 as set forth in the public notice for the general water quality management permit as described in § 91.27(b)(1) (relating to general water quality management permit).

**§ 91.25. Experimental projects.**

If the suitability of a proposed device or method of treatment has not been demonstrated by actual field use in this Commonwealth or another state with similar climatic conditions, only conditional approval will be given to it until such time as the effectiveness of the device or treatment has been demonstrated to the satisfaction of the Department by ample field experience.

**§ 91.27. General water quality management permit.**

(a) *Coverage and purpose.* The Department may issue a general water quality management permit, in lieu of issuing individual water quality management permits, for a specific category of wastewater treatment facilities if the wastewater treatment facilities meet the following:

- (1) Involve the same, or substantially similar, type of operations.
- (2) Treat the same types of wastes.
- (3) Require the same operating conditions.
- (4) Are, in the judgment of the Department, more appropriately managed under a general permit than under individual permits.

(b) *Administration of general permits*

(1) *Proposed general permits and amendments.* The Department will publish a notice in the *Pennsylvania Bulletin* of its intent to issue or amend a general permit, including the text of the proposed general permit or amendment, proposed review fees and an opportunity for interested persons to provide written comments on the proposed general permit or amendment in accordance with § 91.16 (relating to notification of actions).

(2) *Issuance of general permits.* General permits, subsequently issued, will be published in the *Pennsylvania Bulletin* and include the effective date of the general permit and review fees.

(3) *Effective date of a general permit.* The Department will specify in the general permit that an applicant who has submitted a timely and complete notice of intent for coverage is authorized to construct, erect and locate a wastewater treatment facility or discharge to groundwaters of this Commonwealth, in accordance with the terms and conditions of the general permit coverage. The general permit shall commence according to one of the following:

(i) After a waiting period specified in the general permit.

(ii) On a date specified in the general permit.

(iii) Upon receipt of notification of coverage by the Department.

(iv) Upon receipt of the notice of intent by the Department.

(4) *Coverage under a general permit.* A person who desires to have a wastewater treatment facility covered under a general permit shall submit a notice of intent to the Department in accordance with §§ 91.21 and 91.22 (relating to applications for permits; and fees) and the written instructions of the notice of intent. The Department will review the information provided in the notice of intent to determine if the wastewater treatment facility qualifies under the provisions of the general permit except as provided in subsection (c)(1), (2) or (4).

(c) *Denial of coverage.* The Department may deny coverage under the general permit when one or more of the following conditions exist:

(1) The NOI is not complete or timely.

(2) The applicant has not first obtained NPDES permits required by Chapter 92 (relating to national pollutant discharge elimination system).

(3) The applicant is not, or will not be, in compliance with one or more of the conditions of the general permit or has a significant history of non-compliance with a prior permit issued by the Department.

(4) The treatment facility proposed for coverage under the general permit is not capable of treating wastewater to a degree which will result in compliance with applicable effluent limitations and water quality standards as described in Chapter 93 (relating to water quality standards).

(5) The Department determines that the action is necessary to ensure compliance with the Federal act, the act or this title.

(d) *Requiring an individual permit.* The Department may revoke, or suspend coverage under a general water quality management permit, and require that an individual water quality management permit be obtained when the permittee has violated one or more of the conditions of the general permit or has violated a provision of this title. Upon notification by the Department that an individual water quality management permit is required for the facility, the owner shall submit a complete water quality management permit application, in conformance with the requirements of this chapter, within 90 days of receipt of the notification, unless the owner is already in possession of a valid individual water quality management permit for the applicable functions. Failure to submit the application within 90 days shall result in automatic termination of coverage under the general permit. Timely submission of a complete application shall result in continuation of coverage of the applicable facilities under the general permit, when the facility demonstrates that it has undertaken efforts to address the reasons for the revocation or suspension of coverage, until the Department takes final action on the pending individual permit application.



(e) *Termination of general permit.* When an individual water quality management permit is issued for a facility which is covered under a general water quality management permit, the applicability of the general permit to that facility is automatically terminated on the effective date of the individual permit.

[ STANDARDS FOR APPROVAL ] MANAGEMENT OF OTHER WASTES

§ 91.31. [ Comprehensive water quality management. ] Wells other than oil and gas.

[ (a) The Department will not approve a project requiring the approval under the act or the provisions of this article unless the project is included in and conforms with a comprehensive program of water quality management and pollution control provided, however, that the Department may approve a project which is not included in a comprehensive program of water quality management and pollution control if the Department finds that the project is necessary and appropriate to abate existing pollution or health hazards and that the project will not preclude the development or implementation of the comprehensive program.

(b) The determination of whether a project is included in and conforms to a comprehensive program of water quality management and pollution control shall be based on the following standards:

(1) Appropriate comprehensive water quality management plans approved by the Department.

(2) Official Plans for Sewage Systems which are required by Chapter 71 (relating to administration of sewage facilities planning program).

(3) In cases where a comprehensive program of water quality management and pollution control is inadequate or nonexistent and a project is necessary to abate existing pollution or health hazards, the best mix of all the following:

(i) Expeditious action to abate pollution and health hazards.

(ii) Consistency with long-range development.

(iii) Economy should be considered in the evaluation of alternatives and in justifying proposals.

(c) In making determinations under the provisions of subsection (b)(3), the Department will consider available and relevant information including, but not limited to, applicable studies and plans prepared by the following:

(1) The applicant.

(2) The Department.

(3) Federal agencies.

(4) Approved planning agencies.

(5) Political subdivisions. ]

(a) Each well-drilling operation shall have a sump or other receptacle large enough to receive all drill cuttings, sand bailings, water having a turbidity in excess of 1,000 nephelometric turbidity units (NTU) or other pollutant resulting from the well drilling operations.

(b) Surface water shall be excluded from the sump or receptacle by means of diversion ditches on the uphill sides, or by other appropriate measures.

(c) After completion of the well, the sump or receptacle shall be covered over or otherwise protected or the contents of the receptacle disposed of, so that the contents will not be washed into the waters of this Commonwealth.

(d) Waste oil, coal, spent materials or other pollutants shall be disposed of so that they will not be washed into the waters of this Commonwealth.

§ 91.32. [ Private projects ] Underground injection of wastes.

[ (a) The Department will look with disfavor upon applications for sewerage permits for private sewerage projects to be located within the built-up parts of cities, boroughs and first and second class townships.

(b) Generally, issuance of the sewerage permits will be limited to proper private sewerage projects located in the rural parts of first and second class townships, and for which areas there appears to be no present necessity for public sewerage. ]

Underground injection of waste shall comply with 40 CFR Part 144 (relating to underground injection control program). ]

§ 91.33. [ Permit requirements ] Incidents causing or threatening pollution.

[ A permit may not be required for the discharge of sewage or industrial wastes into a sewer, sewer system or treatment plant which has been approved by a permit from the Department, provided that the sewer, sewer system or treatment plant is capable of conveying and treating the discharge and is operated and maintained in accordance with the permit and applicable orders, rules and regulations. ]

(a) If, because of an accident or other activity or incident, a toxic substance or another substance which would endanger downstream users of the waters of this Commonwealth, would otherwise result in pollution or create a danger of pollution of the waters, or would damage property, is discharged into these waters—including sewers, drains, ditches or other channels of conveyance into the waters—or is placed so that it might discharge, flow, be washed or fall into them, it shall be the responsibility of the person at the time in charge of the substance or owning or in possession of the premises, facility, vehicle or vessel from or on which the substance is discharged or placed to immediately notify the Department by telephone of the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.

(b) In addition to the notices set forth in subsection (a), a person shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition thereto, within 15 days from the incident, shall remove from the ground and from the affected waters of this Commonwealth to the extent re-

quired by this title the residual substances contained thereon or therein.

(c) Compliance with this section does not affect the civil or criminal liability to which the person or municipality may be subject as a result of an activity or incident under the act, 30 Pa.C.S. §§ 101—7314 (relating to the Fish and Boat Code) or another statute, ordinance or regulation.

§ 91.34. Activities utilizing pollutants.

(a) Persons engaged in an activity which includes the impoundment, production, processing, transportation, storage, use, application or disposal of pollutants shall take necessary measures to prevent the substances from directly or indirectly reaching waters of this Commonwealth, through accident, carelessness, maliciousness, hazards of weather or from another cause.

(b) Upon notice from the Department and within the time specified in the notice, the person shall submit to the Department a report or plan setting forth the nature of the activity, the nature of the preventative measures taken to comply with subsection (a) and other information the Department may require.

§ 91.35. Wastewater impoundments

(a) Except as otherwise provided under subsections (c) and (d), a person may not operate, maintain or use or permit the operation, maintenance or use of a wastewater impoundment for the production, processing, storage, treatment or disposal of pollutants unless the wastewater impoundment is structurally sound, impermeable, protected from unauthorized acts of third parties, and is maintained so that a freeboard of at least 2 feet remains at all times. The person owning, operating or possessing a wastewater impoundment shall have the burden of satisfying the Department that the wastewater impoundment complies with these requirements.

(b) A person owning, operating or in possession of an existing wastewater impoundment containing pollutants, or intending to construct or use a wastewater impoundment, shall promptly submit to the Department a report or plan setting forth the location, size, construction and contents of the wastewater impoundment and other information as the Department may require.

(c) Except when a wastewater impoundment is already approved under an existing permit from the Department, a permit from the Department is required approving the location, construction, use, operation and maintenance of a wastewater impoundment subject to subsection (a) in the following cases:

(1) If a variance is requested from the requirements in subsection (a).

(2) If the capacity of one wastewater impoundment or of two or more interconnected wastewater impoundments exceeds 250,000 gallons.

(3) If the total capacity of polluting substances contained in wastewater impoundments on one tract or related tracts of land exceeds 500,000 gallons.

(4) If the Department determines that a permit is necessary for effective regulation to insure that

pollution will not result from the use, operation or maintenance of the wastewater impoundment.

(d) This section does not apply to residual waste processing, disposal, treatment, collection, storage or transportation.

§ 91.36. Pollution control and prevention at agricultural operations.

(a) *Animal manure storage facilities.* Animal manure storage facilities do not require a permit from the Department if the design and operation of the storage facilities are in accordance with the Department approved manure management practices as described in the publication entitled "manure management for environmental protection" and addenda or amendments thereto prepared by the Department. If a person chooses to design or construct manure storage facilities using criteria other than those described in "manure management for environmental protection" and addenda or amendments thereto prepared by the Department, approval of the Department or a permit under § 91.35 (relating to wastewater impoundments) will be required. Operations which are required to or volunteer to submit nutrient management plans shall comply with the nutrient management regulations in Chapter 83 (relating to State Conservation Commission).

(b) *Land application of animal manure.* The land application of animal manures do not require a permit from the Department if the design and operation of the land application system are in accordance with the Department approved manure management practices as described in the publication entitled "Manure Management for Environmental Protection" and addenda or amendments thereto prepared by the Department. If a person chooses to design or construct a land application system using criteria other than those described in "Manure Management for Environmental Protection" and addenda or amendments thereto prepared by the Department, approval of the Department or a permit will be required. Operations which are required to or volunteer to submit nutrient management plans shall comply with Chapter 83.

§ 91.37. Private projects.

(a) The Department will look with disfavor upon applications for sewerage permits for private sewerage projects to be located within the built-up parts of cities, boroughs and first and second-class townships.

(b) Generally, issuance of the sewerage permits will be limited to proper private sewerage projects located in the rural parts of first and second class townships, and for which areas there appears to be no present necessity for public sewerage.

§ 91.38. Algicides, herbicides and fish control chemicals.

Except where the use of an algicide, herbicide or fish control chemical would be in violation of a specific order or permit, the use is authorized only in the following instances:

(1) Copper sulfate required to control algae in a source of public water supply where the use is under and in accordance with approval given by the Department.

(2) Chemicals required to control aquatic plants in surface waters and chemicals required for the management of fish populations where the use is under and in accordance with joint approval given by the Department and the Fish and Boat Commission.

#### CHAPTER 97. INDUSTRIAL WASTES

(*Editor's Note:* The Department is proposing to delete §§ 97.14, 97.61 and 97.71—97.76 as they currently appear in the *Pennsylvania Code* at pages 97-5, 97-10, 97-11 and 97-14—97.16 (serial pps. (139009), (139014), (139015) and (126050)—(126052)).)

§ 97.14. (Reserved)

§ 97.61. (Reserved)

§§ 97.71—97.76. (Reserved)

(*Editor's Note:* The Department is proposing to delete Chapter 101 as it currently appears in the *Pennsylvania Code* at pages 101-1—101-7 (serial pps. (194071)—(194074) and (170117)—(170119)).)

#### CHAPTER 101. (Reserved)

§§ 101.1—101.6. (Reserved)

§ 101.8. (Reserved)

[Pa.B. Doc. No. 97-1351. Filed for public inspection August 22, 1997, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA CODE CH. 9]

#### Reorganization of the Department of Agriculture

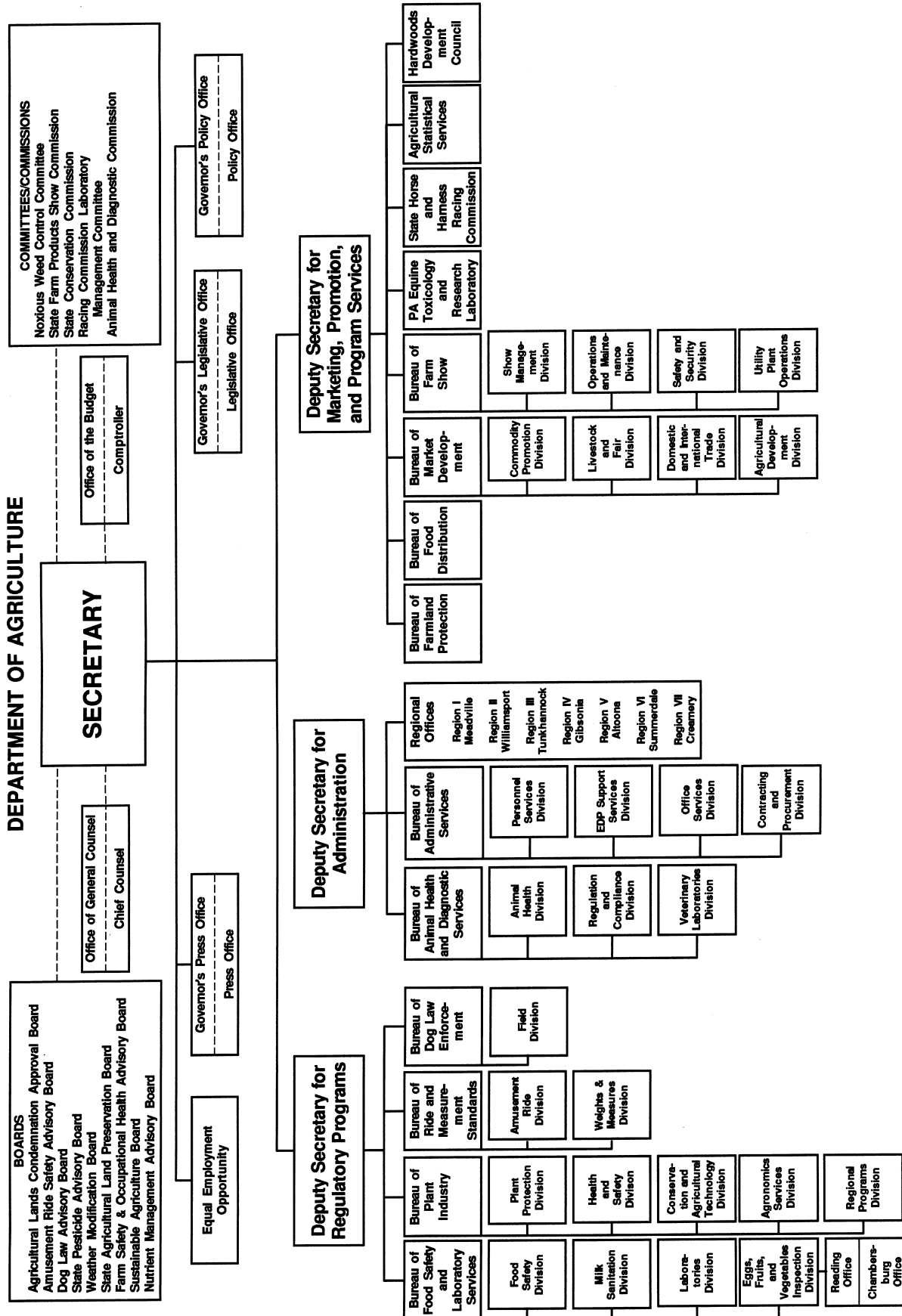
The Executive Board approved a reorganization of the Department of Agriculture effective August 6, 1997.

The organization chart at 27 Pa.B. 4354 (August 23, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 97-1352. Filed for public inspection August 22, 1997, 9:00 a.m.]

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# Title 25—ENVIRONMENTAL PROTECTION

## STATE CONSERVATION COMMISSION

[25 PA. CODE CH. 83]

### Nutrient Management Funding Program

The State Conservation Commission (Commission), adopts Chapter 83, Subchapter E (relating to Nutrient Management Funding Program—statement of policy) to read as set forth in Annex A, under the authority contained in the Conservation District Law (3 P. S. §§ 849—864).

The Nutrient Management Funding Program (Program) provides agricultural operations, delegated local conservation districts and cooperating organizations with funds to implement programs developed under the Nutrient Management Act (3 P. S. §§ 1701—1718). The Program includes the Technical Assistance Funding Program and the Plan Development Incentives Program (PDIP).

#### A. Effective Date

This statement of policy will go into effect upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Person

For information, contact Karl G. Brown, Executive Secretary, State Conservation Commission, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-8821. Persons with a disability may use the AT&T Relay Service by calling (800) 654-9584 (TDD users) or (800) 654-5788 (voice users) and request that they relay the call.

#### C. Statutory Authority

This statement of policy is adopted under sections 4(1), 5(c) and 6 of the Conservation District Law (3 P. S. §§ 852(1), 853(c) and 854), which establishes the Commission and grants it the power to approve conservation district programs and allocate funds as it deems appropriate.

#### D. Background

The Technical Assistance Funding Program provides local conservation districts with funding for the employment of technical staff and provides administrative support for the conservation district. The PDIP is a cost-sharing program established in §§ 83.211—83.216 (relating to PDIP) which provides funds to agricultural operations that are producing livestock or poultry as of October 1, 1997, and are developing nutrient management plans under the act. The PDIP also provides for certain administrative expenses for the local conservation districts and the cooperating organization implementing the program.

(*Editor's Note:* The regulations of the State Conservation Commission, 25 Pa. Code Chapter 83, are amended by adding a new Subchapter E, §§ 83.501, 83.502, 83.511—83.519 and 83.521—83.528 to read as set forth in Annex A.)

SAMUEL E. HAYES, Jr.,  
Chairperson

**Fiscal Note:** 7-505. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart C. PROTECTION OF NATURAL RESOURCES

#### ARTICLE I. LAND RESOURCES

#### CHAPTER 83. STATE CONSERVATION COMMISSION

#### Subchapter E. NUTRIENT MANAGEMENT FUNDING PROGRAM—STATEMENT OF POLICY

##### GENERAL PROVISIONS

Sec.	Purpose.
83.501.	Purpose.
83.502.	Definitions.
<b>TECHNICAL ASSISTANCE FUNDING PROGRAM</b>	
83.511.	General requirements.
83.512.	Procedures for allocating funds.
83.513.	Application procedures.
83.514.	Reimbursement procedures.
83.515.	Advance payments.
83.516.	Allowed expenses.
83.517.	Reporting requirements.
83.518.	Relationship to other programs.
83.519.	Special provisions.

##### PDIP

83.521.	General.
83.522.	Procedures for allocating PDIP funds.
83.523.	Agreement procedures and requirements.
83.524.	Reimbursement procedures.
83.525.	Advance payments to cooperating organizations.
83.526.	Allowable administrative expenses.
83.527.	Conservation district responsibilities.
83.528.	Cooperating organization responsibilities.

##### GENERAL PROVISIONS

#### § 83.501. Purpose.

(a) It is the intention of the Commission to provide delegated conservation districts with funds to assist districts in the implementation of the Program developed under the act, if the district complies with the terms and conditions of this subchapter. The funds will be used for the employment of technical staff, to provide administrative funding assistance to the district and to finance other Commission approved activities under the Program.

(b) The Commission will annually allocate the available funding for this program and will provide for the fair and equitable distribution of funds.

(c) The purpose of the Technical Assistance Funding Program is to provide assistance to delegated districts for employment of technical staff, administrative purposes and other Commission approved activities to carry out those district functions necessary to implement the Program.

(d) The purpose of the PDIP is to provide financial support to the operators of concentrated animal operations or other agricultural operations for the development of an approved nutrient management plan under the act.

#### § 83.502. Definitions.

The definitions in § 83.201 (relating to definitions) apply to this subchapter. In addition, the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Cooperating organization*—An organization approved by the Commission to assist in carrying out the Conservation District Law (3 P. S. §§ 849—864).

*Directors*—The district's board of directors as defined in the Conservation District Law.

*Nutrient management technician*—A person employed by the district to perform those duties necessary to implement the Program developed under the act.

*PDIP—Plan Development Incentives Program*—The program established in §§ 83.211—83.216 (relating to PDIP).

*Program*—The Nutrient Management Program.

#### **TECHNICAL ASSISTANCE FUNDING PROGRAM**

##### **§ 83.511. General requirements.**

(a) This program is known as the Technical Assistance Funding Program.

(b) State and Federal funds allocated to districts for the Technical Assistance Funding Program shall be used solely to employ nutrient management technicians and finance administrative expenses and other Commission approved activities to implement the act. The funding allocation will be based on the level of responsibilities assumed by the district in the Program as specified in the delegation agreement with the Commission.

(c) The nutrient management technician is not an employee of the Commission. A person serving as a nutrient management technician shall receive general supervision from a district director or an employee of the district designated by the board of directors.

(d) The Commission will prioritize and determine the amount of funding provided to each district and the nature and extent of expense to be funded.

(e) If an evaluation of the district's performance reveals that the district is not performing satisfactorily at the authorized level, the Commission has the authority to reduce the funding allocation to that district.

(f) Within 60 days of the termination of the delegation agreement with the district, the Commission may require the return of equipment and nonexpendable supplies purchased under the delegation agreement.

(g) Fines, fees, judgments and interest collected by the district on behalf of the Commission under the Program shall be paid or credited to the Fund at the end of each quarter.

(h) The Commission may audit any records or accounts of the district under the Program.

##### **§ 83.512. Procedures for allocating funds.**

(a) The Commission will determine the amount of funding available for the Technical Assistance Funding Program.

(b) Priority for funding shall be established by the Commission based on the estimated workload for the district under the Program.

(c) The Commission may reallocate funds if a delegation agreement cannot be fulfilled by the district.

(d) During fund allocation, the Commission, at its own discretion, may require that the district budget requests meet specific technical and administrative funding levels.

##### **§ 83.513. Application procedures.**

(a) An application for available funds, including requests for advance payments, shall be in writing on forms approved by the Commission. The application shall be received by the deadline established by the Commission for filing applications. The application shall also include a budget outlining anticipated expenses.

(b) Applications will be approved based upon the priorities set by the Commission and the availability of funds.

(c) Applications for districts will not be approved and expenses cannot be incurred unless the district has entered into a fully approved delegation agreement.

(d) Applications will be for a calendar year period, unless other time periods are established by the Commission.

##### **§ 83.514. Reimbursement procedures.**

(a) Claims for reimbursement shall be made on forms approved by the Commission.

(b) Claims for reimbursement shall be submitted to the Commission within 15 days of the end of each quarter. The days are April 15, July 15, October 15 and January 15.

(c) The Commission will suspend claim processing until receipt of required reports or the completion of all conditions of the agreement.

##### **§ 83.515. Advance payments.**

(a) Requests for advance payments shall be made on forms approved by the Commission.

(b) Advance payments to cover expenses for the first claim of each year may be requested from the Commission. Advance payments will be based on demonstrated need in accordance with the Commission-approved district budget submitted with the application.

(c) Advance payments and unspent funds shall be placed in an insured, interest bearing account. To document the amount of interest to be paid or credited to the Fund, the district may use methods that are equal to the method used by the account holding the unspent program funds that follow generally accepted accounting principles.

(d) Requests for advance payments to cover expenses for the first claim of each year shall be submitted to the Commission by January 15, or as established by the Commission.

(e) Claims may be filed for reimbursement for the first and second quarter. Claims shall be submitted to the Commission within 15 days of the end of the quarter.

(f) Expenses for the third quarter shall be submitted, but no payments will be processed until final claims are submitted at the end of the fourth quarter. A final yearly payment will be made after balancing money provided in the initial advanced payment with claims for the third and fourth quarter. No advancement of funds will be made until final approval of the previous quarterly report of expenditures is given by the Commission.

(g) The Commission will suspend advance payment processing until receipt of required reports or the completion of all conditions of the agreement.

##### **§ 83.516. Allowed expenses.**

(a) Eligible expenses directly related to implementation of the delegation agreement and the Technical Assistance Funding Program include:

(1) Salary, benefits and associated costs (for example, travel and training) of an act technician (if not reimbursed from other State or Federal programs).

(2) Clerical assistance and managerial oversight provided to the program (if not reimbursed from other State or Federal programs).

(3) Materials, supplies, equipment, postage, phone bills, office rent, legal expenses, certification fees and administrative travel.

(b) The district will be bound by the terms and conditions of the approved application and budget. The Commission, at its own discretion, may require specific technical and administrative funding levels.

(c) Budget modifications for reallocations of up to 10% of the total approved annual budget amount between the categories of an approved budget shall be approved in writing by the Commission prior to expenses being incurred.

#### **§ 83.517. Reporting requirements.**

(a) Reports shall be filed as specified on forms or in a format approved by the Commission.

(b) The dates for report submission are April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.

(c) Processing of expense claims or request for advance payment will not begin until required reports are received by the Commission.

(d) Records shall be maintained for 3 years following termination of the agreement with the Commission.

#### **§ 83.518. Relationship to other programs and money sources.**

(a) Individuals being funded by the Technical Assistance Funding Program may participate in other programs, but the district providing technical, clerical or managerial assistance for the Program may not apply for or receive payment from more than one program for the same work.

(b) Money received through the Technical Assistance Funding Program shall be used solely for the program purposes authorized by the Commission.

#### **§ 83.519. Special provisions.**

(a) Funds not used for the purposes authorized by the Commission will be deducted from the following year's allocation to that district.

(b) The Commission may delegate authority to the Commission's staff to act on its behalf.

### **PDIP**

#### **§ 83.521. General.**

(a) This program is known as the Plan Development Incentives Program (PDIP).

(b) State and Federal funds allocated for the PDIP shall be used solely to finance a portion of the costs associated with the development of plans for agricultural operations planning under the act and those administrative expenses of delegated conservation districts or cooperating organizations associated with the implementation of the PDIP.

(c) Eligibility for cost-share funding under the PDIP is limited to operators of concentrated animal operations and other agricultural operations participating under the act as defined in § 83.211 (relating to applicant eligibility).

(d) PDIP participants shall submit an application for PDIP funds to the Commission or a delegated conservation district on forms provided by the Commission.

(e) Funding levels for PDIP shall be determined by the Commission. Availability of funds to eligible participants

will be determined as described in § 83.213 (relating to application prioritization criteria).

(f) The Commission or a delegated conservation district will evaluate applications for eligibility, prioritization and allowable reimbursement based on criteria established in §§ 83.211—83.216 (relating to Plan Development Incentives Program) and other guidance established by the Commission.

(g) An approved application for funding shall remain effective for 180 days from the date of approval by a delegated conservation district or the Commission.

(h) The Commission may audit PDIP records or accounts of the conservation district or cooperating organization assisting in the administration of the PDIP.

#### **§ 83.522. Procedures for allocating PDIP funds.**

(a) The Commission will determine the amounts of funds available for the PDIP.

(b) The Commission will determine the cost share rates for reimbursement to participants for the PDIP.

(c) The Commission will determine the nature and extent of administrative expenses to be funded to delegated conservation districts and cooperating organizations.

#### **§ 83.523. Agreement procedures and requirements.**

(a) The Commission will execute an agreement with a participating conservation district or cooperating organization specifying the terms and conditions for providing PDIP funds, including advance payments to cooperating organizations, if requested. Allowable reimbursable items for administering PDIP will include those items determined by the Commission to be necessary to carry out the agreement or PDIP.

(b) Conservation districts or cooperating organizations may not incur reimbursable expenses in advance of the effective date of the agreement or contract with the Commission.

#### **§ 83.524. Reimbursement procedures.**

(a) Claims for reimbursement by delegated conservation districts or cooperating organizations shall be made on forms or in a format approved by the Commission.

(b) Claims for reimbursement by the cooperating organization shall be submitted to the Commission within 15 days of the end of each quarter. These days are April 15, July 15, October 15 and January 15. A summary of PDIP activities during the quarter shall be included with the claim for reimbursement for that quarter.

(c) The Commission will suspend claim processing to a cooperating organization until receipt of the required quarterly report or the completion of all conditions of the agreement.

(d) Claims for reimbursement by a delegated conservation district shall be made on forms or in a format approved by the Commission and submitted to the cooperating organization within 15 days of the end of each quarter. These days are April 15, July 15, October 15 and January 15.

#### **§ 83.525. Advance payments to cooperating organizations.**

(a) The Commission may advance funds to cover expenses for the first claim of each year as requested. Advance payments will be based on a demonstrated need in accordance with the Commission-approved budget submitted with the application.



(b) When the Commission has determined that an emergency payment is necessary to assure cash flow to a cooperating organization, the Commission will advance funds based on demonstrated need in accordance with criteria established by the Commission.

(c) Advance payments and unspent funds shall be placed in an insured, interest bearing account. To document the amount of interest to be credited to the fund, a cooperating organization may use methods that are equal to the methods used by the account holding the unspent PDIP funds that follow generally accepted accounting principles.

(d) Request for advance payments to cover expenses for the first claim of each year shall be submitted to the Commission by January 15, or as established by the Commission. Requests for advance payments shall be made on forms or in a format approved by the Commission.

(e) Advance payments will include cost-share funds for disbursement to PDIP participants and administrative costs of the delegated conservation district or cooperating organization as determined by the Commission necessary for the administration of the PDIP.

(f) Claims may be filed for reimbursement for the first, second and third quarter. Claims shall be submitted to the Commission within 15 days of the end of the quarter.

(g) If an agreement between the Commission and a cooperating organization is terminated, all unspent PDIP funds pertaining to the agreement shall be returned to the Commission within 10 days.

**§ 83.526. Allowable administrative expenses.**

Eligible expenses directly related to the implementation of PDIP may include approved charges for staff support, office equipment and supplies, accounting supplies, postage, telephone charges, office rent, legal expenses, and bank charges and other expenses as determined appropriate by the Commission.

**§ 83.527. Conservation district responsibilities.**

(a) A delegated conservation district is encouraged to promote PDIP participation through sign-up periods or other processes as an integrated element of the conservation district's education and outreach programs.

(b) A delegated conservation district shall evaluate applications for eligibility, prioritization and allowable reimbursement based on criteria established in

§§ 83.211—83.216 (relating to Plan Development Incentives Program) and other PDIP guidance established by the Commission.

(c) A delegated conservation district shall transmit to the cooperating organization a request for an allocation and authorization for payment of PDIP funds for the applicant.

(d) PDIP activity reports shall be filed quarterly to the Commission on forms or in a format approved by the Commission.

(e) PDIP reports shall be submitted to the Commission on April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.

(f) Records shall be maintained for 3 years following the termination of the agreement with the Commission.

**§ 83.528. Cooperating organization responsibilities.**

(a) The cooperating organization shall obligate funds to the approved PDIP applications submitted by the conservation district.

(b) The cooperating organization shall disburse PDIP funds in the form of a one-time payment according to funding levels established by the Commission to approved applicants. Records of these fund disbursements shall be submitted to the Commission on a quarterly basis.

(c) The cooperating organization shall deposit advance funds in an insured, interest bearing account. Interest generated by these advance funds shall be utilized within the PDIP.

(d) The cooperating organization shall disburse administrative funds to participating delegated conservation districts for their efforts under the PDIP. Administrative funding levels for conservation district PDIP activities will be determined by the Commission.

(e) Reports shall be submitted as specified on forms or in a format approved by the Commission. These reports shall detail quarterly activities and cost share and administrative fund disbursements.

(f) PDIP reports shall be submitted to the Commission on April 15, July 15, October 15 and January 15 unless otherwise specified in the agreement.

(g) Records shall be maintained for 3 years following termination of the agreement with the Commission.

[Pa.B. Doc. No. 97-1353. Filed for public inspection August 22, 1997, 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 August 12, 1997.

### BANKING INSTITUTIONS

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-7-97	Northwest Savings Bank Warren Warren County	744 S. Broad Street Lititz Lancaster County	Opened
8-11-97	Irwin Bank & Trust Company Irwin Westmoreland County	Shop N Save Supermarket Rte. 136 and Janyce Dr. Greensburg Westmoreland County	Approved
8-12-97	Reliance Savings Bank Altoona Blair County	100 Hawbaker Industrial Drive State College Centre County	Filed

#### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-1-97	Financial Trust Company Carlisle Cumberland County	805 West Lisburn Rd. Mechanicsburg Cumberland County	Effective

### SAVINGS ASSOCIATIONS

No activity.

### CREDIT UNIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-7-97	White Rose Credit Union, York, and Great York Municipal Employees Federal Credit Union, York Surviving Institution—White Rose Credit Union, York	York	Filed

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-1354. Filed for public inspection August 22, 1997, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Nominations for Appointment to the Recreational Trails Advisory Board

The Department of Conservation and Natural Resources (DCNR) is accepting nominations through September 30, 1997, for three new appointments to the Pennsylvania Recreational Trails Advisory Board (Board). The Board was created on October 29, 1992, in accord-

ance with the provisions of the Symms National Recreational Trails Act of 1991.

The Board consists of one member from each of the following nine recreational trail user organizations: Hiking; Cross-Country Skiing; Off-Highway Motorcycling; Snowmobiling; Horseback Riding; All-Terrain Vehicle Driving; Bicycling; Four-Wheel Driving and Water Trails. One member also represents physically challenged individuals.

The Board's main responsibilities include advising DCNR on the use of Federal trails funding in the Commonwealth, reviewing and ranking trail project applications and presenting an annual report to the Secretary on the accomplishments of the preceding Federal fiscal year, including recommendations for changes.

Nominations for the three new appointees are to be made from individuals representing the following trail user organizations: hiking, bicycling and off-road motor-cycling.

Nominations must be submitted to DCNR by September 30, 1997. Appointments will be made by the Secretary of DCNR. Appointees will serve for 3 consecutive years.

To obtain a nomination form, contact Pennsylvania

Recreational Trails Program, P. O. Box 8475, Harrisburg, PA 17105-8475, (717) 783-2316, E-mail: tierney.vanyla@a1.dcnr.state.pa.us.

MAURICE FORRESTER,  
Chairperson

[Pa.B. Doc. No. 97-1355. Filed for public inspection August 22, 1997, 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 of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator have waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Richard Adams at (717) 327-3666. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

**PA 0052868.** Industrial waste, **Tracor Aerospace Electronic Systems, Inc.**, 305 Richardson Road, Lansdale, PA 19446-1485.

This application is for renewal of an NPDES permit to discharge treated groundwater from air stripper tower and stormwater from roof and parking lot of the industry located on Richardson Road in Montgomery Township, **Montgomery County**. This is an existing discharge to unnamed tributary to the West Branch Neshaminy Creek.

The receiving stream is a dry swale located near two public water supply wells.

The proposed effluent limits for Outfall 001, based on an average flow of 11,000 gallons per day are as follows:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Trichloroethylene	0.005	0.01	0.0125
Tetrachloroethylene	0.005	0.01	0.0125
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is not in effect.

Groundwater monitoring from certain monitoring wells.  
Authorization to discharge stormwater.

**PA 0054241.** Industrial waste, **AMOCO Oil Company**, 6310 West Passyunk Avenue, Philadelphia, PA 19153.

This application is for renewal of an NPDES permit to discharge stormwater from oil water separator serving point breeze petroleum marketing terminal located in City of Philadelphia, **Philadelphia County**. This is an existing discharge to Schuylkill River.

The receiving stream is classified for warm water fishery.

The proposed effluent limits for Outfall 001, based on an average flow of 170,000 gallons per day during heavy rain event are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable			
Petroleum Hydrocarbons			monitor/report
Diesel Range Organics			monitor/report
Gasoline Range Organics			monitor/report

*Other Requirements:*

1. DMR to DRBC
2. Product Contaminated Stormwater Runoff
3. Monitoring and Reporting
4. PPC Plan Requirements
5. Other Wastewaters
6. Definitions

The EPA waiver is in effect.

**PA 0011622.** Industrial waste, **PECO Energy Company**, 2301 Market Street, Philadelphia, PA 19101-8699.

This application is for renewal of an NPDES permit to discharge treated process wastewater, noncontact cooling water and stormwater from Delaware Generating station located on Beach Street in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to Delaware Estuary—Zone 3.

The receiving stream is classified for the following uses: warm water fishery (maintenance only) and migratory fish (passage only).

The proposed effluent limits for Outfall 001, based on an average flow of 3,000 gallons per day from steam tracing drips and yard stormwater are as follows:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Instantaneous Maximum</i>
Temperature		110°F
pH	6.0 SU	9.0 SU

The proposed effluent limits for Outfall 002, based on an average flow of 161,000 gallons per day from industrial wastewater treatment plant 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 Suspended Solids	30	100	125
Total Dissolved Solids	2,500	3,500	5,000
Oil and Grease	15	20	30
Total Iron	1	1	1
Total Copper	1	1	1
Total Zinc	monitor	monitor	
Total Lead	monitor	monitor	
Total Phenols	monitor	monitor	
pH	within limits of 6.0—9.0 standard units at all times		

The discharge through Outfall 003 shall consist solely of traveling screen backwash.

The proposed effluent limits for Outfall 004, based on an average flow of 2.03 million gallons per day from fan and equipment coolings 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 Copper	monitor	monitor	
Total Iron	monitor	monitor	
Total Zinc	monitor	monitor	
Total Lead	monitor	monitor	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 005, based on an average flow of 142,000 gallons per day from fan cooling, emergency shower and city water tank overflow 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 Copper	monitor	monitor	
Total Zinc	monitor	monitor	
Total Iron	monitor	monitor	
Temperature			110°F
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 006, based on an average flow of 254 million gallons per day from condenser cooling are as follows:

<i>Parameter</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Oxidant	0.2	0.5
Temperature		110°F
pH	within limits of 6.0—9.0 standard units at all times	

The proposed effluent limits for Outfall 009, based on an average flow of 30,000 gallons per day from auxiliary boiler cooling, pump cooling and river water seepage are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
Total Suspended Solids	30	100	125
Oil and Grease	15	20	30
Total Copper	monitor	monitor	
Total Zinc	monitor	monitor	
Total Iron	monitor	monitor	
Total Lead	monitor	monitor	
pH	within limits of 6.0—9.0 standard units at all times		

*Other Conditions:*

The EPA waiver is not in effect.

Requirement to submit a toxics reduction evaluation for Copper, Lead, Zinc and Iron for main discharges.

The discharge through Outfalls 007, 008, 011, 012, 013, 014 and 015 shall consist solely of stormwater runoff.

No discharge of PCB compounds.

Thermal impact of discharges 001, 004, 005, 006 and 009 upon Delaware Estuary—Zone 3.

Thermal Mixing Zone Requirements.

Chemical Additives Requirements.

Special Test Methods for certain pollutants.

Temperature monitoring of water withdrawn from the Delaware River.

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

**PA 0063649.** Sewerage. **King Arthur Dining Room**, Box 271, Route 209, Sciota, PA.

This proposed action is for issuance of an NPDES permit to discharge treated sewage into McMichael's Creek in Hamilton Township, **Monroe County**.

The receiving stream is classified for the following uses: high quality cold water, aquatic life, water supply and recreation.

Effluent requirements were evaluated of the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .0012 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Dissolved Oxygen	a minimum of 5.0 mg/l at all times	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine	monitor and report	

The EPA waiver is in effect.

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

**PA 0026077.** SIC: 4952, Sewage, **Borough of Carlisle**, 53 West South Street, Carlisle, PA 17013.

This application is for amendment of an NPDES permit for an existing discharge of treated sewage to Conodoguinet Creek, in Middlesex Township, **Cumberland County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was PA American Water Company located in Silver Spring Township, Cumberland County. The discharge is not expected to impact any potable water supply.

The proposed amended effluent limits for Outfall 001 for a design flow of 4.625 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Cadmium		deleted	
Total Copper		deleted	

The EPA waiver is not in effect.

*Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (717) 327-3666.*

**PA 0025922.** SIC: 4952, **City of Lock Haven**, 20 East Church Street, Lock Haven, PA 17745-2559.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to Bald Eagle Creek in City of Lock Haven, **Clinton County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the projected downstream potable water supply (PWS) considered during the evaluation is Lock Haven located on the West Branch Susquehanna River or the Bald Eagle Creek 1.6 miles downstream.

The proposed effluent limits for Outfall 001, based on a design flow of 3.75 mgd, are:

<i>Discharge Parameter</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum<sup>2</sup></i>
pH (Std Units)	within the range 6.0—9.0				
CBOD <sub>5</sub>		25	40		50
TSS		30	45		60
Total Cl <sub>2</sub> Residual*		0.5			1.6
*-limit effective 3 years after permit effective date, until then monitor and report					
NH <sub>3</sub> -N (5-1 to 10-31)		20	30		40
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				

*Other Conditions:*

- (1) Bypass Management Plan and Schedule
- (2) Operation and Implementation of a Pretreatment Program
- (3) Whole Effluent Toxicity Testing

The EPA waiver is not in effect.

**PA 0020699.** SIC: 4952, **Montgomery Water and Sewer Authority**, 35 South Main Street, Montgomery, PA 17752-0125.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to the West Branch Susquehanna River in Montgomery Borough, **Lycoming County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is located at Milton.

The proposed effluent limits for Outfall 001, based on a design flow of 0.85 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
Total Chlorine Residual	0.5		1.6
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		
pH	6.0—9.0 SU at all times		

*Other Conditions:*

(1) Total Chlorine Residual limits effective 3 years from permit issuance date. Monitoring and reporting required in the interim.

The EPA waiver is in effect.

**PA 0008575.** Industrial waste, SIC: 3315, **Williamsport Wire Rope, Inc.**, P. O. Box 3188, Williamsport, PA 17701.

This proposed action is for renewal of an NPDES permit for an existing discharge of contact water and cooling water to West Branch Susquehanna River in Williamsport, **Lycoming County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pennsylvania American Water Company located at Borough of Milton on the West Branch Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of 0.04 mgd, are:

<i>Discharge Parameter</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Oil and Grease		15	30	30
pH (Std units)	within the range 6.0—9.0			
Total Suspended Solids		31	60	75
Ammonia Nitrogen		monitor	monitor	
Total Chromium		1.71	2.77	5.13
Total Lead		0.43	0.69	1.29
Total Nickel		2.38	3.98	8.94
Total Silver		0.24	0.43	1.29
Total Zinc		1.48	2.61	4.44
Total Cyanide		0.65	1.20	1.95
Total Toxic Organics			2.13	

*Other Conditions:*

- (1) Chemical Additives Requirements
- (2) Requirement to submit an Ammonia Nitrogen Reduction Evaluation by
- (3) Total Toxic Organics Testing Requirement

The EPA waiver is not in effect.

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

**PA 0025984.** Sewage, **Allegheny County Sanitary Authority**, 3300 Preble Avenue, Pittsburgh, PA 15233.

This application is for an amendment of an NPDES permit to discharge treated sewage from Allegheny County Sanitary Authority (ALCOSAN) Waste Treatment Plant in the City of Pittsburgh, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as the Ohio 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 West View Municipal Authority.

*Outfall 001:* existing discharge, design flow of 250 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	9	13.5		18
(11-1 to 4-30)	25	37.5		50
Heptachlor Epoxide	monitor and report			
Total Residual Chlorine	0.5			1.6
Fecal Coliform				
(5-1 to 10-30)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	minimum daily average 5 mg/l, minimum 4 mg/l at any time			
pH	not less than 6.0 nor greater than 9.0			

Outfalls 005, 006, 007, S-23, S-24, S-28—S-42, S-42A, S-46, which discharge to the receiving waters known as the Monongahela River, Chartiers Creek and Ohio River, serve as combined sewer overflows necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for such reason. There are at this time no specific effluent limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

Outfalls SW1—SW5 which discharge to the receiving waters known as the Ohio River serve as uncontaminated stormwater outfalls. There are at this time no specific effluent limitations on the outfalls.

*Other Conditions:* Requirements to submit a Toxics Reduction Evaluation.

The EPA waiver is not in effect.

**PA 0205966.** Sewage, **Economy Borough Municipal Authority**, 2860 Conway-Wallrose Road, Baden, PA 15005.

This application is for renewal of an NPDES permit to discharge treated sewage from the Chestnut Ridge Sewage Treatment Plant in Economy Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary to Big Sewickley Creek, which are classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Arco Chemical Company BV Plant.

*Outfall 001:* existing discharge, design flow of 0.0165 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2	3		4
(11-1 to 4-30)	3.5	5.3		7
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	0.07			0.17
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 0096598.** Sewage, **Lower Ten Mile Joint Sewer Authority**, R. R. 1, Jefferson, PA 15344.

This application is for renewal of an NPDES permit to discharge treated sewage from Mather Waste Water Treatment Plant in Morgan Township, **Greene County**.



The following effluent limitations are proposed for discharge to the receiving waters, known as South Fork Ten Mile Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Tri County Joint Water Authority.

*Outfall 001:* existing discharge, design flow of 0.20 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	15.5	23		31
(11-1 to 4-30)	25	38		50
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		1.0		3.3
Dissolved Oxygen	not less than 3.0 mg/l			
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 0222381.** Sewage. **Clearfield-Jefferson Counties Regional Airport Authority** P. O. Box 299, Falls Creek, PA 15840.

This application is for a new NPDES Permit to discharge treated sewage to the Unnamed Tributary to Keys Run in Washington Township, **Jefferson County**. This is a new 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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Hawthorn Water Authority intake on Redbank Creek located in Hawthorn Borough, Clarion County, approximately 27 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.006 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Ammonia-Nitrogen	25	50
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	1.5	3.5
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 0025461.** Sewage. **Vernon Township Sanitary Authority (South Watson Run STP)**, 10929 Jackson Avenue, Meadville, PA 16335.

This application is for renewal of an NPDES Permit to discharge treated sewage to Watson Run in Vernon Township, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the General Authority of the City of Franklin on French Creek located at Franklin, approximately 30 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .27 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	15	20	30
(11-1 to 4-30)	25	40	50

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	30	45	60
Ammonia-Nitrogen			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		15.0
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	4,700/100 ml as a geometric average		
Total Residual Chlorine			
(Interim Limit)	XX		XX
(Final Limit)	.3		.9
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

**PA 0103969. Varischetti and Sons, Inc.,** P. O. Box 220, Brockway, PA 15824.

This application is for renewal of an NPDES Permit to discharge Unnamed Tributary to Wolf Run to Sandy Lick Creek 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, NO<sub>2</sub>-NO<sub>3</sub>, 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 discharge limits for Outfall No. 001, based on a design flow of 0.000450 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
TSS	30		60
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	21,200/100 ml as a geometric average		
Total Residual Chlorine	1.5		3.5
pH	6.0—9.0 at all times		

The EPA waiver is in effect.

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#### **Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges**

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

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

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

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

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

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0084476	Hemlock Girl Scout Council—Camp Sm. Valley 350 Hale Ave. Harrisburg, PA 17104	Dauphin Jefferson Twp.	UNT to Armstrong Creek	TRC
PA0082279	Spring Creek Jt. Sew. Authority P. O. Box 373 Three Springs, PA 17264	Huntingdon Clay Twp.	Spring Creek	TRC

## **DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER**

### **Applications under the Pennsylvania Clean Streams Law**

#### **(Part II Permits)**

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

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the 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, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

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

### **Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.100).**

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

**4697412.** Sewerage. **Lower Providence Township Sewer Authority**, 100 Park Lane Drive, Eagleville, PA 19403. Construction and operation of gravity collection system pump station and force main to serve Seven County View subdivision located in Lower Providence Township, **Montgomery County**.

**4697413.** Sewerage. **William and Donna Hodson**, 387 Allenton Road, Souderton, PA 18964-2103. Install and operate a small treatment facility for a single family residence located in Franconia Township, **Montgomery County**.

**4697414.** Sewerage. **William and Mary Stoneback**, 1414 Newman Rd., Pennsburg, PA 18073. Installation and operation of Norweco small flow sewage treatment system located in Upper Hanover Township, **Montgomery County**.

**4697415.** Sewerage. **Alice Cardy-Konoza**, 1359 Hendricks Road, Pennsburg, PA 18073. Construction of a small flow treatment facility to serve the Konoza residence located in Upper Hanover Township, **Montgomery County**.

**2397408.** Sewerage. **Concord Township Sewer Authority**, 671 Smithbridge Road, Box 171, Concordville, PA 19331. Construction of a sewer extension and pump station to serve Concord Chase Development in Concord Township, **Delaware County**.

**2397409.** Sewerage. **Nether Providence Township**, 214 Skyes Lane, Wallingford, PA 19086. Construction of a pump station located in Nether Providence Township, **Chester County**.

**1597201.** Industrial. **Philadelphia Suburban Water Company**, 762 Lancaster Avenue, Bryn Mawr, PA 19010-3489. Construction of 3MG capacity drying/storage basin at Pickering Creek Water Treatment plant located in Phoenixville Borough, **Chester County**.

**2397202.** Industrial. **Laurel Pipe Line Company L. P.**, P. O. Box 368, Emmaus, PA 18049-0368. Two surface water ponds used to control stormwater and groundwater remediation system located in Bethel Township, **Delaware County**.

**0997406.** Sewerage. **Warrington Township**, 852 Easton Road, Warrington, PA 18976. Construction of Warrington Oaks Pump Station located in Warrington Township, **Bucks County**.

**1597409.** Sewerage. **Archie and Gloria Shearer**, 2715 Strasburg Road, Coatesville, PA 19320. Construction of a small flow treatment facility to serve the Shearer residence located in Sadsbury Township, **Chester County**.

**4697416.** Sewerage. **William Smith**, 1429 Salford Street, Salford, PA 18457. Construction of a small flow sewage treatment facility to serve the Smith residence located in Upper Salford Township, **Montgomery County**.

**0996418.** Sewerage. **Warrington Township**, 852 Easton Road, Warrington, PA 18976. Relocation and expansion of the Folly Road Pump Station located in Warrington Township, **Bucks County**.

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

**A. 2197409.** Sewage, submitted by **South Middleton Township Municipal Authority**, P.O. Box 8, 345 Criswell Drive, Boiling Springs, PA 17007-0008 in South Middleton Township, **Cumberland County** to construct the Wood Lane pumping station and sewer station to except flow from only existing homes was received in the Southcentral Region on August 5, 1997.

**A. 2197408.** Sewage, submitted by **John and Cynthia Noyes**, 238 Birch Lane, Carlisle, PA 17013 in Middlesex Township, **Cumberland County** to construct a small flow single residence sewage treatment system was received in the Southcentral Region on August 1, 1997.

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

**A. 3297408.** Sewerage. **Indiana County Municipal Services Authority**, P.O. Box 351, Indiana, PA 15701. Application for the construction of a package type, extended aeration sewage treatment plant to replace the existing Marsh Pond Treatment Facility serving the Village of Iselin in Young Township, **Indiana County**.

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

**WQM Permit No. 1697401.** Sewage. **Municipal Authority of Strattanville Borough**, P.O. Box 139, Strattanville, PA 16258. This project is for the installation of four floating surface aerators to be added to a portion of the existing primary facultative lagoon to convert it into an aerated lagoon.

#### INDIVIDUAL PERMITS (PAS)

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the

name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above the application.

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

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

*Southwest Regional Office: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4028.*

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, 555 North Lane, Conshohocken, PA 19428, (610) 832-6131.*

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

*Northeast Regional Office: Regional Water Management Program Manager, Public Square, Wilkes-Barre, PA 18701, (717) 826-2553.*

*Bedford County Conservation District, District Manager, 702 W. Pitt Street, Bedford, PA 15522, (814) 623-6706.*

**NPDES Permit PAS100415.** Stormwater. **Chiou Hoy Farm Limited Liability Company**, Tom Chiou, 312 Hammonton Place, Silver Spring, MD. 20904 has applied to discharge stormwater from a construction activity located in Monroe Township, **Bedford County**, to Sidel-ing Hill Creek.

*Berks County Conservation District, District Manager, 1238 County Welfare Road, Leesport, PA 19533, (610) 372-4657.*

**NPDES Permit PAS10C034.** Stormwater. **Forino Development Company**, John G. Smith, 3000 Penn Avenue, West Lawn, PA 19609 has applied to discharge stormwater from a construction activity located in South Heidelberg Township, **Berks County**, to Cacoosing Creek.

*Cambria County Conservation District, District Manager, P.O. Box 187, Ebensburg, PA 15931, (814) 472-2120.*

**NPDES Permit PAS101021.** Stormwater. **Forest Hills Municipal Authority**, 401 Grant Street, South Fork, PA 15956 has applied to discharge stormwater from a construction activity located in Adams, Summerhill, Richland, Croyle and Conemaugh Townships, and South Fork, Summerhill, Ehrenfeld and Wilmore Boroughs, **Cambria County**, to the Little Conemaugh River.

*Chester County Conservation District, District Manager, 601 Westtown Road, Ste. 395, West Chester, PA 19382, (610) 696-5126.*

**NPDES Permit PAS10G274.** Stormwater. **Joseph Piccone**, 501 Route 113, Chester Springs, PA 19425 has applied to discharge stormwater from a construction activity located in West Vincent Township, **Chester County**, to UNT to Birch Run.

**NPDES Permit PAS10G275.** Stormwater. **SMS Corporation, III**, 51 Valley Stream Parkway, Malvern, PA 19355 has applied to discharge stormwater from a construction activity located in East Whiteland Township, **Chester County**, to Valley Creek.

**NPDES Permit PAS10G276.** Stormwater. **William Bernard**, Peddlers Village, 19A, Christianna, DE 19702 has applied to discharge stormwater from a construction activity located in East Pikeland Township, **Chester County**, to French Creek.

**NPDES Permit PAS10G277.** Stormwater. **Great Valley School District**, P. O. Box 617, Devault, PA 19432 has applied to discharge stormwater from a construction activity located in East Whiteland Township, **Chester County**, to Valley Creek.

*Crawford County Conservation District, District Manager, 1012 Water Street, Ste. 18, Meadville, PA 16335, (814) 724-1793.*

**NPDES Permit PAS102304.** Stormwater. **James Gwin**, Conneaut Meadows Manufactured Home Community, c/o Homestead Oak, 14221 Conneaut Lake Road, Meadville, PA 16335 has applied to discharge stormwater from a construction activity located in Sadsbury Township, **Crawford County**, to Conneaut Lake.

*Cumberland County Conservation District, District Manager, 43 Brookwood Avenue, Ste. 4, Carlisle, PA 17013, (717) 240-7812.*

**NPDES Permit PAS10H071.** Stormwater. **R S Mowery & Sons, Inc.**, 625 Hamilton Street, Carlisle, PA 17013 has applied to discharge stormwater from a construction activity located in Silver Spring Township, **Cumberland County**, to the Conodoguinet Creek.

**NPDES Permit PAS10H072.** Stormwater. **Eastern Development and Design**, Shah Mathias, P.O. Box 163, Red Lion, PA 17356 has applied to discharge stormwater from a construction activity located in Silver Spring Township, **Cumberland County**, to Cedar Run.

*Dauphin County Conservation District, District Manager, 1451 Peters Mountain Road, Dauphin, PA 17018, (717) 921-8100.*

**NPDES Permit PAS10I031.** Stormwater. **Harrisburg, City School District**, 1201 N. 6th Street, Harrisburg, PA 17101 has applied to discharge stormwater from a construction activity located in Susquehanna Township, **Dauphin County**, to Paxton Creek.

*Erie County Conservation District, District Manager, P. O. Box 801, 12723 Route 19, Waterford, PA 16441, (814) 796-4203.*

**NPDES Permit PAS10K020.** Stormwater. **Greater Erie Industrial Development Corporation**, 2103 E. 33rd Street, Erie, PA 16510 has applied to discharge stormwater from a construction activity located in Fairview Township, **Erie County**, to Brandy Run.

*Lebanon County Conservation District, District Manager, 2120 Cornwall Road, Lebanon, PA 17042, (717) 272-3377.*

**NPDES Permit PAS10P026.** Stormwater. **Arbor Gate**, 950 E. Kercher Avenue, Myerstown, PA 17067-9998 has applied to discharge stormwater from a construction activity located in Jackson Township, **Lebanon County**, to Tulephocken Creek.

*Montgomery County Conservation District, District Manager, 1015 Bridge Road, Ste. B, Collegeville, PA 19426, (610) 489-4506.*

**NPDES Permit PAS10T090.** Stormwater. **Ritter Estates Inc.**, 649 N. Lewis Road, Royersford, PA 19468 has applied to discharge stormwater from a construction activity located in Lower Pottsgrove Township, **Montgomery County**, to Sprogels Run and UNT on site.

*Schuylkill County Conservation District, District Manager, 1206 Ag. Center Drive, R. R. 5, Box 5810, Pottsville, PA 17901, (717) 622-3742.*

**NPDES Permit PAS105714.** Stormwater. **DEP—Bureau of Abandoned Mine Reclamation**, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711-0790 has applied to discharge stormwater from a construction activity located in Walker Township, **Schuylkill County**, to Little Schuylkill River.

*Westmoreland County Conservation District, District Manager, Donohoe Center, R. R. 12, Box 202B, Greensburg, PA 15601, (412) 837-5271.*

**NPDES Permit PAS10X083.** Stormwater. **Hempfield Point Development L. P.**, 25, 955 Executive Parkway, Suite 210, Saint Louis, MO 63141 has applied to discharge stormwater from a construction activity located in Hempfield Township, **Westmoreland County**, to Turtle Creek.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### Under Act 2, 1995

#### Preamble 1

**Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under

the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department 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, (717) 826-2511.*

**Precision National Plating Services**, Abington Township, **Lackawanna County**. Nicholas Valkenburg, Project Coordinator with Geraghty & Miller, Inc., 88 Duryea Road, Melville, NY 11747 (on behalf of his client, Precision National Plating Services, 198 Ackerly Road, Clarks Summit, PA 18411) has submitted a Notice of Intent to Remediate concerning the remediation of site soils and groundwater which have become contaminated with metals. The applicant proposes to remediate the site to meet the Statewide health standard for soil and the site-specific standard for groundwater. A summary of the Notice of Intent to Remediate was reportedly published in the *Scranton Times* during the week of August 4, 1997. Please refer to additional *Pennsylvania Bulletin* notice.

*Northwest Regional Office: Craig Lobins, Acting 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, **County of Erie**, has submitted a Notice of Intent to Remediate groundwater. The site has been found to be contaminated with Solvents. The applicant proposes to remediate the site to meet the Background Health Standard. A summary of the Notice of Intent was published on August 1, 1997 in the *Erie Morning News* and *Erie Daily Times*.

**GPU Energy, for Front St. Electrical Generating Station** (Parcel J, Community Boating Property), North of Front St., Ward #4, City of Erie, **County of Erie**, has submitted a Notice of Intent to Remediate soil and groundwater. The site has been found to be contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent was published in the *Erie Daily Times* on August 6, 1997.

**Pennsylvania Electric Company (d/b/a) GPU Energy for the Front Street Electrical Generating Station** (Parcel G-1, Coal Pile), City of Erie, **County of Erie**, North of Front St., Ward #4, has submitted a Notice of Intent to Remediate soil and groundwater. The site has been found to be contaminated with Heavy Metals, PCBs and PHCs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate has been published on July 23, 1997 in the *Erie Daily Times*.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 2

**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 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 a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified below, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified below. During this comment period, a municipality may request that the person identified below, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, please contact 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 1 (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, (717) 826-2511.*

**Precision National Plating Services**, Abington Township, **Lackawanna County**. Nicholas Valkenburg, Project Coordinator with Geraghty & Miller, Inc., 88 Duryea Road, Melville, NY 11747 (on behalf of his client,

Precision National Plating Services, 198 Ackerly Road, Clarks Summit, PA 18411) has submitted a Notice of Intent to Remediate concerning the remediation of site soils and groundwater which have become contaminated with metals. The applicant proposes to remediate the site to meet the site-specific standard for groundwater and the Statewide health standard for soil. A summary of the Notice of Intent to Remediate was reportedly published in the *Scranton Times* during the week of August 4, 1997. Please refer to additional *Pennsylvania Bulletin* notice.

## SOLID AND HAZARDOUS WASTE

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

*Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, (717) 327-3653.*

**A. 301311. Royal Oak Residual Waste Landfill, Eagle Environmental II, L. P.** (9 Logan Boulevard, 2nd Floor, Altoona, PA 16602). Application for residual waste landfill located in Chest Township, **Clearfield County** received in the Regional Office on July 17, 1997 and deemed administratively complete August 6, 1997.

## AIR POLLUTION

### OPERATING PERMITS

**Construct, modify or activate air contaminant sources**

**25 Pa. Code § 129.1**

**Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**06-301-093A.** The Department intends to issue an Air Quality Operating Permit to **Bridgeview, Inc.** (P. O. Box 364, R. D. 1, Morgantown, PA 19543) for a hospital waste incinerator controlled by a wet scrubber in Robeson Township, **Berks County**.

**36-2037A.** The Department intends to issue an Air Quality Operating Permit to **Kellogg U.S.A., Inc.** (P. O. Box 3006, Lancaster, PA 17604) for combustion sources at their facility located on 2050 State Road in East Hempfield Township, **Lancaster County**.

**Applications received for Minor Source Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**OP-65-00623.** The Department received an Air Quality Operating Permit application from **Westinghouse Air Brake Company** (R. R. 12, Box 212, Donahue Road, Greensburg, PA 15601) for a rubber fabrication process at its Greensburg Plant located in Greensburg, **Westmoreland County**.

**OP-65-00316.** The Department received an Air Quality Operating Permit application from **Ashland, Inc.** (P. O. Box 391, Ashland, KY 41114) for a petroleum distribution operation at its Vandergrift Facility located in Vandergrift Borough, **Westmoreland County**.

**OP-04-00469.** The Department received an Air Quality Operating Permit application from **Horsehead Resource Development Company** (300 Frankfort Road, Monaca, PA 15061) for a nonferrous refining/smelting process at its Feed Preparation Building located in Potter Township, **Beaver County**.

**OP-11-00011.** The Department received an Air Quality Operating Permit application from **Cooney Brothers Coal Company** (P. O. Box 246, Cresson, PA 16630) for a coal preparation plant at its Sonman Preparation Plant located in Portage Township, **Cambria County**.

**OP-65-00592.** The Department received an Air Quality Operating Permit application from **Burrell School District** (1021 Puckety Church Road, Lower Burrell, PA 15068) for an incinerator at its Stewart School located in Lower Burrell City, **Westmoreland County**.

**OP-03-00093.** The Department received an Air Quality Operating Permit application from **Keystone Coal Mining Corporation** (P. O. Box 729, Indiana, PA 15701) for a coal preparation plant at its Cleaning Plant located in Plumcreek Township, **Armstrong County**.

**Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Southwest Regional Office, Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA-04-570A.** The Department intends to issue an Air Quality Operating Permit to **Midland Slag Processors**, (303A Smiths Ferry Road, Midland, PA 15059) for a slag processing process at its facility located in Ohioville Borough, **Beaver County**.

**PA-63-180A.** The Department intends to issue an Air Quality Operating Permit to **Findlay Refractories** (P. O. Box 517, Washington, PA 15301) for a dust collector on the CO-5 Cast Mixer Feed System at its Washington Plant located in Washington City, **Washington County**.

**56-305-049.** The Department intends to issue an Air Quality Operating Permit to **PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541) for a limestone crushing/screening process at its Paxton Strip located in Brothersvalley Township, **Somerset County**.

**PA-63-646A.** The Department intends to issue an Air Quality Operating Permit to **Ritchey Metals Company, Inc.** (Box I, 30 Georgetown Road, Hendersonville, PA 15339) for a reverb furnace/rotary furnace at its Hendersonville Plant located in Cecil Township, **Washington County**.

**63-322-001.** The Department intends to revise the Operating Permit issued to **William H. Martin, Inc.**, Arden Sanitary Landfill (P. O. Box BC, Washington, PA 15301) to incorporate the Emission Guidelines recently promulgated by the USEPA for this existing municipal solid waste landfill, located in Chartiers Township, **Washington County**.

**56-322-001.** The Department intends to revise the Operating Permit issued to **Southern Alleghenies Disposal Service** (R. R. 3, Box 310, Holsopple, PA 15935) to incorporate the Emission Guidelines recently promulgated

by the USEPA for this existing municipal solid waste landfill, located in Conemaugh and Paint Townships, **Somerset County**.

**65-322-001A.** The Department intends to revise the Operating Permit issued to **Valley Landfill** (R. R. 2, Box 282A, Pleasant Valley Road, Irwin, PA 15642) to incorporate the Emission Guidelines recently promulgated by the USEPA for this existing municipal solid waste landfill, located in Penn Township, **Westmoreland County**.

**63-322-003A.** The Department intends to revise the Plan Approval/Operating Permit issued to **M. C. Arnoni Company** (1169 Cochran Mill Road, Pittsburgh, PA 15236) to incorporate the Emission Guidelines recently promulgated by the USEPA for this existing municipal solid waste landfill, located in Union Township, **Washington County**.

#### 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).

Copies of the Title V application, proposed permit and other relevant information are available for public inspection and additional information may be obtained by contacting 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 person 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 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Safko, (717) 826-2531.*

**40-00008. Offset Paperback Manufacturers, Inc.** (P.O. Box N, Route 309, Dallas, PA 18612) located in Dallas, **Luzerne County**. The facility's major sources of emissions include printing presses which primarily emit volatile organic compounds (VOCs).

*Southcentral Regional Office: Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, Attn: Kanubhai L. Patel, (717) 657-4587.*

**06-05022. Kutztown University** (Main Street, Kutztown, PA 19530) located in Maxatawny Township, **Berks County**. The facility's major source(s) of emissions include boilers which primarily emit NOx and VOCs.

**28-05017. Hess Manufacturing Company** (Route 997, P. O. Box 127, Quincy, PA 17247) located in Quincy Township, **Franklin County**. The facility's major sources include lamination and spray painting equipment which primarily emit VOC emissions.

**36-05015. Dart Container Corp.** (60 East Main Street, P. O. Box 546, Leola, PA 17540) located in Upper Leacock Township, **Lancaster County**. The facility's major sources include boilers which primarily emit NOx emissions and various printing presses and food container manufacturing equipment which primarily emit VOC emissions.

**36-05062. Manheim Auto Auction** (1190 Lancaster Road, Manheim, PA 17545) located in Penn Township, **Lancaster County**. The facility's major sources include various paint and body repair operations which have the potential to primarily emit hazardous air pollutants (HAPs).

**67-05012. Transcontinental Gas Pipe Line Corp., Gas Compressor Station 195** (Route 851, Bryansville Road, Delta, PA 17314) located in Peach Bottom Township, **York County**. The facility's major sources include five internal combustion engines, natural gas fired.

**67-05044. Harris-Hub, Division of Dresher, Inc.** (95 Woodland View Drive, York, PA 17402) located in Manchester Township, **York County**. The facility's major sources include surface coaters which primarily emit VOC and Hazardous Air Pollutant emissions.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.*

**04-00490. Consolidated Natural Gas Transmission Corporation** (CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15229-3199) for their Beaver Station located in North Sewickly Township, **Beaver County**. The facility's major sources of emissions include four Dresser Rand internal combustion engines (3200 HP each), a generator (778 HP), and a boiler (8.5 mmbtu/hr) which emits major quantities of NOx and VOCs.

*Reading District Office: Air Quality Program, 1005 Cross Roads Boulevard, Reading, PA 19605, Attn: Roger Fitterling, (610) 916-0100.*

**06-05071. Sealed Air Corporation** (450 Riverfront Drive, Reading, PA 19602) located in City of Reading, **Berks County**. The facility's major sources include boilers which primarily emit criteria pollutants, particularly SOx.

**06-05045. Hamburg Center** (Hamburg, PA 19526) located in the City of Hamburg, **Berks County**. The facility's major sources include boilers which primarily emit criteria pollutants, particularly SOx.

#### PLAN APPROVALS

**Applications under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources.**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**36-302-184.** Construction of a wood-fired boiler to replace an existing boiler controlled by a multicyclone by **Esbenshade's Greenhouses, Inc.** (546 East 28th Division Highway, Lititz, PA 17543) in Elizabeth Township, **Lancaster County**.



*Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**8-318-023D.** Construction of a fourth simulated marble gel-coat and molding line by **Rynone Manufacturing Corporation** (P. O. Box 128, Sayre, PA 18848-0128) in Sayre Borough, **Bradford County**.

**19-319-001.** Installation of a scrubber on a chrome plating operation by **Schultz Electroplating, Inc.** (R. R. 5, Box 195, Bloomsburg, PA 17815-8942) in South Centre Township, **Columbia County**.

*Regional Office: Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA-04-483A. Interforest Corporation** (119 AID Drive, P. O. Box 444, Darlington, PA 16115) for a wood-fired boiler at its Penn-Beaver Veneers Corporation facility located in Darlington Township, **Beaver County**.

#### REASONABLY AVAILABLE CONTROL TECHNOLOGY

##### (RACT)

**Applications received for Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.**

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

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

The Department intends to issue an Air Quality Operating Permit for the air contaminant sources and associated air cleaning devices described for:

Permit: **OP-15-0020**

Source: Major NO<sub>x</sub> and Minor VOC Facility

Company: **Columbia Gas Transmission Corporation**

Location: West Bradford

County: **Chester**

Permit: **OP-15-0009A**

Source: Poly Tetra Fluoro Ethylene (PTFE)

Company: **ICI Fluoropolymers**

Location: Caln

County: **Chester**

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY APPLICATIONS

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 such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S.

§§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (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 such certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chs. 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

*Ebensburg District Office: 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

#### Coal Applications Received:

**11971106.** Stream Encroachment, **Ridge Energy Co.** (P. O. Box 429, Clymer, PA 15728) is requesting permission to temporarily install and maintain a low-water crossing on Fox Run at a point of 10,000 feet upstream from Fox Run's confluence with the West Branch of the Susquehanna River. Application received August 7, 1997.

**32920101.** Permit renewal, **Pitt Mining Company** (R. D. 3, Box 95B, Shelocta, PA 15774), restoration and reclamation only of a bituminous strip mine in Young Township, **Indiana County**, affecting 272.3 acres, receiv-

ing streams unnamed tributaries to Gobbler Creek. Application received August 8, 1997.

*Knox District Office, P. O. Box 669, Knox, PA 16232.*

**33970108. Beverly Hill Coal Co., Inc.** (60 Campbell Avenue, Clarion, PA 16214), commencement, operation and restoration of a bituminous surface strip and auger operation in Henderson Township, **Jefferson County** affecting 40.0 acres. Receiving streams unnamed tributaries to East Branch of Mahoning Creek. Application received July 25, 1997.

**10840126. BMB Management, Inc.** (R. D. 6, Friendship Plaza, Kittanning, PA 16201), renewal of an existing bituminous surface strip and tippie refuse disposal operation in Brady, Cherry, Clay and Slippery Rock Townships, **Butler County** affecting 210.8 acres. Receiving streams six unnamed tributaries to Glade Run and Glade Run. Application for reclamation only. Application received August 1, 1997.

**10950102. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), revision to an existing bituminous surface strip operation in Lancaster and Franklin Townships, **Butler and Beaver Counties** affecting 110.0 acres. Receiving streams three unnamed tributaries to Doe Run and Doe Run. Revision to include a post mining landuse change from "Forestland" to "Land Occasionally Cut for Hay" on the lands of John J. Wittmann and Jack Schweiger. Application received August 1, 1997.

**33970109. MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801), commencement, operation and restoration of a bituminous surface strip operation in Oliver Township, **Jefferson County** affecting 85.2 acres. Receiving streams unnamed tributaries to Lick Run and an unnamed tributary to Little Sandy Creek. Application received July 30, 1997.

*Pottsville District Office, 6 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54850202C4. B-D Mining Co.** (P. O. Box 423, Gilberton, PA 17934), correction to an existing anthracite surface mine operation to make modifications to apply biosolids (stabilized sewage sludge) to enhance vegetation in Mahanoy and West Mahanoy Townships, Gilberton and Shenandoah Boroughs, **Schuylkill County**, affecting 185.0 acres, receiving stream Mahanoy Creek. Application received July 18, 1997.

**54920103R. Harriman Coal Corporation** (P. O. Box 127, Valley View, PA 17983), renewal of an existing anthracite surface mine operation in Tremont Township, **Schuylkill County** affecting 47.6 acres, receiving stream none. Application received July 21, 1997.

**54871302R2. West End Coal Company Deep Mine** (4 Gene Circle, Williamstown, PA 17098), renewal of an existing anthracite underground mine operation in Tremont Township, **Schuylkill County** affecting 2.7 acres, receiving stream none. Application received July 23, 1997.

**54841303C2. Tito Coal** (R. R. 1, Box 67A2, Williamstown, PA 17098), correction to an existing anthracite underground mine operation to add acres in Porter Township, **Schuylkill County** affecting 3.1 acres, receiving stream Wiconisco Creek. Application received July 21, 1997.

**54773223T. CLS Coal Company** (P. O. Box 81, Port Carbon, PA 17965), transfer of an existing coal refuse reprocessing operation in Cass Township, **Schuylkill County** from Tri-County Land & Coal Co. affecting 133.0 acres, receiving stream none. Application received July 24, 1997.

*Knox District Office, P. O. Box 669, Knox, PA 16232.*

#### *Noncoal Applications Received*

**25970308. Wroblewski Sand & Gravel, Inc.** (12907 Half Moon Road, Wattsburg, PA 16442), commencement, operation and restoration of a sand and gravel operation in Venango Township, **Erie County** affecting 10.6 acres. Receiving streams groundwater to the West Branch of French Creek. Application received July 25, 1997.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**7175SM1A1C2. Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105), renewal and correction of NPDES Permit #PA0613827 in South Hanover Township, **Dauphin County**, receiving stream Swatara Creek. Application received July 24, 1997.

**7674SM1C5. Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105), correction to an existing quarry operation and NPDES Permit #PA0613312 in South Lebanon and Jackson Townships, **Lebanon County**, receiving stream Tulpehocken Creek. Application received July 24, 1997.

**64910303C2. Ciccone Excavating, Inc.** (R. R. 2, Box 1575, Honesdale, PA 18431), renewal of NPDES Permit #PA0595462 in Palmyra Township, **Wayne County**, receiving stream tributary to Lake Wallenpaupack. Application received July 28, 1997.

**7876SM1C2. Essroc Cement Corp.** (Rt. 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES Permit #PA0595721 in Whitehall Township, **Lehigh County**, receiving stream Coplay Creek. Application received July 28, 1997.

## **APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT**

### **ENCROACHMENTS**

The following Dam Safety and Encroachment permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department).

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit any comments,

suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

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

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

**E15-549.** Encroachment. **Presbyterian Homes, Inc.**, 1217 Slate Hill Rd., Camp Hill, PA 17011. To construct and maintain three stream crossings across an unnamed tributary to Tweed Creek (TSF, MF) to provide access to a proposed addition at the existing Ware Presbyterian Village retirement facility. The work consists of encroaching on approximately 530 linear feet of watercourse and the 100-year floodway to accommodate these roadway crossings. The three proposed roadway crossings consist of a 100-foot long and a 150-foot long twin 60-inch diameter corrugated metal pipe stream enclosures, and an 80-foot long culvert, consisting of twin 60-inch diameter corrugated metal pipes. Each crossing contains concrete endwalls and rip-rap energy dissipaters at the upstream and downstream terminus. The project also includes placement of fill material in 0.16 acre of adjacent wetlands. The site is located along southern side of Lancaster Avenue (SR 0472) at a point approximately 2,500 feet west of its intersection with Limestone Road (SR 10) (Oxford, PA Quadrangle N: 6.5 inches; W: 15.6 inches) in the Borough of Oxford, **Chester County**.

**E15-548.** Encroachment. **Jeffrey R. Bevan**, 103 Oak Tree Court, Pottstown, PA 19464. To construct and maintain a driveway crossing consisting of two 36-inch RCP culverts with riprap protection located in an unnamed tributary to French Creek and to construct and maintain six 12-inch CMP culverts impacting approximately 0.03 acre of wetlands within the floodplain of the unnamed tributary to French Creek. These crossings are on the Bevan property situated approximately 1,000 feet southwest of the intersection of Route 113 and Rapps Dam Road (Phoenixville, PA Quadrangle N: 0.4 inch; W: 8.2 inches) in East Pikeland Township, **Chester County**.

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

**E36-638.** Encroachment. **John Rautzahn**, PA Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103. To remove the existing structure, construct and maintain a prestressed adjacent box beam bridge having a clear span of 35.325 feet on a 65 degree skew with a minimum underclearance of 2.71 feet across Groff Creek on SR 0772, Section 007, Segment 0590, Offset 0000 (Leola, PA Quadrangle N: 20.7 inches; W: 12 inches) in West Earl Township, **Lancaster County**.

**E67-594.** Encroachment. **Harry Fox**, 241 Old York Road, Dillsburg, PA 17019. To construct and maintain four 36-inch diameter, 24 foot long corrugated metal pipe culverts in Bald Eagle Creek to construct a private driveway to provide access to Lot #1, Fawn Meadows Subdivision located along the north side of Day Road (T-587) about 1,000 feet east of its intersection with SR 0425 (Fawn Grove, PA Quadrangle N: 22.0 inches; W: 10.6 inches) in Fawn Township, **York County**.

*Northcentral Region, Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.*

**E19-170.** Encroachment. **Sunset Holding Corp.**, Box 333, Bloomsburg, PA 17815. To relocate about 200 feet of an unnamed tributary to Fishing Creek for a new 83 lot residential development located just west of Millville Road about 0.4 mile south of Route 80 (Bloomsburg, PA Quadrangle N: 2.0 inches; W: 13.0 inches) in Bloomsburg Borough, **Columbia County**. Estimated stream disturbance is 200 feet with no wetland impacts; stream classification is WWF.

**E59-347.** Encroachment. **Tioga County Commissioners**, Courthouse, 118 Main St., Wellsboro, PA 16901. To remove the existing structure and to construct and maintain a two span prestressed concrete bridge with a total clear span of 182 feet, skew of 86 degrees, and underclearance of 14.2 feet across the Tioga River located on T-493 just west of Business Route 15 (Mansfield, PA Quadrangle N: 5.75 inches; W: 9.75 inches) in Richmond Township, **Tioga County**. Estimated stream disturbance is 300 feet with no wetland impacts; stream classification is CWF.

**E59-349.** Encroachment. **Pa. Dept. of Transportation**, P. O. Box 218, Montoursville, PA 17754. To remove the existing structure and to construct and maintain a 5 foot by 15 foot precast reinforced concrete box culvert skewed 40 degrees with a clear normal span of 12 feet and a minimum underclearance of 5 feet over Heise Run on T-818 approximately 1.2 miles north of SR 660/T-818 intersection (Keeneyville, PA Quadrangle N: 0.2 inch; W: 13.5 inches) in Delmar Township, **Tioga County**. Estimated stream disturbance is approximately 90 feet; stream classification is Cold Water Fishery.

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

**E10-267.** Encroachment. **County of Butler**, 125 West Diamond Street, P. O. Box 1208, Butler, PA 16003-1208. To remove the existing County Bridge No. 137 (Rosebaugh Bridge) and to construct and maintain a prestressed concrete beam bridge with a clear span of 39 feet and a maximum underclearance of 8.75 feet across Glade Run (south branch) (WWF). The project is located on Hammond Road across Glade Run approximately 200 feet west of the intersection of Hammond Road, List Hill Road, Three Degree Road and Glade Run Road (Valencia, PA Quadrangle N: 17.9 inches; W: 13.8 inches) located in Adams Township, **Butler County**.

**E42-250.** Encroachment. **David E. Walters**, 31 South Second Street, Bradford, PA 16701. To place fill within 0.14 acre of wetland area, to install and maintain a 200-foot enclosure consisting of a total of three 4-foot diameter by 200-foot long concrete culverts set side by side in Rutherford Run (CWF), and to place fill within the Floodway of Rutherford Run for a commercial development. This project will include creation of at least 0.14 acre of replacement wetlands in an area adjacent to the project. The project site is located approximately 400 feet southeast of the intersection of Rutherford Run Road (T-330) and High Street Extension (S. R. 4005) (Bradford, PA Quadrangle N: 10.7 inches; W: 2.4 inches) located in Bradford Township, **McKean County**.

**E42-251.** Encroachment. **Foster Township Supervisors**, 1185 East Main Street, Bradford, PA 16701. To remove the existing concrete encased steel beam bridge deck, to construct and maintain a 15-inch concrete bridge

deck, and to rehabilitate and pour two wingwalls on the Garlock Hollow Road (T-359) bridge across Kendall Creek (WWF). This project will also include the placement of three concrete culverts measuring 4 feet in diameter and 35 feet in length placed in Kendall Creek as part of a temporary roadway. The bridge is located on Garlock Hollow Road (T-359) across Kendall Creek approximately 500 feet northeast of the intersection of Garlock Hollow Road (T-359) and S. R. 0046 (Derrick City, PA Quadrangle N: 9.15 inches; W: 9.3 inches) located in Foster Township, **McKean County**.

#### ENVIRONMENTAL ASSESSMENT

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

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.*

**EA22-008C0.** Environmental assessment. **Millersburg Area Authority** (101 West Street, Millersburg, PA 17061). To construct and maintain a nonjurisdictional dam across a Tributary to Wiconisco Creek (WWF) to serve as a public water supply intake structure for the Millersburg Area Authority. The proposed dam will be located approximately 300 feet downstream of the existing intake dam which will be breached and removed (Millersburg, PA Quadrangle N: 6.2 inches; W: 6.1 inches) in Upper Paxton Township, **Dauphin 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 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).

##### Permits Issued

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

**NPDES Permit No. PA-0027065.** Sewerage. **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519 is authorized to discharge from a facility located in Archbald Borough, **Lackawanna County** to the Lackawanna River.

**NPDES Permit No. PA-0027073.** Sewerage. **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519 is authorized to discharge from a facility located in Moosic Borough, **Lackawanna County** to the Lackawanna River.

**NPDES Permit No. PA-0027090.** Sewerage. **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519 is authorized to discharge from a facility located in Throop Borough, **Lackawanna County** to the Lackawanna River.

**NPDES Permit No. PA-0062090.** Industrial waste. **Anemostat Products Division**, Dynamics Corporation of America, 888 N. Keyser Avenue, Scranton, PA 18508 is authorized to discharge from a facility located in the City of Scranton, **Lackawanna County** to an unnamed tributary to Keyser Creek.

**NPDES Permit No. PA-0070505.** Industrial waste. **Mallinckrodt, Inc.**, TRIMET Technical Products, 2904 N. Cedar Crest Boulevard, Allentown, PA 18104 is authorized to discharge from a facility located in South Whitehall Township, **Lehigh County** to Jordan Creek.

**NPDES Permit No. PA-0063606.** Industrial waste. **GPU Generation, Inc.** (Bangor Quarry Ash Disposal Site), 1001 Broad Street, Johnstown, PA 15907 is authorized to discharge from a facility located in Bangor Borough, **Northampton County** to Brushy Meadow Creek.

**NPDES Permit No. PA-0012726.** Industrial waste. **Alumax Extrusions, Inc.**, 53 Pottsville Street, Cressona, PA 17929-0129 is authorized to discharge from a facility located in Cressona Borough, **Schuylkill County** to the West Branch of the Schuylkill River.

**NPDES Permit No. PA-0038270.** Industrial waste. **Sun Company, Inc.** (Tamaqua Marketing Terminal), Ten Penn Center, 1801 Market Street, Philadelphia, PA 19103-1699 is authorized to discharge from a facility located in Rush Township, **Schuylkill County** to the Little Schuylkill River.

**NPDES Permit No. PA-0027081.** Sewerage. **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519 is authorized to discharge from a facility located in Clinton Township, **Wayne County** to the Lackawanna River.

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

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

**Permit No. 0606407.** Sewerage. **Centre Township Municipal Authority**, 449 Bucks Hill Road, Mohrsville, PA 19541. Construction of sewage treatment facilities in Centre Township, **Berks County**.

**Permit No. 3697403.** Sewerage. **Lancaster County Career & Technology Center**, 1730 Hans Herr Drive, P. O. Box 527, Willow Street, PA 17584-0527. Construction of sewage treatment facilities in West Earl Township, **Lancaster County**.

**Permit No. 6797460.** Sewerage. **Fairview Township Authority**, 599 Lewisberry Road, New Cumberland, PA 17070. Construction of sewers and appurtenances and pump stations in Fairview Township, **York County**.

**NPDES Permit No. PA0051683.** Industrial waste. **Titanium Hearth Technologies**, 215 Welsh Pool Road, Exton, PA 19341 is authorized to discharge from a facility located in Caernarvon Township, **Berks County** to the receiving waters of an unnamed tributary of Conestoga Creek.

**NPDES Permit No. PAG053501.** Industrial waste. **Conestoga View Retirement Home**, 50 North Duke Street, P. O. Box 3480, Lancaster, PA 17608-3480 is authorized to discharge to the receiving waters named Conestoga River in Lancaster City, **Lancaster County**.

**NPDES Permit No. PA0087556.** Industrial waste. **The SICO Company**, Turkey Hill #37, P. O. Box 302, Mount Joy, PA 17552 is authorized to discharge from a facility located in Denver Borough, **Lancaster County** to the receiving waters named Cocalico Creek.

**NPDES Permit No. PA0083941.** Industrial waste. **Community Refuse Services, Inc.**, 142 Vaughn Road, Shippensburg, PA 17257 is authorized to discharge from a facility located in Hopewell Township, **Cumberland County** to the receiving waters named Conodoguinet Creek.

**NPDES Permit No. PA0010502.** Amendment No. 1. Industrial waste. **Department of the Army**, Let-terkenny Army Depot, Franklin Street Extended, Chambersburg, PA 17201-4150 is authorized to discharge from a facility located in Greene Township, **Franklin County** to the receiving waters named Rowe Run.

**NPDES Permit No. PA0020834.** Sewerage. **Greencastle-Franklin County Authority**, 60 North Washington Street, Greencastle, PA 17225-1230 is authorized to discharge from a facility located in Antrim Township, **Franklin County** to the receiving waters of an unnamed tributary to Conococheague Creek.

**NPDES Permit No. PA0037711.** Amendment No. 2. Sewerage. **The Borough of Everett Area Municipal Authority**, 100 Mechanic Street, Everett, PA 15537 is authorized to discharge from a facility located in Everett Borough, **Bedford County** to the receiving waters named Raystown Branch, Juniata River.

**NPDES Permit No. PA0084603.** Sewerage. **Fairmount Rest Home**, 232 Cats Back Road, Ephrata, PA 17522 is authorized to discharge from a facility located in West Earl Township, **Lancaster County** to the receiving waters named Conestoga River.

**NPDES Permit No. PA0033111.** Sewerage. **Oak Creek Campground**, Box 128, Bowmansville, PA 17057 is authorized to discharge from a facility located in Brecknock Township, **Lancaster County** to the receiving waters named Rock Run.

**NPDES Permit No. PA0033553.** Sewerage. **Gehmans Mennonite School**, 650 Gehman School Road, Denver, PA 17517 is authorized to discharge from a facility located in Brecknock Township, **Lancaster County** to the receiving waters named Muddy Run.

**NPDES Permit No. PA0042269.** Sewerage. **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603 is authorized to discharge from a facility located in Manor Township, **Lancaster County** to the receiving waters named Dry Run.

**NPDES Permit No. PA0021202.** Sewerage. **East Berlin Borough**, 128 Water Street, East Berlin, PA 17316 is authorized to discharge from a facility located in East Berlin Borough, **Adams County** to the receiving waters named Conewago Creek.

**NPDES Permit No. PA0021245.** Sewerage. **Borough of Duncannon**, 428 North High Street, Duncannon, PA 17020 is authorized to discharge from a facility located in Duncannon Township, **Perry County** to the receiving waters named the Susquehanna River.

**NPDES Permit No. PA0082392.** Sewerage. **Derry Township Municipal Authority**, P. O. Box 447, Hershey, PA 17033-0447 is authorized to discharge from a facility located in Londonderry Township, **Dauphin County** to the receiving waters named the Swatara Creek.

**NPDES Permit No. PA0080616.** Sewerage. **Mountainview Mobile Home Park STP** owned by Rife Road Associates, 20 Erford Road, Suite 215, Lemoyne, PA 17043 is authorized to discharge from a facility located in Reading Township, **Adams County** to the receiving waters named Conewago Creek.

**NPDES Permit No. PA0084018.** Sewerage. **Fishing Creek Estates Homeowners Association, Inc.**, 1309 Laurel Pointe Circle, Harrisburg, PA 17110 is authorized to discharge from a facility located in Middle Paxton Township, **Dauphin County** to the receiving waters named Fishing Creek.

**NPDES Permit No. PA0021806.** Sewerage. **Township of Annville**, P. O. Box Drawer M., Annville, PA 17003 is authorized to discharge from a facility located in North Annville Township, **Lebanon County** to the receiving waters named Quittapahilla Creek.

**NPDES Permit No. PA0026735.** Amendment No. 2. Sewerage. **Swatara Township Authority**, 599 Eisenhower Boulevard, Swatara, PA 17111-2397 is authorized to discharge from a facility located in Swatara Township, **Dauphin County** to the receiving waters named Swatara Creek.

**NPDES Permit No. PA0020508.** Amendment No. 1. Sewerage. **McConnellsburg Sewer Authority**, P. O. Box 681, McConnellsburg, PA 17233 is authorized to discharge from a facility located in Ayr Township, **Fulton County** to the receiving waters named Big Cove Creek.

**NPDES Permit No. PAG053504.** Amendment. **Getty Petroleum Corporation**, (Gas-N-Goodies Convenience Store), 2025 Middleton Road, Lancaster, PA is authorized to discharge from a facility located in Mount Joy Township, **Lancaster County** to the receiving waters named Conewago Creek.

**NPDES Permit No. PAS803501.** **Pennsylvania Department of Transportation**, Bureau of Aviation, 208 Airport Drive, Middletown, PA 17057 is authorized to discharge from a facility located in Middletown Borough, **Dauphin County** to the receiving waters named Susquehanna River.

**NPDES Permit No. PAG053510. Petersburg Commons Inc.**, 101 Basin Hill Road, Duncannon, PA 17020 is authorized to discharge from a facility located in Penn Township, **Perry County** to the receiving waters named Susquehanna River.

**NPDES Permit No. PAG053511. West Donegal Township**, 7 West Ridge Road, Elizabethtown, PA 17022 is authorized to discharge from a facility located in West Donegal Township, **Lancaster County** to the receiving waters named retention Basin/Conoy Creek.

**NPDES Permit No. PA0070106. Industrial. Carlos R. Leffler, Inc.**, 4030 Pottsville Pike, Reading, PA 19605 is authorized to discharge from a facility located in Muhlenberg Township, **Berks County** to the receiving waters named Laurel Run.

**NPDES Permit No. PA0084522. Industrial. Allentown Refrigerated Terminal, Inc.**, 125 Seneca Trail, Boyertown, PA 19512 is authorized to discharge from a facility located in Colebrookdale Township, **Berks County** to the receiving waters of an unnamed tributary of Ironstone Creek.

*Northcentral Regional Office: Department of Environmental Protection, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.*

**Permit No. WQM 1796201. Industrial waste. Lester G. Wacob, President**, Brady Township, Troutville Borough Water Association Inc., R. D. 1, Luthersburg, PA 15848. Applicant is to replace unlined backwash waste water lagoons at Luthersburg—Salem and Troutville Boro water treatment plants. Location is Brady Township, **Clearfield County**.

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

**Permit No. 0271419—Amendment No. 2. Sewerage. Municipal of the City of McKeesport**, 100 Atlantic Avenue, McKeesport, PA 15132. Construction of Fine Pore Aeration System and Appurtenances located in the City of McKeesport, **Allegheny County** to serve the City of McKeesport Sewage Treatment Plant.

**Permit No. 3297402. Sewerage. Kevin S. Frantz**, P. O. Box 148, Beyer, PA 16211. Construction of a Single Residence Sewage Treatment Plant located in the Township of Armstrong, **Indiana County** to serve the Frantz Residence.

**NPDES Permit No. PA0095672. Sewage. Washington County Housing Authority**, 100 Crumrine Tower, Franklin Street, Washington, PA 15301 is authorized to discharge from a facility located at Frederick Terrace STP, East Bethlehem Township, **Washington County** to Drainage Swale to Monongahela River.

**NPDES Permit No. PA0217654. Sewage. Seward—St. Clair Township Sanitary Authority**, P. O. Box 494, Seward, PA 15954 is authorized to discharge from a facility located at Big Springs Sewage Treatment Plant, St. Clair Township, **Westmoreland County** to Conemaugh River.

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

**WQM Permit No. 1097406. Sewage. Butler Country Club**, P. O. Box 348, Butler, PA 16003. This project is for the construction of flow equalization facilities at the existing sewage treatment plant in Penn Township, **Butler County**.

**WQM Permit No. 2597414. Sewage. Fairview Township Sewer Authority**, 7485 McCray Road, P. O. Box U, Fairview, PA 16415. This project is for installation of gravity sewers, a force main and submersible pump station to serve Fairview Industrial Park in Fairview Township, **Erie County**.

#### INDIVIDUAL PERMITS (PAS)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS101502	PA DEP Bureau of Abandoned Mine Reclamation Harrisburg, PA 17105-8476	Clarion County Monroe Township	Unnamed tributary to Leatherwood Creek
PAS10K019	Metro Health Center 252 West 11th Street Erie, PA 16502	Erie County Millcreek Township	Walnut Creek

#### INDIVIDUAL PERMITS (PAR)

##### Approvals to Use NPDES General Permits

The following parties have submitted Notices of Intent (NOI) for Coverage under General NPDES Permits to discharge wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection approves the following coverages under the specified General Permit. This approval is subject to applicable effluent limitations, monitoring and reporting require-

ments and other conditions set forth in the respective General Permit.

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

The application and related documents, effluent limitations and special conditions, and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES General Permits issued by Department of Environmental Protection:

## NPDES

## General Permit Type

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities			
PAG-2	General Permit For Discharges of Stormwater From Construction Activities			
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities			
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant			
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Sys- tems			
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems			
<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lackawanna County Moosic Boro	PAR802220	Consolidated Freightways P. O. Box 3010 Menlo Park, CA 94026	Lackawanna River	Northeast Regional Office Water Management Program 2 Public Square Wilkes-Barre, PA 18711 (717) 826-2554
Lackawanna County Benton Township	PAR802204	Northrop Grumman Corporation P. O. Box 188 Franklin Valley Road Fleetville, PA 18420-0188	North Fork of South Branch of Tunkhannock Creek	Northeast Regional Office Water Management Program 2 Public Square Wilkes-Barre, PA 18711 (717) 826-2554
Lehigh County Allentown	PAR232210	Advanced Environmental Recycling 2591 Mitchell Avenue Allentown, PA 18103	Unnamed Drainage Stream	Northeast Regional Office Water Management Program 2 Public Square Wilkes-Barre, PA 18711 (717) 826-2554
Schuylkill County Ashland	PAR112204	Goulds Pumps Inc. East Centre Street Ashland, PA 17921	Mahanoy Creek	Northeast Regional Office Water Management Program 2 Public Square Wilkes-Barre, PA 18711 (717) 826-2554
York County Fairview Township	PAR803616	Caliber Systems, Inc. RPS, Inc. P. O. Box 5459 Akron, OH 44334-0459	Fishing Creek	Southcentral Region Rm. 126, 1 Ararat Boulevard Harrisburg, PA 17110 (717) 657-4590
Northumberland Point Twp.	PAR704803	Viking Energy of Northumberland R. R. 2, Box 482D Cannery Road Northumberland, PA 17857	Unnamed tributary to West Br. Susquehanna	Northcentral (717) 327-3664
Northumberland Mt. Carmel Twp.	PAR234804	Explo-Tech Inc. 3rd St. and Cardinal Drive Mt. Carmel, PA 17851	Locust Creek	Northcentral (717) 327-3664
Sugarcreek Borough Venango County	PAR118322	The Conair Group, Inc. 20 Stanwix Street, Suite 620 Pittsburgh, PA 15222	Municipal Storm Sewer Leading to the Allegheny River	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Bedford County West St. Clair Twp.	PAG043581	Gregory N. Miller Hickory Grove Park Box 14 Alum Bank, PA 15521	UNT to Dunnings Creek	Southcentral Region Water Management—126 1 Ararat Boulevard Harrisburg, PA 17110
Columbia Fishing Creek Twp.	PAG044926	Arthur T. Christie R. R. 9, Box 67 Bloomsburg, PA 17815	Fishing Creek	Northcentral (717) 327-3664
Columbia Orange Twp.	PAG044945	William Bullock R. D. 5, Box 468 Bloomsburg, PA 17815	Unnamed tributary to West Branch Briar Creek	Northcentral (717) 327-3664

*Facility Location  
County and  
Municipality*

*Permit No.*

*Applicant Name  
and Address*

*Receiving Stream or  
Body of Water*

*Contact Office and  
Telephone No.*

Columbia  
Locust Twp.

PAG044944

Duane Martzall  
R. R. 1, Box 346  
Linden, PA 17744

Pine Run

Northcentral  
(717) 327-3664

New Castle  
Lawrence County

PAG058309

Andrea Hailey  
B. P. Exploration & Oil, Inc.  
200 Public Square  
Cleveland, OH 44114-2375

Unnamed tributary to  
Big Run

DEP  
Water Management  
Northwest Region  
230 Chestnut St.  
Meadville, PA 16335  
(814) 332-6942

## SEWAGE FACILITIES ACT

### PLAN APPROVAL

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

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

*Location:* State Route 119 Corridor in Bullskin and Connellsville Townships, **Fayette County**, from the Coldbrook area of Connellsville Township to the former Ames Complex in Bullskin Township including areas locally known as Poplar Grove, Merit Manor, Moyer, Pennsville and the Pleasant Valley Country Club.

*Project Description:* Approval of an **Update Revision to the Official Sewage Facilities Plans of Bullskin Township and Connellsville Township**, Fayette County. Project involves the installation of sewerage collection and conveyance facilities to service 754 existing residences in Bullskin Township and 245 residences in Connellsville Township along the State Route 119 Corridor. Sewage flows will be conveyed to and treated at the Connellsville Sewage Treatment Plant. The Department's review of this Sewage Facilities Update Revision has not identified any significant environmental impacts resulting from this proposal.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### Under Act 2, 1995

#### Preamble 3

#### The following final report was submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact Steve Curcio at (814) 332-6816. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Northwest Regional Office: Craig Lobins, Acting Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.*

**Pennsylvania Electric Company d/b/a GPU Energy**, for the Front Street Electrical Generating Station (Parcels H, I, G-3), City of Erie, **Erie County**, has submitted a Final Report to remediate soil. The site has been found to be contaminated with heavy metals and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

**GTE Erie West Plant Facility**, 1157 West 16th Street, City of Erie, **Erie County**, has submitted a Final Report to remediate groundwater. The site has been found to be contaminated with solvents. The report is intended to document remediation of the site to meet the background health standard.

## SOLID AND HAZARDOUS WASTE

### RESIDUAL WASTE PROCESSING FACILITIES

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

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

**Permit ID No. 301305. Calgon Carbon Corporation**, P. O. Box 717, Pittsburgh, PA 15230. Operation of a residual waste transfer station in Neville Township, **Allegheny County**. Permit issued in the Regional Office on July 29, 1997.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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



**Permit No. 101509. Conestoga Landfill, New Morgan Landfill Company, Inc.** (P. O. Box 128, Morgantown, PA 19543). Application for major modification for the use of Propat as an alternative daily cover at a site in New Morgan Borough, **Berks County**. Permit issued in the Regional Office on August 6, 1997.

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

**Permit ID No. 101439. Brunner Landfill, Joseph J. Brunner, Inc.,** 278 Brunner Road, Zelienople, PA 16063. Expansion of a municipal waste landfill in New Sewickley Township, **Beaver County**. Permit issued in the Regional Office on August 4, 1997.

## AIR POLLUTION

### OPERATING PERMITS

#### Construct, modify or activate air contaminant sources

#### 25 Pa. Code § 129.1

**General Plan Approval and 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.**

*Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**GP5-18-01A.** On July 1, 1997, **Cabot Oil & Gas Corporation** (400 Fairway Drive, Suite 400, Coraopolis, PA 15108-4308) was granted authorization to operate a 120 horsepower natural gas-fired reciprocating engine and associated air cleaning device (a catalytic converter) as well as authorization to operate a dehydrator under the Department's General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP5) at the Turner Station in Chapman Township, **Clinton County**.

**GP4-41-01.** On July 7, 1997, **Alcan Cable Company** (409 Reighard Avenue, Williamsport, PA 17701-4195) was granted authorization to construct and operate a burn off oven under the Department's General Plan Approval and General Operating Permit for Burn Off Ovens (BAQ-GPA/GP4) in the City of Williamsport, **Lycoming County**.

**GP5-17-05.** On July 10, 1997, **Fairman Drilling Company** (P. O. Box 288, DuBois, PA 15801) was granted authorization to operate a 150 horsepower natural gas-fired engine and associated air cleaning device (a catalytic converter) as well as authorization to operate a dehydrator under the Department's General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP5) at the Tonkin Station in Burnside Township, **Clearfield County**.

**GP5-17-06.** On July 10, 1997, **Fairman Drilling Company** (P. O. Box 288, DuBois, PA 15801) was granted authorization to operate a 200 horsepower natural gas-fired reciprocating engine and associated air cleaning device (a catalytic converter) as well as authorization to operate a dehydrator under the Department's General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP5) at the Buterbaugh Station in Burnside Township, **Clearfield County**.

## PLAN APPROVALS

**Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4005) and regulations to construct, modify or reactivate air contamination sources or air cleaning devices.**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**28-03003.** On August 4, 1997, the Department issued a Plan Approval to **Martin's Famous Pastry Shoppe, Inc.** (1000 Potato Roll Lane, Chambersburg, PA 17201) for the installation of mist eliminators on two potato chip fryers in Antrim Township, **Franklin County**.

**67-2012A.** On August 7, 1997, the Department issued a Plan Approval to **Transcontinental Gas Pipe Line Corporation** (P. O. Box 1396, Houston, TX 77251-1396) for the construction of one natural gas-fired internal combustion engine at the Station 195, Delta plant located on Route 851, Bryansville Road, in Peach Bottom Township, **York County**.

**67-3011.** On August 8, 1997, the Department issued a Plan Approval to **Topflight Corporation** (P. O. Box 2847, York, PA 17405-2847) for relocation of their custom label printing operations (North York Borough facility) to a newly-constructed building in Springfield Township, **York County**.

*Regional Office: Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**14-309-032C.** On July 8, 1997, plan approval was issued to **Bellefonte Lime Company, Inc.** (P. O. Box 448, Bellefonte, PA 16823) for the reactivation of a bulk material storage silo and the installation of an air cleaning device (a fabric collector) on a bulk loadout spout at the Bellefonte Plant in Spring Township, **Centre County**.

**49-318-031A.** On July 15, 1997, plan approval was issued to the **Pennsylvania Department of Corrections** (P. O. Box 598, Camp Hill, PA 17001-0598) for the construction of a wood furniture stripping operation and the modification of a wood furniture finishing operation at SCI-Coal Township in Coal Township, **Northumberland County**.

**14-310-021.** On July 15, 1997, plan approval was issued to **Glenn O. Hawbaker, Inc.** (450 East College Avenue, Bellefonte, PA 16823) for the construction of a stone crushing and screening plant and associated air cleaning devices (a water spray dust suppression system and a fabric collector) at the Sandy Ridge Quarry in Rush Township, **Centre County**. This plant is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

**59-329-004.** On July 17, 1997, plan approval was issued to **NE Hub Partners, L. P.** (44084 Riverside Parkway, Suite 340, Leesburg, VA 22075) for the construction of a natural gas compressor station incorporating six 3,130 horsepower natural gas fired engines in Lawrence and Farmington Townships, **Tioga County**.

**53-301-001.** On July 21, 1997, plan approval was issued to **Cole Memorial Hospital** (R. R. 1, Box 205, Coudersport, PA 16915-9762) for the installation of an air cleaning device (a new secondary combustion chamber) on a medical/infectious waste incinerator in Eulalia Township, **Potter County**.

**8-399-034C.** On July 21, 1997, plan approval was issued to **OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) for the construction of molybdenum powder handling equipment and associated air cleaning devices (a fabric collector and an absolute filter) as well as for the installation of air cleaning devices (a fabric collector and absolute filter) on additional pieces of molybdenum powder handling equipment in North Towanda Township, **Bradford County**.

**14-313-034A.** On July 23, 1997, plan approval was issued to **Ruetgers-Nease Corporation** (201 Struble Road, State College, PA 16801) for the modification of a chemical process facility (product 4049) in College Township, **Centre County**.

**8-399-044B.** On July 29, 1997, plan approval was issued to **OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) for the installation of air cleaning devices (fabric collectors and filters) on various pieces of molybdenum/tungsten processing equipment (rolling mills, and the like) in North Towanda Township, **Bradford County**.

**8-313-050A.** On July 29, 1997, plan approval was issued to **OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848-0504) for the construction of a molybdenum alloy calciner and associated air cleaning devices (a packed bed scrubber and a fabric collector) as well as for the installation of air cleaning devices (a fabric collector and HEPA filter) on various pieces of molybdenum alloy calcining equipment in North Towanda Township, **Bradford County**.

*Regional Office: Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA-63-080A.** On July 29, 1997 a Plan Approval was issued to **Lukens, Inc.** (P. O. Box 494, Washington, PA 15301) for a slag handling process at its Houston Plant located in Houston Borough, **Washington County**.

**PA-65-064A.** On July 29, 1997 a Plan Approval was issued to **Latronics Corporation** (1001 Lloyd Avenue, Box 469, Latrobe, PA 15650) for an H/J Degreaser at its Latrobe Plant located in Unity Township, **Westmoreland County**.

**Plan Approval extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate and operate air contaminant sources or air cleaning devices.**

*Regional Office: Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**63-308-035.** On July 29, 1997 a Plan Approval expiration date was extended to October 31, 1997 for **Hansen Engineering, Inc.** (167 Laidley's Run Road, West Alexander, PA 15376) for an afterburner, Cyclone, Venturi Scrubber, Packed Tower, and an Inline Stack Scrubber on the Sliding Bed Thermo Oxidizer at its facility located in West Finley Township, **Washington County**.

**65-309-074A.** On July 21, 1997 a Plan Approval expiration date was extended to November 1, 1997 for **American Video Glass Company** (777 Technology Drive, Mt. Pleasant, PA 15666) for a color TV glass manufacturing process at its facility located in Mt. Pleasant Township, **Westmoreland County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

*Knox District Office, P. O. Box 669, Knox, PA 16232.*  
*Coal Permits Issued*

**16960106. MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801), commencement, operation and restoration of a bituminous strip and auger operation in Redbank Township, **Clarion County** affecting 29.6 acres. Receiving streams two unnamed tributaries to Pine Creek. Application received September 24, 1996. Permit issued July 24, 1997.

**101748-16960106-E-1. MSM Coal Company, Inc.** (P. O. Box 243, DuBois, PA 15801), application for a stream encroachment to construct and maintain a haul road crossing over an unnamed tributary to Pine Creek in Redbank Township, **Clarion County**. Receiving streams two unnamed tributaries to Pine Creek. Application received September 24, 1996. Permit issued July 24, 1997.

**37920101. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), renewal of an existing bituminous strip operation in Shenango Township, **Lawrence County** affecting 218.0 acres. This renewal is issued for reclamation only. Receiving streams four unnamed tributaries to Beaver Run and one unnamed tributary to McKee Run. Application received June 4, 1992.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**49970201. Split Vein Coal Co., Inc.** (R. R. 1, Box 1027, Paxinos, PA 17860), commencement, operation and restoration of a coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 72.3 acres, receiving stream none. Permit issued August 4, 1997.

**549213C5R. Three Way Coal Company** (Box 112, Llewellyn, PA 17944), renewal of an existing anthracite underground mine operation in Cass Township, **Schuylkill County** affecting 15.9 acres, receiving stream none. Renewal issued August 5, 1997.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

#### Coal Applications Returned

**40850103R. Kelly Investors, Inc.** (108 Wilson Street, Hazleton, PA 18201), renewal of an existing anthracite surface mine operation in Hazle and Butler Townships, **Luzerne County** affecting 123.0 acres, receiving stream

Little Nescopeck Creek. Application received March 1, 1991. Application returned August 5, 1997.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

#### *General Small Noncoal Authorizations Granted*

**58970822. Gary Morrison** (R. R. 4, Box 47A, Montrose, PA 18801), commencement, operation and restoration of a small bluestone quarry operation in Jessup Township, **Susquehanna County** affecting 1.0 acre, receiving stream none. Authorization granted August 7, 1997.

**58970837. John D. Lepre** (R. R. 1, Box 310, Kingsley, PA 18826), commencement, operation and restoration of a small bluestone quarry operation in Harford Township, **Susquehanna County** affecting 3.0 acres, receiving stream none. Authorization granted August 7, 1997.

### **ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT**

#### **ENCROACHMENTS**

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P.S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)),** (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

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

**E09-752.** Encroachment Permit. **County of Bucks**, Department of Parks and Recreation, 401 East Bridgetown Pike, Langhorne, PA 19047. To construct, operate and maintain a boardwalk trail system throughout a 250 acre parcel of land, known as the Silver Lake

Nature Center impacting a de minimis area of wetland (PFO). The site is located approximately 2,000 feet south-east of the intersection of Magnolia Road and Bath Road, (Bristol, PA-NJ Quadrangle N: 20.7 inches; W: 15.7 inches) in Bristol Township, **Bucks County**.

**E46-772.** Encroachment Permit. **Township of Abington**, 1176 Old York Road, Abington, PA 19001. To encroach on approximately 130 linear feet of the northern bank of Sandy Run Creek (TSF) and the 100-year floodway by constructing a storm sewer outfall structure and a retaining wall. The project includes the installation of a 48-inch by 76-inch elliptical reinforced concrete pipe outfall, which is associated with the proposed stormwater management improvements to alleviate existing drainage problems in the vicinity of Thomson Avenue. Also included in the project is the modification of an existing gabion wall situated along the northern bank of the creek by replacing an 18-foot long wall section with a 21-foot long, 18-foot wide and 9 inch thick Reno mattress with energy dissipating rip-rap. The project also includes construction of an approximately 115-foot long, 6-foot high concrete retaining wall to accommodate the proposed outfall structure. The site is situated approximately 250 feet southwest of the intersection of Thomson Avenue with Fernwood Avenue (Ambler, PA Quadrangle N: 0.7 inch; W: 2.5 inches) in Abington Township, **Montgomery County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

**E46-762.** Encroachment Permit. **Exxon Corporation**, 6301 Ivy Lane, Greenbelt, MD 20770. To construct and maintain 28 linear feet of a 22-foot wide by 8-foot high precast concrete box culvert along Willow Run Creek (TSF) and to maintain 125 feet of streambank impact associated with grading activities within the assumed 100-year floodway of Willow Run Creek. The proposed culvert will provide access from Bethlehem Pike to the proposed Exxon service station located on the north corner of the intersection of Bethlehem Pike and Sumneytown Pike (Ambler, PA Quadrangle N: 11.0 inches; W: 14.3 inches) in Lower Gwynedd Township, **Montgomery County**.

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

**E01-172.** Encroachment. **Michael Schuman**, 350 Straley Road, Littlestown, PA 17340. To construct and maintain a private drive over Little's Run consisting of two 48-inch diameter culverts each 10 feet long located northwest of the intersection of Hickory and Straley Roads (Gettysburg, PA Quadrangle N: 7.0 inches; W: 3.0 inches) in Mount Joy Township, **Adams County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E05-248.** Encroachment. **Pennsylvania Department of Transportation Engineering District 9-0**, Earl Neiderheiser, PE, 1620 Juniata North Street, Holidaysburg, PA 16648. To remove the existing structure and to construct and maintain a new single span prestressed concrete spread box beam bridge over Piney Creek having a normal span of 42.1 feet on a 50 degree skew with a minimum underclearance of 6.7 feet on SR 0026, Section 004 located 1,500 feet upstream of its confluence with Blackberry Lick Run (Chaneyville, PA Quadrangle N: 6.85 inches; W: 4.3 inches) in Mann Township, **Bedford County**. This permit also includes 401 Water Quality Certification.

**E06-489.** Encroachment. **John Theisen**, Exeter Township, 4975 DE Moss Road, Reading, PA 19606. To construct and maintain a foot bridge with a span of 50 feet and an underclearance of 12 feet across the channel of Trout Run at a point just upstream of the Schuylkill River (Reading, PA Quadrangle N: 8.0 inches; W: 1.5 inches) in Exeter Township, **Berks County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E07-261.** Encroachment. **Lloyd A Patton**, R. D. 4, Box 262, Tyrone, PA 16686. To construct and maintain a single span bridge across Hutchinson Run having a span of 20.0 feet and a minimum underclearance of 3.3 feet to provide access to private property located along the southside of Hoover Lane (T515) about 0.55 mile west of US 220 (Tipton, PA Quadrangle N: 7.8 inches; W: 1.65 inches) in Snyder Township, **Blair County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E21-265.** Encroachment. **Nelson Minich**, N. L. Minich & Sons, Inc., 730 N. College St., Carlisle, PA 17013. To construct and maintain a 96-inch diameter steel culvert across Meetinghouse Run to expand the noncoal mining operation located about 1,100 feet upstream of North Middleton Road (T-495) (Carlisle, PA Quadrangle N: 22.34 inches; W: 14.52 inches) in North Middleton Township, **Cumberland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E21-266.** Encroachment. **Agincourt LP**, John Conroy, 20 Erford Road, Lemoyne, PA 17043. To fill in 0.02 acre of wetland in order to construct an office building and associated improvements located at the intersection of 12th Street and Indiana Avenue (Lemoyne, PA Quadrangle N: 11.5 inches; W: 4.9 inches) in Lemoyne Borough, **Cumberland County**. This permit also includes 401 Water Quality Certification.

*Northcentral Region, Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

**E59-340.** Encroachment. **Rex and Ester Willard**, R. R. 5, Box 4B, Wellsboro, PA 16901. To remove the existing structure and to construct and maintain a private single span bridge, 20 feet long with an underclearance of 8 feet across Stony Fork Creek located off SR 3007 about 0.8 mile south of SR 3010 (Antrim, PA Quadrangle N: 12.6 inches; W: 14.7 inches) in Delmar Township, **Tioga County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E02-1182.** Encroachment. **Pennsylvania Department of General Services**, Bureau of Engineering & Architect-

ture, 18th and Herr St., Harrisburg, PA 17125. To construct and maintain a flood protection project (DGS No. 184-20) in the channel and along the right bank of McLaughlin Run consisting of 2,460 feet of box culvert varying in size from 21 feet by 5 feet to 12 feet by 5 feet; 570 feet of rectangular channel and 250 feet of grouted riprap in a trapezoidal channel. The project is located along Greenwald Road, between Church Road and Bethel Church Road (Bridgeville, PA Quadrangle N: 14.7 inches; W: 7.5 inches; in the Borough of Bethel Park, **Allegheny County**.

**E04-244.** Encroachment. **Industry Terminal & Salvage Co., Inc.**, P. O. Box 255, Industry, PA 15052-0255. To modify, operate and maintain the existing barge mooring facility in the channel or and along the right bank of the Ohio River (WWF) for the purpose of improving the existing fleeting area. The project is located at River Mile 33.2 (Midland, PA Quadrangle N: 4.0 inches; W: 4.4 inches) in Industry Borough, **Beaver County**.

**E30-178.** Encroachment. **Greene County Board of Commissioners**, Greene County Office Building, 93 E. High Street, Waynesburg, PA 15370. To remove the existing structure known as County Bridge No. 53 and to construct and maintain a single span bridge having a normal span of 40 feet and an underclearance of 5.5 feet across Blockhouse Run located on TR 379 approximately 40 feet west of its intersection with SR 3007 (Holbrook, PA Quadrangle N: 1.6 inches; W: 9.85 inches) in Gilmore Township, **Greene County**.

## SPECIAL NOTICES

### REGISTERED AND CERTIFIED EMISSION REDUCTION CREDITS

The following emission reduction credits (ERCs) have been approved, registered and certified by the Department of Environmental Protection (Department). ERCs are surplus, permanent, quantified and Federally enforceable emission reductions may be used to offset emission increases of oxides of nitrogen (NOx), volatile organic compounds (VOCs) and the following criteria pollutants: carbon monoxide (CO), lead (Pb), oxides of sulfur (SOx), particulate matter (PM), PM-10 and PM-10 precursors. The certified NOx and VOCs credits shown below, expressed in tons per year (tpy), satisfy the applicable requirements in 25 Pa. Code §§ 127.206—127.209.

For additional information concerning this listing of certified ERCs, contact Virendra Trivedi, Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

Facility information	Criteria Pollutant or Precursor	Certified ERCs amount (tpy)	Expiration date	Intended use of ERCs
Ball Metal Food Container Corporation Plant name: Heekin Can Inc. County: Allegheny Oxone nonattainment status: Moderate Contact person: John Munsch (303) 460-5601	VOCs NOx	64.5 5.4	04/10/2006	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs amount (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Metallized Paper Corporation of America Recipient: PNC Bank, National Association, assignee (by private lien foreclosure) from Metallized Paper Corp. Source Location: McKeesport County: Allegheny Ozone nonattainment status: Moderate Contact Person: Martin Mueller (412) 762-5263	VOCs	41.7	06/30/2006	Trading
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Ozone nonattainment status: Moderate Contact Person: Lori Burgess (412) 274-3884	VOCs	171.82		Trading
York International Corporation Source: Trichloroethylene Vapor Degreaser (151)	VOCs	12.2	06/01/2006	Trading
Source: Trichloroethylene Vapor Degreaser (152) Source Location: Spring Garden Township, York Ozone nonattainment status: Moderate Contact Person: Garen Macdonald (717) 771-7346	VOCs	2.7	10/01/2005	
Pennzoil Products Company Source Location: Rouseville County: Venango Ozone nonattainment status: Moderate Contact Person: Lee E. Wilson (814) 678-4649	NOx	131.6	04/15/2002	Trading

[Pa.B. Doc. No. 97-1356. Filed for public inspection August 22, 1997, 9:00 a.m.]

### **Agricultural Advisory Board; Cancellation of August 27, 1997, Meeting**

Due to a lack of agenda items, the Agricultural Advisory Board's August 27, 1997, meeting has been canceled. The Board's next scheduled meeting will be held on October 22, 1997, at 10 a.m. in Room 105 of the Rachel Carson State Office Building in Harrisburg.

For further information, contact Dean Auchenbach at (717) 772-5668.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1357. Filed for public inspection August 22, 1997, 9:00 a.m.]

### **Availability of Final General Plan Approval and General Operating Permit for Petroleum Dry Cleaning; BAQ-GPA/GP-6**

The Department of Environmental Protection (Department) finalized the General Plan Approval and General Operating Permit No. BAQ-GPA/GP-6 for petroleum dry cleaning. Notice regarding the availability of the draft general permit was published at 27 Pa.B. 2478 (May 17, 1997).

Although a 45-day comment period was provided, no comments were received. The general permit is now

available for use by qualifying applicants. Copies of the final general permit BAQ-GPA/GP-6 and an application form may be obtained by contacting Kimberly Maneval, Bureau of Air Quality, Rachel Carson State Office Building, P.O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

The documents have also been placed on the Department's World Wide Web site on the Internet which can be accessed at <http://www.dep.state.pa.us>, select Bureau of Air Quality, then Division of Permits.

**1. Statutory Authority and General Description**—In accordance with section 6.1(f) of the Air Pollution Control Act (35 P.S. § 4006.1), and 25 Pa. Code § 127.611, the Department of Environmental Protection (Department) hereby issues this general plan approval and general operating permit for petroleum dry cleaning plants (hereinafter referred to as Petroleum Dry Cleaning General Permit).

**2. Applicability/Source Coverage Limitations**—Approval herein granted under this Petroleum Dry Cleaning General Permit is limited to plants that are not major volatile organic compound (VOC) or major hazardous air pollutant (HAP) emitting facilities as defined in 25 Pa. Code § 121.1. That is, those facilities whose potential yearly emissions are less than:

a. 25 tons of VOC in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia.

b. 50 tons of VOC in all remaining counties.

c. 10 tons of any one HAP or 25 tons of any combination of HAPs throughout the State.

**3. Application for Use**—Any person proposing to operate or construct under this Petroleum Dry Cleaning General Permit shall make application to the Department using the Petroleum Dry Cleaning General Permit Application provided by the Department and shall receive prior written approval from the Department as required under 25 Pa. Code § 127.621 (relating to application for use of general plan approvals and general operating permits).

**4. Compliance**—Any petroleum dry cleaning plant operating under this Petroleum Dry Cleaning General Permit must comply with the terms and conditions of the general permit. The petroleum dry cleaning plant and any associated air cleaning devices shall be:

a. Operated in such a manner as not to cause air pollution.

b. Operated and maintained in a manner consistent with good operating and maintenance practices.

c. Operated and maintained in accordance with the manufacturer's specifications and the applicable terms and conditions of this Petroleum Dry Cleaning General Permit.

**5. Permit Modification, Suspension and Revocation**—This Petroleum Dry Cleaning General Permit may be modified, suspended or revoked if the Department determines that the affected petroleum dry cleaning plant(s) cannot be regulated under this general permit, or the permittee fails to comply with applicable terms and conditions of the General Permit.

The approval herein granted to operate the petroleum dry cleaning plant shall be suspended, if, at any time, the permittee causes, permits or allows any modification (as defined in 25 Pa. Code § 121.1) of the plant and any associated air pollution control device covered by this general permit, in a way that is not in accordance with this general permit. Upon suspension of the general permit, the permittee may not continue to operate or use said petroleum dry cleaning plant. If warranted, the Department will require that the petroleum dry cleaning plant be permitted under the State operating permit or Title V operating permit requirements in 25 Pa. Code Chapter 127, if applicable.

**6. Notice Requirements**—Any notification or application submitted to the Department shall be sent to the appropriate Regional Office responsible for issuing general permits in the county in which the petroleum dry cleaning plant is located.

The permittee shall not construct a new source under this Petroleum Dry Cleaning General Permit until the appropriate Regional Office has received the application and written approval to construct is received. The application must be accompanied by the fees described in Condition 9.

The permittee shall immediately notify the Department of any malfunction of plant equipment or associated air cleaning device(s) which results in, or may result in the emission of air contaminants in excess of any applicable limitation.

**7. Sampling and Testing**—If, at any time, the Department has cause to believe that air contaminant emissions from a petroleum dry cleaning plant covered by this general permit are in excess of the limitations specified in, or established under, any applicable regulation contained in 25 Pa. Code, Article III, the permittee

shall conduct tests deemed necessary by the Department to determine the actual emission rate(s).

The permittee shall perform such testing in accordance with applicable provisions of 25 Pa. Code Chapter 139 (relating to sampling and testing) and in accordance with any restrictions or limitations established by the Department at the time the permittee is notified, in writing, of the testing requirement.

**8. Term of Authorization**—The authorization to operate under this Petroleum Dry Cleaning General Permit is valid for a fixed term of 5 years.

**9. Permit and Administrative Fees**—This Petroleum Dry Cleaning General Permit establishes a single application and permit renewal fee, payable every 5 years, in accordance with the following schedule:

a. Two hundred fifty dollars during the 1995-1999 calendar years.

b. Three hundred fifty dollars during the 2000-2004 calendar years.

c. Three hundred seventy-five dollars beginning in the 2005 calendar year.

**10. Expiration and Renewal of Permit**—The permittee's right to operate under this Petroleum Dry Cleaning General Permit terminates 5 years from the date authorization to operate under this general permit is granted unless a timely and complete renewal application is submitted to the Department 30 days prior to the permit expiration date.

Upon receipt of a complete and timely application for renewal, the petroleum dry cleaning plant may continue to operate subject to final action by the Department on the renewal application. This protection shall cease to exist if, subsequent to a completeness determination, the applicant fails to submit, by the deadline specified in writing by the Department, any additional information required by the Department to process the renewal application.

Application for renewal of this Petroleum Dry Cleaning General Permit shall be made on the same forms described in Condition 3, and include the appropriate renewal fee listed in Condition 9. At a minimum, the permit renewal fee shall be submitted to the Department at least 30 days prior to the expiration of authorization to operate under the general permit.

**11. Applicable Laws**—Nothing in this Petroleum Dry Cleaning General Permit relieves the permittee from its obligation to comply with all applicable Federal, state and local laws and regulations.

**12. Prohibited Use**—Any stationary air contamination source that is subject to the requirements of 25 Pa. Code Chapter 127, Subchapter D (relating to prevention of significant deterioration), 25 Pa. Code Chapter 127, Subchapter E (relating to new source review), or 25 Pa. Code § 129.91 (relating to control of NO<sub>x</sub> and VOCs) may not install or operate a petroleum dry cleaning plant under this Petroleum Dry Cleaning General Permit.

**13. Transfer of Ownership or Operation**—The permittee may not transfer the Petroleum Dry Cleaning General Permit except as provided in 25 Pa. Code § 127.464 (relating to transfer of operating permits).

**14. New Source Performance Standards**—Conditions 15 through 17 detail requirements of the Federal New Source Performance Standards (40 CFR 60 Subpart JJJ) and are applicable to the following affected equipment located at petroleum dry cleaning plants with a

total manufacturer's rated dryer capacity (MRDC) equal to or greater than 38 kilograms (84 pounds): petroleum solvent dry cleaning dryers, washers, filters, stills and settling tanks. Any affected equipment that is constructed or modified after December 14, 1982, is subject to the requirements found in Conditions 16 through 18 with the exception of dryers installed between December 14, 1982, and September 21, 1984, in a plant with annual solvent consumption of less than 4,700 gallons. The MRDC of a facility shall be determined according to following criteria:

a. When the affected equipment is installed in an existing plant that is not expanding the MRDC of its petroleum dryers, the total MRDC is the summation of the MRDC for each existing petroleum solvent dryer.

b. When the affected equipment is installed in a plant that is expanding the MRDC of its petroleum solvent dryers, the total MRDC is the summation of the MRDC for each existing and proposed new petroleum solvent dryer.

c. When the affected equipment is installed in a new plant, the MRDC is the summations of the MRDC for each proposed new proposed solvent dryer.

d. The petroleum solvent dryers considered in the determination of the total MRDC are those new and existing dryers in the plant that will be in service at any time after the proposed new source or modification commences operation.

#### 15. Standards for Volatile Organic Compounds—

a. Each affected petroleum solvent dry cleaning dryer that is installed at a petroleum dry cleaning plant subject to Subpart JJJ, shall be a solvent recovery dryer. The solvent recovery dryer(s) shall be properly installed, operated and maintained.

b. Each affected petroleum solvent filter that is installed at a petroleum dry cleaning plant subject to Subpart JJJ shall be a cartridge filter. Cartridge filters shall be drained in their sealed housing for at least 8 hours prior to their removal.

c. Each manufacturer of an affected petroleum solvent dryer shall include leak inspection and leak repair cycle information in the operating manual and on a clearly visible label posted on each affected facility. The information should state:

"To protect against fire hazards, loss of valuable solvents and emissions of solvent to the atmosphere, periodic inspection of this equipment for evidence of leaks and prompt repair of any leaks is recommended. The United States Environmental Protection Agency (EPA) recommends that the equipment be inspected every 15 days and all vapor or liquid leaks be repaired within the subsequent 15-day period."

#### 16. Equivalent Equipment and Procedures—

a. Upon written application from any person, the Administrator of the EPA may approve the use of equipment or procedures that have been demonstrated to his satisfaction to be equivalent, in terms of reducing VOC emissions to the atmosphere, to those prescribed for compliance within a specified paragraph of Subpart JJJ. The application must contain a complete description of the equipment or procedure; the testing method; the date, time and location of the test; and a description of the test

results. Written applications shall be submitted to the Administrator, U. S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

b. The Administrator will make a preliminary determination of whether or not the application for equivalency is approvable and will publish a notice of these findings in the *Federal Register*. After notice and opportunity for public hearing, the Administrator will publish the final determination in the *Federal Register*.

17. **Test Methods and Procedures**—Each owner or operator of an affected facility subject to the provisions of Condition 15(a) shall perform an initial test to verify that the flow rate of recovered solvent from the solvent recovery dryer at the termination of the recovery cycle is no greater than 0.05 liters per minute. This test shall be conducted for a duration of no less than 2 weeks, during which no less than 50% of the dryer loads shall be monitored for their final recovered solvent flow rate. The suggested point for measuring the flow rate of recovered solvent is from the outlet of the solvent-water separator. Near the end of the recovery cycle, the entire flow of recovered solvent should be diverted to a graduated cylinder. As the recovered solvent collects in the graduated cylinder, the elapsed time is monitored and recorded in periods of greater than or equal to 1 minute. At the same time, the volume of solvent in the graduated cylinder is monitored and recorded to determine the volume of recovered solvent that is collected during each time period. The recovered solvent flow rate is calculated by dividing the volume of solvent collected per period by the length of time elapsed during the period and converting the result with appropriate factors into units of liters per minute. The recovery cycle and the monitoring procedure should continue until the flow rate of solvent is less than or equal to 0.05 liters per minute. The type of articles cleaned and the total length of the cycle should then be recorded. Records of this performance test must be maintained for future review.

18. **Regulatory Conflicts**—Whenever a conflict occurs between this general plan approval and operating permit and 40 CFR 60, Subpart JJJ, the permittee shall, in all cases, meet the more stringent requirement.

19. **Monitoring, Recordkeeping and Reporting**—The permittee shall comply with applicable monitoring, recordkeeping and reporting requirements set forth in 25 Pa. Code Chapters 135 and 139. Specifically, the permittee shall maintain monthly petroleum solvent consumption records in order to determine volatile organic (VOC) emissions.

Records under this general permit shall be kept for a period of 5 years and shall be made available to the Department upon its request.

The permittee shall submit copies of all requests, reports, applications, submittals, and other communications to both EPA and the appropriate Regional Office of the Department. The EPA copies shall be forwarded to Director Air, Toxics and Radiation Division, U. S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

JAMES M. SEIF,  
Secretary

[Pa.B. Doc. No. 97-1358. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Availability of Final General Plan Approval and General Operating Permit for Portable Nonmetallic Mineral Processing Plants; BAQ-PGPA/GP-3

The Department of Environmental Protection (Department) finalized the General Plan Approval and General Operating Permit No. BAQ-PGPA/GP-3 for portable nonmetallic mineral processing plants. Notice regarding the availability of the draft general permit was published at 27 Pa.B. 2479 (May 17, 1997).

Although a 45-day comment period was provided, no comments were received. However, on June 9, 1997, the United States Environmental Protection Agency (EPA) finalized revisions to the 40 CFR 60, Subpart OOO Standards of Performance for New Stationary Sources; Standards of Performance for Nonmetallic Mineral Processing Plants. The general permit was revised in accordance with the amendments to Subpart OOO. These revisions were reviewed by the Pennsylvania Aggregates and Concrete Association who had partnered with the Department in the development of the Portable Nonmetallic Mineral Processing General Permit. The general permit is now available for use by qualifying applicants. Copies of the final general permit BAQ-PGPA/GP-3 and an application form may be obtained by contacting Kimberly Maneval, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

The documents have also been placed on the Department's World Wide Web site on the Internet which can be accessed at <http://www.dep.state.pa.us>, select Bureau of Air Quality, then Division of Permits.

**1. Statutory Authority and General Description**—In accordance with section 6.1(g) of the Air Pollution Control Act (35 P.S. § 4006.1) and 25 Pa. Code §§ 127.514 and 127.631, the Department of Environmental Protection (Department) hereby issues this general plan approval and general operating permit for portable nonmetallic mineral processing plants (hereinafter referred to as Portable Nonmetallic Mineral Processing Plant General Permit).

**2. Applicability/Source Coverage Limitations**—Approval herein granted under this Portable Nonmetallic Mineral Processing Plant General Permit is limited to the erection, operation and modification of portable nonmetallic mineral processing plants: a) temporarily (no longer than 24 months) located at construction sites; b) sites for which the applicant is in possession of valid mining permits; and/or, c) for periods less than 5 years at sites previously granted air quality permits for the operation of a nonmetallic mineral processing plant. Nonmetallic mineral processing plants, as defined in 40 CFR 60.670 and 60.671, are designed to process nonmetallic minerals, and consist of affected units like crushers, grinders, screening operations, belt conveyors, bucket elevators, storage bins, bagging operations and enclosed truck and rail car loading stations. Nonmetallic mineral means any of the following minerals or any mixture of which the majority is any of the following minerals:

- a. Crushed and broken stone, including limestone, dolomite, granite, traprock, sandstone, quartz, quartzite, marl, marble, shale, oil shale and shell.
- b. Sand and gravel.
- c. Clay including kaolin, fireclay, bentonite, Fuller's earth, ball clay and common clay.
- d. Rock salt.

- e. Gypsum.
- f. Sodium compounds, including sodium carbonate, sodium chloride and sodium sulfate.
- g. Pumice.
- h. Gilsonite.
- i. Talc and pyrophyllite.
- j. Boron, including borax, kernite and colemanite.
- k. Barite.
- l. Fluor spar.
- m. Feldspar.
- n. Diatomite.
- o. Perlite.
- p. Vermiculite.
- q. Mica.
- r. Kyanite, including andalusite, sillimanite, topaz and dumortierite.

Nonmetallic minerals do not include coals of any type.

**3. Application for Use**—Any person proposing to operate or construct under this Portable Nonmetallic Mineral Processing Plant General Permit shall notify the Department using the Portable Nonmetallic Mineral Processing Plant General Permit Application provided by the Department and shall receive prior written approval from the Department as required under 25 Pa. Code § 127.641 (relating to application for use of general plan approvals and general operating permits for portable sources). The Department will take action on the application within 30 days of receipt.

**4. Compliance**—Any portable nonmetallic mineral processing plant operating under this Portable Nonmetallic Mineral Processing Plant General Permit must comply with the terms and conditions of the general permit. The portable nonmetallic mineral processing plant and any associated air cleaning devices shall be:

- a. Operated in such a manner as not to cause air pollution.
- b. Operated and maintained in a manner consistent with good operating and maintenance practices.
- c. Operated and maintained in accordance with the manufacturer's specifications and the applicable terms and conditions of this Portable Nonmetallic Mineral Processing Plant General Permit.

**5. Permit Modification, Suspension and Revocation**—This Portable Nonmetallic Mineral Processing Plant General Permit may be modified, suspended, or revoked if the Department determines that affected nonmetallic mineral processing plants cannot be regulated under this general permit, or the permittee fails to comply with applicable terms and conditions of the Portable Nonmetallic Mineral Processing Plant General Permit.

The approval herein granted to operate a portable nonmetallic mineral processing plant shall be suspended, if, at any time, the permittee causes, permits or allows any modification (as defined in 25 Pa. Code § 121.1) of the portable nonmetallic mineral processing plant and any associated air pollution control device covered by this general permit, in a way that is not in accordance with this general permit. Upon suspension of the general permit, the permittee may not continue to operate or use



said nonmetallic mineral processing plant. If warranted, the Department will require that the nonmetallic mineral processing plant be permitted under the State operating permit or Title V operating permit requirements in 25 Pa. Code Chapter 127, if applicable.

**6. Application and Notice Requirements**—The permittee shall comply with applicable requirements established in 25 Pa. Code Chapter 127, Subchapter H (relating to general plan approvals and operating permits). The applications and notifications required by 25 Pa. Code §§ 127.621 and 127.641 shall be sent to the appropriate Regional Office responsible for issuing general permits in the county in which the portable nonmetallic mineral processing plant is, or is to be, located.

This Portable Nonmetallic Mineral Processing Plant General Permit may be used for the erection, operation and modification of portable nonmetallic mineral processing plants temporarily (no longer than 24 months) located at construction sites. In advance to each change in location the permittee shall, in accordance with 25 Pa. Code § 127.641, notify both the Department and the municipality where the operation will take place. The notice to the Department shall be accompanied by the fee required by Condition 10.b.

**7. Sampling and Testing**—If, at any time, the Department has cause to believe that air contaminant emissions from a nonmetallic mineral processing plant covered by this general permit are in excess of the limitations specified in, or established under, any applicable regulation contained in 25 Pa. Code, Subpart C, Article III, the permittee shall conduct tests deemed necessary by the Department to determine the actual emission rate.

The permittee shall perform such testing in accordance with applicable provisions of 25 Pa. Code Chapter 139 (relating to sampling and testing) and in accordance with any restrictions or limitations established by the Department at the time the permittee is notified, in writing, of the testing requirement.

**8. Monitoring, Recordkeeping and Reporting**—The permittee shall comply with applicable monitoring, recordkeeping and reporting requirements set forth in 25 Pa. Code Chapter 139 (relating to sampling and testing, the Air Pollution Control Act, the Clean Air Act, or the regulations thereunder applicable to the source) and 40 CFR 60.674 and 60.676.

Records under this general permit shall be kept for a period of 5 years and shall be made available to the Department upon its request.

**9. Term of Permit**—Authority to operate under this Portable Nonmetallic Mineral Processing Plant General Permit shall be granted for a fixed period of 5 years.

#### **10. Permit Fees—**

a. This Portable Nonmetallic Mineral Processing Plant General Permit establishes the following application and permit renewal fees:

- i. Seven hundred fifty dollars during the 1997-1999 calendar years.
- ii. Eight hundred fifty dollars during the 2000-2004 calendar years.
- iii. One thousand dollars beginning in 2005.

b. The following additional fees are applicable each time a change in location occurs:

- i. Two hundred fifty dollars during the 1997-1999 calendar years.
- ii. Three hundred dollars during the 2000-2004 calendar years.
- iii. Three hundred seventy five dollars beginning in the 2005 calendar year.

**11. Expiration and Renewal of Permit**—The permittee's right to operate under this Portable Nonmetallic Mineral Processing Plant General Permit terminates on the date of expiration of this permit unless a timely and complete renewal application is submitted to the Department 30 days prior to the expiration of the permittee's authorization to operate under this Portable Nonmetallic Mineral Processing Plant General Permit.

Upon receipt of a complete and timely application for renewal, the nonmetallic mineral processing plant may continue to operate subject to final action by the Department on the renewal application. This protection shall cease to exist if, subsequent to a completeness determination, the applicant fails to submit by the deadline specified in writing by the Department any additional information required by the Department to process the renewal application.

Application for renewal of this Portable Nonmetallic Mineral Processing Plant General Permit shall be made on the same forms described in Condition 3, and include the appropriate renewal fee listed in Condition 10.a. At a minimum, the permit renewal fee shall be submitted to the Department at least 30 days prior to the expiration of the Portable Nonmetallic Mineral Processing Plant General Permit.

**12. Applicable Laws**—Nothing in this Portable Nonmetallic Mineral Processing Plant General Permit relieves the permittee from its obligation to comply with all applicable Federal, State and local laws and regulations.

**13. Prohibited Use**—Any stationary air contamination source that is subject to the requirements of 25 Pa. Code Chapter 127, Subchapter D (relating to prevention of significant deterioration), 25 Pa. Code Chapter 127, Subchapter E (relating to new source review), and 25 Pa. Code Chapter 127, Subchapter G (relating to Title V operating permits), may not operate portable nonmetallic mineral processing plants under this Portable Nonmetallic Mineral Processing Plant General Permit.

**14. Transfer of Ownership or Operation**—The permittee may not transfer the Portable Nonmetallic Mineral Processing Plant General Permit except as provided in 25 Pa. Code § 127.464 (relating to transfer of operating permits).

**15. Regulatory Conflicts**—Whenever a conflict occurs between this general plan approval and operating permit and any of the following regulations, the permittee shall, in all cases, meet the more stringent requirement:

- a. 25 Pa. Code 123.1, 123.2, 123.13(c) and 123.41.
- b. 40 CFR 60, Subpart OOO.

**16. Limitations**—The operation of a portable nonmetallic mineral processing plant shall not at any time result in the emission of:

- a. Fugitive air contaminants in excess of the limitations specified in 25 Pa. Code §§ 123.1 and 123.2 All reasonable actions shall be taken to prevent particulate

matter from becoming airborne. These actions include, but are not limited to, the following:

i. Proper installation of a water spray dust suppression system and operation in accordance with Condition 17 or proper design, installation and operation of a fabric collector.

ii. Application of asphalt, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which may give rise to airborne dusts.

iii. Paving and maintenance of plant roadways.

iv. Prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosions by water or other means.

b. Particulate matter emissions from air pollution control devices in excess of 0.04 gr/dscf as specified in 25 Pa. Code § 123.13(c).

c. Visible emissions from air pollution control devices in excess of the following limitations:

i. Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.

ii. Equal to or greater than 60% at any time.

#### 17. Air Pollution Control Device Specifications—

a. *Water Spray Dust Suppression Systems.* Water spray dust suppression systems on portable nonmetallic mineral processing plants shall be operated on any and all occasions that the respective plant is operated, except in those unusual instances where processed materials contain sufficient moisture such that operation of the plant without the simultaneous operation of the water spray dust suppression system can take place without creating air contaminant emissions in excess of the limitations and standards of this general permit. If, however, the water spray dust suppression system is incapable of operation due to weather conditions or any other reason the plant may not operate at all.

b. *Fabric Collectors.* Fabric collectors shall be equipped with pressure drop instrumentation and operated in accordance with manufacturer's specifications. Compressed air sources for fabric collectors shall be equipped and operated with air dryers and oil traps.

#### 18. Maintenance—

a. The permittee shall keep on hand a sufficient quantity of spare fabric collector bags for any fabric collector associated with a portable nonmetallic mineral processing plant in order to be able to immediately replace any bags requiring replacement due to deterioration resulting from routine operation of the plant.

b. The permittee shall keep on hand such equipment and materials as are necessary to take reasonable action (including but not necessarily limited to the application of water, oil or chemicals) to prevent fugitive particulate matter resulting from the use of any roadways and/or material stockpiling operations associated with the plant from becoming airborne and shall be used, as necessary, to prevent such fugitive particulate matter from becoming airborne.

c. The storage and handling of any material collected in any air cleaning device associated with the plant shall not at any time result in the emission of fugitive air contaminants in excess of the limitations specified in 25 Pa. Code § 123.1(a).

19. **Malfunctions**—The permittee shall immediately notify the Department of any malfunction of plant equipment or associated air cleaning devices which result in, or may possibly be resulting in the emission of air contaminants in excess of any applicable limitation.

20. **Portable nonmetallic mineral processing equipment manufactured and commenced construction, reconstruction or modification on or after August 31, 1983**—Conditions 21 through 25 detail requirements of the Federal New Source Performance Standards (40 CFR Part 60, Subpart OOO) and are applicable to all portable nonmetallic mineral processing plant equipment manufactured and commencing construction, reconstruction or modification on or after August 31, 1983.

#### 21. Standard for particulate matter—

a. The operation of a portable nonmetallic mineral processing plant shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:

i. Contain particulate matter in excess of 0.05 g/dscm (0.022 gr/dscf); and

ii. Exhibit greater than 7% opacity, unless the stack emissions are discharged, from an affected facility using a wet scrubber control device. Facilities using a wet scrubber must comply with the reporting provisions Condition 23.c., d. and e.

b. On and after the sixtieth day after achieving the maximum production rate at which the processing plant will be operated, but not later than 180 days after initial startup as required under 40 CFR 60.11, the operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10% opacity, except as provided in Condition 21.c. or d.

c. On and after the sixtieth day after achieving the maximum production rate at which the processing equipment will be operated, but not later than 180 days after initial startup as required under 40 CFR 60.11, the operation of a nonmetallic mineral processing plant shall not cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15% opacity.

d. If any transfer point on a conveyor belt or any affected facility is enclosed in a building, then each enclosed affected facility must comply with the emission limits in Paragraphs 21.a., b. and c. or the building enclosing the affected facility or facilities must comply with the following limits:

i. Operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from any building enclosing any other affected emissions unit any visible fugitive emissions except from a vent.

ii. Operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in Paragraph 21.a.

e. On and after the sixtieth day after achieving the maximum production rate at which the processing plant will be operated, but not later than 180 days after initial startup as required under 40 CFR 60.11, the operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from any baghouse that controls emissions from only an individual, enclosed storage bin, stack emissions which exhibit greater than 7% opacity.

f. The operation of multiple storage bins with combined stack emissions shall comply with the emission limits in paragraph a.i. and a.ii. of this condition.

g. On and after the sixtieth day after achieving the maximum production rate at which the processing plant will be operated, but not later than 180 days after initial startup, the operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from:

i. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.

ii. Screening operations, bucket elevators and belt conveyors in the production line downstream of wet mining operations, where such screening operation, bucket elevator and belt conveyors process saturated materials up to the first crusher, grinding mill or storage bin in the production line.

**22. Monitoring**—Any permittee which uses a wet scrubber to control emissions shall install, calibrate, maintain and operate the following monitoring devices:

a. A device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be certified by the manufacturer to be accurate within  $\pm 1$  inch water gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.

b. A device for the continuous measurement of the scrubbing liquid flow rate to the wet scrubber. The monitoring device must be certified by the manufacturer to be accurate within  $\pm 5\%$  of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

### **23. Test Methods and Procedures—**

a. In conducting the performance tests required by 40 CFR 60.8, the permittee shall use as reference methods and procedures the test methods in Appendix A of 40 CFR Part 60 or other methods and procedures as approved by the Department or the EPA. Acceptable alternative methods and procedures are given in Paragraph (e) of this condition.

b. Compliance with the particulate matter standards in Condition 21.a. shall be conducted as follows:

i. Method 5 or Method 17 shall be used to determine the particulate matter concentration. The sample volume shall be at least 1.70 dscm (60 dscf). For Method 5, if the gas stream being sampled is at ambient temperature, the sampling probe and filter may be operated without heaters. If the gas stream is above ambient temperature, the sampling probe and filter may be operated at a temperature high enough, but no higher than 121°C (250°F), to prevent water condensation on the filter.

ii. Method 9 and the procedures in 40 CFR 60.11 shall be used to determine opacity.

c. In determining compliance with the particulate matter standards in Condition 21.b. and c., the permittee shall use Method 9 and the procedures in 40 CFR 60.11, with the following additions:

i. The minimum distance between the observer and the emission source shall be 4.57 meters (15 feet).

ii. In determining compliance with the opacity of stack emissions from any baghouse that controls emissions only from an individual enclosed storage bin under Condition 21.e., using Method 9, the duration of the Method 9 observations shall be 1 hour (ten 6-minute averages).

iii. When determining compliance with the fugitive emissions standard described in Condition 21.b., the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a) There are no individual readings greater than 10% opacity; and

b) There are no more than 3 readings of 10% for the 1-hour period.

iv. When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under Condition 21.c., the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

a) There are no individual readings greater than 15% opacity; and

b) There are no more than 3 readings of 15% for the 1-hour period.

d. In determining compliance with Condition 21.d., the permittee shall use Method 22 to determine fugitive emissions. The performance test shall be conducted while all affected facilities inside the building are operating. The performance test for each building shall be at least 75 minutes in duration, with each side of the building and the roof being observed for at least 15 minutes.

e. The permittee may use the following as alternatives to the reference methods and procedures specified in this section:

i. For the method and procedures of Paragraph (c) of this condition, if emissions from two or more facilities continuously interfere so that the opacity of fugitive emissions from an individual affected facility cannot be read, either of the following procedures may be used:

a) Use for the combined emission stream the highest fugitive opacity standard applicable to any of the individual affected facilities contributing to the emissions stream.

b) Separate the emissions so that the opacity of emissions from each affected facility can be read.

f. To comply with Condition 24.d., the permittee shall record the measurements as required in Condition 24.c. using the monitoring devices in Condition 22.a. and b. during each particulate matter run and shall determine the averages.

g. If, after 30 days notice for an individual scheduled performance test, there is a delay (due to operational problems, and the like) in conducting any rescheduled performance test required by this condition, the permittee shall submit a notice to the Department and the EPA at least 7 days prior to any rescheduled performance test.

h. Initial Method 9 performance tests under 40 CFR 60.11 and Condition 21. of this Portable Nonmetallic Mineral Processing Plant General Permit are not required for:

i. Wet screening operations and subsequent screening operations, bucket elevators and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.

ii. Screening operations, bucket elevators and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill or storage bin in the production line.

i. On and after the sixtieth day after achieving the maximum production rate at which processing equipment will be operated, but not later than 180 days after initial startup the permittee shall conduct the tests required under 40 CFR 60.11.

#### **24. Reporting and Recordkeeping—**

a. This general permit allows the replacement of existing equipment with equipment of equal or smaller size and having the same function as defined in 40 CFR 60.671. Each permittee shall submit the following information about the existing unit being replaced and the replacement piece of equipment.

i. For a crusher, grinding mill, bucket elevator, bagging operation or enclosed truck or railcar loading station:

a) The rated capacity in tons per hour of the existing equipment being replaced; and,

b) The rated capacity in tons per hour of the replacement equipment.

ii. For a screening operation:

a) The total surface area of the top screen of the existing screening operation being replaced; and,

b) The total surface area of the top screen of the replacement screening operation.

iii. For a conveyor belt:

a) The width of the existing belt being replaced; and,

b) The width of the replacement conveyor belt.

iv. For a storage bin:

a) The rated capacity in tons of the existing storage bin being replaced; and,

b) The rated capacity in tons of replacement storage bins.

b. Each permittee shall also submit the following data to the Director of the Emissions Standards and Engineering Division (MD-13), United States Environmental Protection Agency, Research Triangle Park, NC 27711.

i. The information described in Condition 24.a.

ii. A description of the control device used to reduce particulate matter emissions from the existing facility and a list of all other pieces of equipment controlled by the same control device; and,

iii. The estimated age of the existing facility.

c. During the initial performance test of a web scrubber, and daily thereafter, the permittee shall record the measurements of both the change in pressure of the gas

stream across the scrubber and the scrubbing liquid flow rate.

d. After the initial performance test of a wet scrubber, the permittee shall submit semiannual reports of such occurrences when the measurements of the scrubber pressure low (or gain) and liquid flow rate differ by more than  $\pm 30\%$  from the averaged determined during the most recent performance test.

e. The report required under Paragraph d. shall be postmarked within 30 days following end of the second and fourth calendar quarters.

f. The permittee shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in Condition 21, including reports of opacity observations made using Method 9 to demonstrate compliance with Condition 21.b., c. and e. and reports of observations using Method 22 to demonstrate compliance with Condition 21.d.

g. A permittee who operates any screening operations, bucket elevator or belt conveyor that processes saturated material and is subject to Condition 21.g. and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following the change. This screening operation, bucket elevator or belt conveyor is then subject to the 10% opacity limit in Condition 21.b. and the emission test requirements of 40 CFR 60.11. Likewise, a screening operation, bucket elevator or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following the change. This screening operation, bucket elevator or belt conveyor is then subject to the no visible emission limit in Condition 21.g.

h. The 40 CFR 60.7(a)(2) requirement for notification of the anticipated date of initial startup of portable nonmetallic mineral processing plant equipment shall be waived for a permittee operating under this Portable Nonmetallic Mineral Processing Plant General Permit.

i. A notification of the actual date of initial startup of each affected facility shall be submitted to the Department and the EPA.

i. For a combination of affected facilities in a production line that begin actual initial startup on the same day, a single notification of start may be submitted by the permittee to the Department and the EPA. The notification shall be postmarked within 15 days after the date and shall include a description of each affected facility, equipment manufacturer and serial number of the equipment, if available.

ii. The notification of the actual date of initial startup shall include both the home office and the current address or location of the portable plant.

25. Under the Federal New Source Performance Standards, the permittee shall submit copies of all requests, reports, applications, submittals and other communications to both the EPA and the appropriate Regional Office of the Department. The EPA copies shall be forwarded to Director Air, Toxics and Radiation Division, U. S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

JAMES M. SEIF,  
*Secretary*

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF AIR QUALITY**

**Application for General Plan Approval and General Operating Permit**

**General Permit BAQ-GPA/GP-3; Portable Nonmetallic Mineral Processing Plant**

1. Owner of Portable Nonmetallic Mineral Processing Plant:

2. Location  
Address:

Municipality:

County:

3. Person to contact regarding this application (name and title):

4. Telephone No.:

5. Mailing address:

6. Portable Nonmetallic Mineral Processing Plant consists of the following units (Use extra page for additional units):

	<i>Crusher</i>	<i>Grinder</i>	<i>Screen</i>	<i>Conveyors</i>	<i>Bucket elevators</i>
No. of units:					
Make:					
Model No.:					
Date Installed:					
Date of Manufacture:					
Capacity (tons/hr):					

7. Diesel generator used Yes ☐ No ☐

8. Fuel usage metered Yes ☐ No ☐

**AFFIDAVIT**

I certify that, subject to 18 Pa.C.S.A. Section 4904 and 35 P. S. Section 4009(b) that I am the official having primary responsibility for the design and operation of the facilities to which this application applies and the information provided in this application is true to the best of my knowledge, information and belief formed after reasonable inquiry. I further certify that the facility will be operating in conformity with all limitations and conditions of the Portable Nonmetallic Mineral Processing Plant General Permit.

Signature

Date

Printed Name

**INSTRUCTIONS FOR SUBMITTAL OF  
APPLICATIONS FOR BAQ-GPA/GP-3  
(GENERAL PERMIT FOR PORTABLE  
NONMETALLIC MINERAL PROCESSING PLANT)**

1. Any portable nonmetallic mineral processing plant proposing to operate under the general plan approval and operating permit (BAQ-GPA/GP-3), must comply with the terms and conditions specified therein. Failure to conform with the applicable laws, rules and regulations and terms and conditions of this permit, for any reason, is grounds for the revocation or suspension of the permittee's approval to operate under this permit.

2. BAQ-GPA/GP-3 cannot be used to cover the installation of a portable nonmetallic mineral processing plant where the emission increases from the installation of the new plant and other emission increases that have occurred would subject the facility to prevention of significant deterioration (25 Pa. Code Chapter 127 Subchapter D) or New Source Review (25 Pa. Code Chapter 127 Subchapter E) requirements. Guidance in this regard may be obtained by contacting the Department.

3. Use of BAQ-GPA/GP-3 is only limited to portable nonmetallic mineral processing plant as defined in 40 CFR 60.672.

4. An applicant for BAQ-GPA/GP-3 must fulfill the requirements regarding the filing of compliance review forms according to the regulations (25 Pa. Code § 127.412).

5. BAQ-GPA/GP-3 is issued for a term of 5 years. The application fee is \$750. An application for renewal with a renewal fee of \$750 is to be submitted 30 days prior to expiration of the permit. An additional plan approval application fee is required each time the portable nonmetallic mineral processing plant is moved to a new location.

6. The application and fees are to be submitted to the respective Regional Office indicated.

**REGION I**

Thomas McGinley, Engineering Service Chief  
Lee Park—Suite 6010  
555 North Lane  
Conshohocken, PA 19428  
Telephone: (610) 832-6241

Counties: Bucks, Chester, Delaware, Montgomery.

**REGION II**

James Parette, Engineering Service Chief  
Two Public Square  
Wilkes Barre, PA 18711-0790  
Telephone (717) 826-2531

Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wyoming.

**REGION III**

Ron Davis, Engineering Service Chief  
One Ararat Boulevard  
Harrisburg, PA 17110  
Telephone: (717) 657-4587

Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, York.

**REGION IV**

Richard Maxwell, Engineering Service Chief  
208 West 3rd Street, Suite 101  
Williamsport, PA 17701-6448  
Telephone: (717) 327-3637

Counties: Bedford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, Union.

**REGION V**

William Charlton, Engineering Service Chief  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
Telephone: (412) 442-4174

Counties: Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington, Westmoreland.

**REGION VI**

Devendra Verma, Engineering Service Chief  
230 Chestnut Street  
Meadville, PA 16335-3481  
Telephone: (814) 332-6940

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, Warren.

[Pa.B. Doc. No. 97-1359. Filed for public inspection August 22, 1997, 9:00 a.m.]

**Availability of Technical Guidance**

*Materials related to its technical guidance documents on DEP's World Wide Web site.*

DEP's Web address is <http://www.dep.state.pa.us>. These materials are all located at the Public Participation Center. The "June 1997 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. DEP will be adding its revised documents to the Web throughout 1997. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

*Ordering Paper Copies of DEP Technical Guidance*

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Persons should 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 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 Nina Huizinga at (717) 783-8727.

*Notice of Intent to Remove Technical Guidance*

DEP ID: 383-2130-012 Title: Policy for Recognizing Succession to Water Rights as a Result of Changes of Ownership. Reason for Removal: This is a duplication of DEP ID: 392-2130-012. Contact: Joe Hoffman at (717) 787-5017.

*Notice of Intent to Rescind Technical Guidance*

DEP ID: 364-0600-001 Title: Memorandum of Understanding (MOU) between Water Resources and [the

former] Water Quality Management. Reason for Rescission: The Water Resources Program has been moved to the DEP Regional Offices and away from the Bureau of Water Quality Protection. Therefore, the program canceled this MOU last year. Contact: Milt Lauch at (717) 787-8184.

DEP ID: 561-5500-101 BMR PGM: IX:1:1 Title: Processing Abandoned Mine Subsidence Assistance Grant and Loan Applications. Reason for Rescission: This document provided guidance used to implement aspects of the Abandoned Mine Subsidence Assistance Act. It is being rescinded because the Abandoned Mine Subsidence Assistance Act and all funding for the programs it provided expired in October of 1992. Contact: Lawrence V. Ruane at (717) 783-9586.

#### *Final Technical Guidance—Minor Revisions*

The Bureau of Mining and Reclamation reformatted and updated the following documents. Persons with questions or comments should contact Dottie Shellehamer at (717) 787-5103.

<i>DEP ID</i>	<i>Title</i>
560-0600-104	Interagency Agreement with the Pennsylvania Historical and Museum Commission
562-2402-501	Blaster's License Suspension and Revocation Procedure
562-3200-205	Normal/Favorable Planting Season
563-2112-652	Underground Mining near Oil and Gas Wells
563-2504-409	Phased Deposit of Collateral Coal and Noncoal Mining

#### *Final Technical Guidance*

The Bureau of Mining and Reclamation has finalized substantive changes to the following documents. Persons with questions or comments should contact Dottie Shellehamer at (717) 787-5103.

DEP ID: 561-2305-203 BMR PGM: VII:2:3 Title: Small Operator Assistance Program (SOAP) and Remining Operator's Assistance Program (ROAP) Report Review. Description: This guidance establishes the procedures, schedules and responsibilities for the review of the SOAP/ROAP Project Reports. Page Length: 5 pages. Location: Volume 12, Tab 99

DEP ID: 562-2112-315 Title: Prompt Closure of Abandoned Underground Mine Openings. Description: This document describes the procedures for ensuring immediate securing and prompt sealing of all abandoned underground mine openings in order to protect public health and safety. Page Length: 7 pages. Location: Volume 12, Tab 24

DEP ID: 562-2402-501 BMR PGM: I:5:1 Title: Blaster's License Suspension and Revocation. Procedure Description: This document provides a uniform procedure for DEP to use to suspend or revoke a blaster's license. Page Length: 5 pages. Location: Volume 12, Tab 32

DEP ID: 562-2403-505 BMR PGM: I:5:5 Title: Drop Trailer and Tanker Guidelines. Description: This document sets up standard procedures and a formal review and approval process for the licensing of drop trailer and tanker locations and provides guidelines on using such locations. Page Length: 4 pages. Location: Volume 12, Tab 32A

DEP ID: 563-2112-217 BMR PGM: II:2:17 Title: Alkaline Addition for Surface Coal Mines. Description: This guidance defines where DEP will consider the use of

alkaline addition and assists mine operators in maintaining and achieving compliance with environmental protection standards. Guidance is provided on calculation of application rates and placement of alkaline material. Page Length: 7 pages. Location: Volume 12, Tab 56

DEP ID: 563-2112-654 Title: Technical Review, Mine Stability. Description: These are guidelines staff follow when reviewing mining plans to ensure that they comply with the requirement to maximize mine stability. Page Length: 5 pages. Location: Volume 12, Tab 81.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1360. Filed for public inspection August 22, 1997, 9:00 a.m.]

## **Pennsylvania Wetland Replacement Project; Public Notice**

### **Howard Wetland Restoration**

**O 20A43-001**—The project will consist of constructing a berm 1,300 feet long to restore approximately 10 acres of previously drained wetlands. The drainage area is 32 acres in size and no emergency spillway will be constructed since the 25 year storm event will be contained within the impoundment area. Approximately 3 acres will be open water greater than 18 inches in depth with another 3 acres consisting of shallow water emergent wetland with depths of less than 18 inches and an estimated 4 acres of saturated ground consisting of emergent and scrub/shrub species. Several islands, deep water channels, and submerged islands will be created to enhance diversity in the wetland area. No plantings will be used since the site is prior converted and wetland species are close in proximity and volunteer recruitment should be high. Total project costs are estimated at \$16,000.

### **Tarutis Wetland Restoration**

**D 02A45-002**—The site is located along Stony Hollow Road in Tunkhannock Township, Monroe County. The wetland area is located in the Tunkhannock Creek watershed. The area to be restored is part of a PSS/PEM peatland system. The site is bordered by Interstate 80, Stony Hollow Road and Tarutis's driveway and house. The restoration involves the removal of approximately .44 acre of old fill that was placed into the wetland 15+ years ago. The fill averages about 3 feet in depth and is composed, from surface observation, of concrete rubble, construction debris, tree stumps and clean fill. The restoration is not intended to create a pond, but some open water is expected because of the nature of the site. Natural re-vegetation is expected to take place over time. No plantings are proposed. The work is expected to take 3 days at a cost of \$7,930.

The environmental benefit of the project is to start the restoration of .44 acre of peatland. Peatlands are unique aquatic sites because of their complex ecology and ability to attract unique flora and fauna. Peatlands typically take thousands of years to develop, thus any opportunity to restore this unique habitat should be pursued because they cannot be replaced.

### **Dennis LeVan—Locust Township, Columbia County**

**S 05E19-002**—The primary goal of the LeVan wetland restoration project is to provide waterfowl and wading bird habitat using shallow water and emergent areas for

food. Restoration on this prior converted cropland, dominated by timothy and alfalfa will provide 1.7 acres of wetland habitat in the Upper Central Susquehanna Sub-basin. The restoration will include blocking existing field drains that were installed to divert water from spring seeps throughout the project area. The spring seep, in combination with surface water, will characterize this area as restoration of a slope wetland and will provide floodwater storage and will provide water quality improvement by trapping sediment and nutrients from upstream agricultural operations. Upon completion, 80% of the site will have standing water between 3 and 18 inches in depth. The remaining 20% will be greater than 18 inches next to the berm. As a component of the Erosion and Sedimentation Control Plan, the restoration area will be seeded and stabilized. The site will stand for 1 year before determining what planting will be required.

For further information contact the Department of Environmental Protection, Bureau of Water Quality Protection, Division of Waterways, Wetlands and Erosion Control, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-6827.

JAMES M. SEIF,  
*Chairperson*

[Pa.B. Doc. No. 97-1361. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Proposed Watershed Redesignation; Public Hearing

The Department of Environmental Protection (Department), Bureau of Watershed Conservation, will be holding a public hearing regarding a proposed watershed redesignation for stormwater management planning purposes.

The Montgomery County Planning Commission has requested the redesignation of the Sandy Run Watershed (including Pine Run and Rapp Run) as a separate watershed for purposes of stormwater planning under the Storm Water Management Act of 1978. Presently, the Sandy Run Watershed, whose mouth is located in the proximity of the Fort Washington State Park and Interchange 26 of the Pennsylvania Turnpike, is part of the designated Wissahickon Creek Watershed. Municipalities within the proposed watershed will include Upper Dublin, Abington, Springfield, and Whitemarsh Townships. The Department, in consultation with the Montgomery County Planning Commission, has already designated 14 watersheds within Montgomery County. These watersheds were approved by the Environmental Quality Board. This requested redesignation would result in Montgomery County having 15 watersheds for planning purposes.

The redesignation will enable Montgomery County to expedite the stormwater planning process for the Sandy Run Watershed under the Storm Water Management Act of 1978 due to the severe flooding problems within the watershed while coordinating with local efforts in developing a master plan for the watershed.

The Department will hold a public hearing for the purpose of accepting comments on the redesignation of this watershed. The hearing will be held at 10 a.m. on September 26, 1997, at the Montgomery Room, 2nd Floor, One Montgomery Plaza, Norristown, PA.

Persons wishing to testify at the hearing should contact Durla Lathia of the Department, Bureau of Watershed

Conservation, P. O. Box 8555, Rachel Carson State Office Building, Harrisburg, PA 17105, (717) 772-4048, by 4:30 p.m. on September 10, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and written copies of the testimony should be submitted at the hearing. Each organization is requested that one witness present testimony on its behalf. Persons wishing to present written comments directly to the Department may do so within 30 days following the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings should contact Durla Lathia at (717) 772-4048. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-1362. Filed for public inspection August 22, 1997, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### State Surplus Property Bid Items

Under the provisions of section 510 of The Administrative Code of 1929 (P. S. 165, No. 67), the Department of General Services, State Surplus Property Program, is offering for sale to counties, boroughs, incorporated towns, cities and townships the following items:

<i>Item</i>	<i>Make</i>	<i>Equip. No.</i>	<i>Location</i>
Articulated Loader	Case	234-2056	PA Dot-Holidaysburg
Articulated Loader	Caterpillar	055-1387	PA Dot-Somerset
Articulated Loader	Deere	111-2040	PA Dot-Mercer
Wheel Loader	Caterpillar	014-1387	PA Dot-Cyclone
Backhoe	Case	222-6056	PA Dot-Temple
Articulated Loader	Deere	020-1385	PA Dot-Temple
Loader	Deere	067-1385	PA Dot-Gettysburg
Galion Grader	Tanden	544-6672	PA Dot-Bedford
Articulated Loader	Case	240-6056	PA Dot-Harrisburg
Hydraulic Excavator	Bantam	016-6366	PA Dot-Greensburg

The items will be sold to the highest responsible bidder by sealed bid sale. Those political subdivisions which are interested in procuring one or more of these items should contact the Department of General Services, State Surplus Property Division, P. O. Box 1365, Harrisburg, PA 17105, (717) 787-4085 prior to the bid opening on September 16, 1997, at 1 p.m. to receive a bid proposal.

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 97-1363. Filed for public inspection August 22, 1997, 9:00 a.m.]



## DEPARTMENT OF PUBLIC WELFARE

### Office of Medical Assistance Program; Payment of Medicare Cost-sharing Amounts for Qualified Medicare Beneficiaries

The purpose of this announcement is to provide notice under 42 CFR 447.205 that the Department of Public Welfare (Department) intends to amend its Medical Assistance State Plan to limit the Department's liability for payment of Medicare cost-sharing amounts (deductibles, coinsurance or copayments) relating to services rendered to Qualified Medicare Beneficiaries [QMBs] to the applicable Medical Assistance fee schedule or other payment amounts.

Prior to the decision of the Third Circuit Court of Appeals in *Pennsylvania Medical Society v. Snider*, 29 F.3d 886 (3rd Cir. 1994), the Department paid Medicare cost-sharing amounts relating to certain services rendered to QMBs only if the Medicare payment for the service was less than the applicable Medical Assistance payment amount. To comply with the Third Circuit's decision in *Pennsylvania Medical Society*, the Department amended its State Plan to provide for payment of full Medicare cost-sharing amounts for outpatient services to QMBs. Recent clarifying amendments to Title XIX of the Social Security Act enacted as part of the Balance Budget Act of 1997, P. L. 105-33, § 4714(a), state, in pertinent part, that:

[A] State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for medicare cost-sharing to the extent that payment under title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title [XIX] for such service if provided to an eligible recipient other than a medicare beneficiary.

As a result of these Federal statutory amendments, the Department will amend its State Plan to specify that the Department will not pay Medicare cost-sharing amounts related to any services to the extent that payments made under the Medicare Program exceed the payments that would be made by the Medical Assistance Program for such services if provided to an eligible Medical Assistance recipient. The amendment will also provide that, if the Medical Assistance payment amount for a service exceeds the Medicare payment, the Department will pay Medicare cost-sharing amounts up to the amount of the deductible, coinsurance or copayment, or the applicable Medical Assistance payment amount, whichever is less. In addition, the amendment will reaffirm the Department's existing policies to the extent that they likewise limit payment of Medicare cost-sharing amounts relating to services provided by, among others, nursing facilities, to the applicable Medical Assistance payment rates for such services.

The estimated decrease in aggregate expenditures during fiscal 1997-98 resulting from this amendment is \$49,075 million in total funds (\$23.126 million in State funds).

A copy of this notice is available for review at the local County Assistance Offices throughout this Commonwealth. Interested persons are invited to submit written comments about this notice to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Room 515 Health and Welfare Building, Harrisburg, PA 17120.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TTD users) or (800) 654-5988 (Voice users). Persons who require another alternative should contact Thomas Vracarich at (717) 783-2800.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-151. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 97-1364. Filed for public inspection August 22, 1997, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding Butler County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace the Thorn Run Bridge in Butler County.

The proposed project is located in Oakland Township along State Route 1011 across Thorn Run Creek. The project requires right-of-way from the William Wick Farm, a National Register eligible historic resource.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-1365. Filed for public inspection August 22, 1997, 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 Department of Transportation plans to replace the existing bridge carrying SR 4011 (Church Road) over the North Branch of Schoolhouse Run in Upper Providence Township, Montgomery County. The project will require the acquisition of 483.09 square meters (5200 square feet) of right-of-way from the Vanderslice/Custer Property, which has been determined eligible for the National Register of Historic Places. The effect of this project on the Vanderslice/Custer Property will be mitigated by the following measures to minimize harm to the resource.

1. Selective tree plantings will be placed in areas disturbed by construction activities.

2. The floor of the proposed culvert will be depressed 12 inches below the stream bed elevation to provide a low flow channel for aquatic life.

I have considered the environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, and have concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effect.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-1366. Filed for public inspection August 22, 1997, 9:00 a.m.]

## HISTORICAL AND MUSEUM COMMISSION

### National Register Nominations to be Reviewed at the Historic Preservation Board Meeting

Following is a notice of properties to be considered at the September 9, 1997 meeting of the Historic Preservation Board for nomination to the National Register of Historic Places. The meeting will start at 9:45 a.m. in Room 515, Pennsylvania Historical and Museum Commission, Third and North Streets, Harrisburg, Pa.

Individuals with a disability who wish to attend this meeting and who require an auxiliary aid, service or other accommodation to participate, should contact Dan Deibler at (717) 783-8946 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the agency can accommodate their needs. If there are questions or comments, contact the Bureau for Historic Preservation at (717) 783-8946.

BRENT D. GLASS,  
*Executive Director*

#### *Allegheny Plateau*

1. *DuBois Historic District*, North and South Brady Avenue and East and West Long Avenue, DuBois, Clearfield County

2. *Emlenton Historic District*, generally the Allegheny River, the Borough limits, Kerr Avenue, Hickory and Center Streets, Emlenton, Venango County (Resources of the Oil Industry of Western Pennsylvania, 1859-1947)

3. *Oil City Downtown Commercial Historic District*, generally along Seneca, Center, Elm, Sycamore, Duncomb and Main Streets, Oil City, Venango County (Resources of the Oil Industry of Western Pennsylvania, 1859-1947)

4. *Oil City South Side Historic District*, generally between the south side of the Allegheny River, Wilson Avenue, Lee's Lane, West Third, West Fifth, and Reservoir Streets, Oil City, Venango County (Resources of the Oil Industry of Western Pennsylvania, 1859-1947)

#### *Great Valley and Piedmont*

5. *Quay, Anderson B., Rev., House*, 22 North Baltimore Street, Dillsburg, York County

6. *Fissel's School*, Fissel's Church Road (SR 3015), Shrewsbury Township, York County

7. *West Philadelphia Streetcar Suburb Historic District*, roughly bounded by the University of Pennsylvania campus, the Woodlands Cemetery, the Philadelphia College of Pharmacy, Woodland and Kingsessing Avenues, the Conrail railroad line, St. Bernard Street, Catharine Street, 51st Street, Hazel Avenue, 52nd Street, 46th Street, Pine Street, 47th Street, Walnut Street, Chestnut Street, and Ludlow Street, Philadelphia

8. *Hanging Rock*, South Gulph Road, Upper Merion Township, Montgomery County

9. *Paoli Battlefield Site and Parade Grounds*, Warren and Monument Avenues, Sugartown Road, Malvern, Chester County

#### *Southwestern PA*

10. *Star Junction Historic District*, intersection of SR 51 and SR 4036, approximately 1.8 miles south of Perryopolis, Fayette County (Bituminous Coal and Coke Resources of Pennsylvania, 1740-1945)

11. *St. Nicholas Byzantine Catholic Church*, 504 South Liberty Street, Perryopolis, Fayette County

12. *Gue/Sisley Blacksmith Shop*, Laurel and Union Streets, Perryopolis, Fayette County

13. *Karolcik Building*, 115-117 South Liberty Street, Perryopolis, Fayette County

14. *Youghiogheny Bank of Pennsylvania* South Liberty Street, Perryopolis, Fayette County

15. *Providence Cemetery and Chapel*, intersection of SR4038 and SR4036, west of Route 51, Perry Township, Fayette County

16. *Dawson Historic District*, roughly bounded by Howell Street, Middle Alley, Youghiogheny River, River Road, Spring and Locust Alleys, Dawson, Fayette County

#### *Anthracite Region and Poconos*

17. *Lackawanna Iron & Coal Company Furnaces*, Cedar Avenue, Scranton, Lackawanna County. (Anthracite-Related Resources of Northeastern Pennsylvania, 1769-1945) Note: This property is already listed in the National Register. Under consideration is a recommendation for National Historic Landmark designation.

18. *Lackawanna County Courthouse/Mitchell Monument*, Washington Avenue, Linden street, Adams Avenue and Spruce Street, Scranton, Lackawanna County (Anthracite-Related Resources of Northeastern Pennsylvania, 1769-1945)

19. *Joseph Cassese House*, 1000 Clay Avenue, Scranton, Lackawanna County (Anthracite-Related Resources of Northeastern Pennsylvania, 1769-1945)

20. *Masonic Temple and Scottish Rite Cathedral*, 416-420 North Washington Avenue, Scranton, Lackawanna County

*Ridge and Valley*

21. *Burnt Cabins Historic District*, LR23905 and U. S. Route 522, Dublin Township, Fulton County (Lincoln Highway Heritage Corridor Historic Resources: Franklin to Westmoreland Counties, PA)

[Pa.B. Doc. No. 97-1367. Filed for public inspection August 22, 1997, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, August 7, 1997, and took the following actions:

#### *Regulations Approved:*

Pennsylvania Liquor Control Board #54-50: Numerous Revisions (amends 40 Pa. Code Chapters 3, 5, 7, 9, 11, 13, and 15).

Department of Revenue #15-384: General Explanation and Issuance of Certificate (Form REV-1601) (amends 61 Pa. Code §§ 2.1 and 2.3)

(*Editor's Note:* For the text of the regulations pertaining to this order, see 27 Pa.B. 4322 (August 23, 1997).)

Department of Health #10-151: School Immunizations (amends 28 Pa. Code §§ 23.81—23.87)

(*Editor's Note:* For the text of the regulations pertaining to this order, see 27 Pa.B. 4317 (August 23, 1997).)

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
August 6, 1997

*Liquor Control Board—Numerous Revisions; Doc. No. 54-50*

### Order

On March 24, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Liquor Control Board (LCB). This rulemaking would amend 40 Pa. Code Chapters 3, 5, 7, 9, 11, 13 and 15. The authority for this regulation is section 207(i) of the Liquor Code (47 P.S. § 2-207(i)). The proposed regulation was published in the April 12, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 9, 1997.

The LCB reviewed its regulations in response to Executive Order 1996-1. As a result, it is proposing amendments to eliminate burdensome, unnecessary and obsolete requirements. The proposed amendments cover a broad range of the LCB's requirements.

Senator David W. Heckler, Chairperson of the Senate Law and Justice Committee, submitted a letter on the proposed regulation stating the regulations have his approval.

We have reviewed this regulation and find it to be in the public interest. The LCB's amendments will make their regulations less burdensome. For example, purchasing permits to be issued for a period of 4 years rather than annually. The LCB is also reducing or eliminating requirements which have not served a useful purpose.

#### *Therefore, It Is Ordered That:*

1. Regulation No. 54-50 from the Liquor Control Board, as submitted to the Commission on July 9, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
August 7, 1997

*Department of Revenue—General Explanation and Issuance of Certificate (Form REV-1601); Doc. No. 15-384*

### Order

On July 9, 1997, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Revenue (Department). This rulemaking would amend 61 Pa. Code §§ 2.1 and 2.3, relating to the employment incentive payment (EIP) credit program. The authority for this regulation is contained in section 491 of the Public Welfare Code (62 P.S. § 491) and section 6 of The Fiscal Code (72 P.S. § 6). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The EIP program provides a tax credit for employers who employ certain public welfare recipients. The program is administered by the Departments of Public Welfare (DPW) and Labor and Industry in the application/verification of entitlement phases. Revenue processes the reviews relating to the granting of the EIP tax credit.

The most significant changes involve the amendments to § 2.3(b). The time period in which an employer can request the EIP program certificate form (Form REV-1601) from DPW would be extended by 21 days. Currently, employers are required to request Form REV-1601 from DPW in writing no later than the actual date the welfare recipient begins work. This liberalizing change is consistent with recent changes under the Federal Work Opportunities Tax Credit Program. Other amendments to § 2.3(b) clarify postmarking and receipt requirements to establish the 21-day period parameters.

Smaller employers will be the principal beneficiaries of the extension of the filing period for EIP certificates. The reason is they are often not able to act promptly enough administratively under the current filing requirements of § 2.3(b) to qualify for the EIP tax credit.

We have reviewed this regulation and find it to be in the public interest. There will be three principal benefits from these amendments. First, more employers of certain public welfare recipients will be able to qualify for tax credits under the EIP program. Second, the Commonwealth should experience lower public welfare costs as a result of a reduction in the numbers of public welfare recipients. Third, certain persons formerly on public

assistance will have expanded employment opportunities as a result of more employer participation in the EIP credit program.

*Therefore, It Is Ordered That:*

1. Regulation No. 15-384 from the Department of Revenue, as submitted to the Commission on July 9, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* John R. McGinley, Jr., Chairperson; Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held  
August 7, 1997

*Department of Health—School Immunizations; Doc. No. 10-151*

### Order

On July 17, 1997, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Health (Department). This rulemaking would amend 28 Pa. Code §§ 23.81—23.87 relating to the immunization requirements for children to enter and to attend school in the Commonwealth. The authority for this regulation is the Hepatitis B Prevention Act (act) (35 P. S. §§ 630.1—630.3); sections 16(a)(6) and (7) of the Disease Prevention and Control Law of 1955 (35 P. S. §§ 521.16 and 625); and section 1303 of the Public School Code of 1949 (24 P. S. § 13-1303a). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The regulation requires children entering school for the first time to have the hepatitis B vaccine and an additional dose of the measles, diphtheria and tetanus vaccines. Beginning in the 2000-2001 school year, two doses of the measles vaccine or proof of measles immunity will be required for attendance at school in all grades.

We have reviewed this regulation and find it to be in the public interest. The regulation reflects the requirements of the act and the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services; the American Academy of Pediatrics; and the American Academy of Family Physicians.

*Therefore, It Is Ordered That:*

1. Regulation No. 10-151 from the Department of Health, as submitted to the Commission on July 17, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 97-1368. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission (Commission) received, on the date indicated, the following final-form regulations for review. The regulations will be considered within 30 days of its receipt at a public

meeting of the Commission. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of a regulation, interested parties should contact the agency promulgating the regulation.

*Reg. No. Agency/Title*

*Received*

50-110 Pennsylvania Securities Commission 8/07/97  
Registration of Securities, Broker-Dealers, Agents, Investment Advisors and Administration

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 97-1369. Filed for public inspection August 22, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application and Request for a Certificate of Authority

Eastern Life Insurance Company has applied for a Certificate of Authority to operate as a stock life insurance company in this Commonwealth. The initial filing was received on August 7, 1997, and was made under the requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. Section 1 et seq. 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 from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120.

GREGORY S. MARTINO,  
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1370. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Application and Request for a Certificate of Authority

Franklin Insurance Company has applied for a Certificate of Authority to operate as a stock casualty insurance company in this Commonwealth. The initial filing was received on August 1, 1997, and was made under the requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. Section 1 et seq. 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 from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail

to inform the Department of the exact basis of the statement. Written statements should be directed to Carolyn Smith, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120.

GREGORY S. MARTINO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1371. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

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

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

Appeal of Kpakiwa, Komba and Carolee; file no. 97-198-04038; American States Insurance; doc. no. P97-08-014; September 17, 1997, at 9 a.m.;

Appeal of Gabrielli, Robert J.; file no. 97-198-04768; Erie Insurance Exchange; doc. no. P97-08-013; September 17, 1997, at 11 a.m.;

Appeal of Lorick, Delores and Thurman; file no. 97-267-33921; Nationwide Mutual Insurance Company; doc. no. PH97-08-007; September 18, 1997, at 11 a.m.;

Appeal of Hodas, Gordon Richard, M.D.; file no. 97-215-33516; Prudential Property & Casualty; doc. no. PH97-08-005; September 18, 1997, at 3 p.m.

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

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

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

GREGORY S. MARTINO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1372. Filed for public inspection August 22, 1997, 9:00 a.m.]

### Review Procedure Hearings under The Unfair Insurance Practices Act

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

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

Appeal of Jeboda, Rotimi and Elaine; file no. 97-267-32953; Keystone Insurance Company; doc. no. PH97-08-006; September 18, 1997, at 1 p.m.;

Appeal of Horn, Ronnie and Janet; file no. 97-121-04550; Everett Cash Mutual Insurance Co.; doc. no. P97-08-015; September 23, 1997, at 11 a.m.

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

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

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

GREGORY S. MARTINO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 97-1373. Filed for public inspection August 22, 1997, 9:00 a.m.]

## MILK MARKETING BOARD

### Presubmission Schedule, Prehearing Conference and Hearing; Milk Marketing Area No. 4

Under the Milk Marketing Law (31 P. S. § 700j-101 et seq.) the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 4 on October 8, 1997, commencing at 9 a.m. in Meeting Room B on the second floor of the Farm Show Complex, Cameron and Maclay Streets, Harrisburg, PA. If necessary, the hearing will be continued on October 9 at the same time and location.

The purpose of the hearing is to receive evidence concerning minimum prices milk dealers shall pay to producers for various classes of milk; minimum prices

milk dealers shall charge for milk, including prices to be charged to wholesale customers such as stores, restaurants and institutions; and minimum prices to be charged to consumers for milk sold for consumption off the premises. Evidence will also be received concerning the various types, classifications and containers of fluid milk and milk products.

To ensure a complete hearing record, the Board has established the following evidentiary guidelines for significant categories of information:

1. Evidence of processing, packaging and delivery costs and points shall be derived from the PMMB-60 financial statements of the cross-section dealers for calendar year 1996, along with updated information reflecting current increases and decreases in labor, ingredients, container, insurance and utility expenses. In addition, the Board wishes to receive evidence on current costs associated with Class II products. "Current" means not later than August 31, 1997.

2. With regard to labor, insurance and utility costs, figures should be supported by evidence sufficient to enable the Board to evaluate the underlying methodology. At a minimum, the Board will expect to receive the following evidence:

a. Labor expense.

i. Based on data from Schedule B-3, column (20) of the 1996 PMMB-60s, the weighted average total for the cross-section of the labor costs identified on lines 1—9 of that schedule.

ii. Based on data from Schedule B-2 of the 1996 PMMB-60s, the weighted average total for the cross-section of the labor costs identified on lines 1—9 for each of the 12 cost center columns: receiving, laboratory, and field work; standardization and pasteurization; bottling; blow-molder; bottle washer; manufacturing; ice cream manufacturing; ice cream hardening; cold room; delivery; ice cream delivery; and selling. For those 12 columns, the distribution of labor costs from Schedule B-3 in accordance with the percentages shown on Schedule B-7.

iii. Labor cost data as described in paragraph (i) and bottling points for the cross-section for corresponding periods in 1996 and 1997. These periods may not be shorter than 4 weeks. (Examples: April—June 1996 and April—June 1997; August 1996 and August 1997)

b. Insurance expense. Same as for labor, except 1996 data shall be based on insurance expense from line 24 on Schedules B-2 and B-3.

c. Utilities expense. Same as for labor, except 1996 data shall be based on utilities expense from line 23 on Schedules B-2 and B-3.

The hearing will also include the following items 3—8:

3. Delivery costs/discount system. Using the delivery ranges for which discounts are available under the current order or found to be prevalent during the auditing process, evidence on the number of deliveries at each range, the number of controlled and noncontrolled points at each range and the total cost and cost per point at each range. A representative statistical sample of the routes of each cross-section dealer is acceptable. Testimony should include recommendations on discount strategies—such as percentage discounts, cents per quart discounts, school discounts, and multi-store discounts—or on alternatives to discounts, such as stop charges.

4. Small container adjustment. Evidence should include filling speeds and containers per case for each container size.

5. Reasonable profit margins for dealers and retailers.

6. In-store handling costs. Evidence should be as detailed and specific as is compatible with protecting proprietary information.

7. Adoption of cost replacement. Testimony favoring cost replacement should include recommendations for implementing such a system, specifically, which costs should be updated and what methodologies should be used.

8. Elimination of the bracket system.

The Board expects to receive from staff evidence based on independent studies for evidentiary items 1—4 and 6, along with testimony addressing items 5, 7, and 8. Other parties who address items 1—8 should tailor their evidence to the requirements set out in this notice. These evidentiary items are not intended to be inclusive. Parties are invited to present additional relevant evidence on, for example, interest expense and profits/losses on bulk sales.

The staff of the Board is deemed to be a party to this hearing, and the staff's attorney is deemed to have entered her appearance on their behalf. Other persons that may be affected by the Board order fixing prices in Area 4 may be included on the Board's list of parties by:

- Having their counsel file with the Board, on or before September 8, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25, which shall identify by name and address the party on whose behalf the appearance is made. Thereafter, documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

- If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21, filing with the Board, on or before September 8, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

A. Each party shall file with the Board seven copies and serve on all other parties one copy of the following on or before September 19, 1997:

1. A list of witnesses who will testify for the party. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

2. A statement of the subjects concerning which each witness will testify.

3. Each exhibit to be presented, including testimony to be offered in written form.

B. Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office on or before September 12, 1997.

C. A list of rebuttal witnesses and copies of rebuttal exhibits shall be filed with the Board (seven copies) and served on all other parties (one copy) on or before September 29, 1997.

D. Parties shall have available in the hearing room at least 20 copies of the exhibits described in paragraphs A and C for distribution to nonparties attending the hearing.

E. Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, 35.165, 35.167 or 35.173.

Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least twenty 20 copies shall be available for distribution to nonparties attending the hearing.

The Board may exclude witnesses, exhibits or other evidence of a party that fails to comply with the requirements of paragraph A, C or E.

A prehearing conference for all parties will be held at 1:30 p.m. on October 6, 1997, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA. Parties shall come prepared to address requests for the production of documents relied on in formulating their testimony and exhibits.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

O. FRANK DEGARCIA,  
*Executive Secretary*

[Pa.B. Doc. No. 97-1374. Filed for public inspection August 22, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Petition of Bethlehem Steel Corporation for a Declaratory Order; Doc. No. P-00971231

On August 5, 1997, Bethlehem Steel Corporation (Bethlehem) filed with the Pennsylvania Public Utility Commission (Commission) a petition for declaratory order under 52 Pa. Code § 5.42. In its petition, Bethlehem requested a Commission determination that the provision of electric service by Bethlehem from its internal generation and distribution facilities to Lehigh Forge Corporation at facilities formerly owned by Bethlehem and located within the historic geographic confines of Bethlehem's steel mill complex does not constitute public utility service under 66 Pa.C.S. § 102. The petition is docketed at P-00971231.

Persons desiring to comment regarding this petition should file a petition to intervene and answer with the Acting Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. In accordance with 52 Pa. Code §§ 1.1, et seq., all such pleadings are due within 20 days of the date of the publication of this notice in the *Pennsylvania Bulletin*. Copies of Bethlehem's petition are on file with the Commission and are available for public inspection. The contact person is Assistant Counsel Patricia Krise Burket, (717) 787-3464.

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1375. Filed for public inspection August 22, 1997, 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 (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 September 15, 1997, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests 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-00114192. Robin Lee Culp, t/d/b/a Main Line Express** (532 Lehigh Avenue, Apt. A, Swarthmore, Delaware County, PA 19081)—persons, in airport transfer service, from points in the counties of Bucks, Chester, Delaware and Montgomery, and the city and county of Philadelphia, to the Philadelphia International Airport, in the city and county of Philadelphia and the township of Tinicum, Delaware County.

#### Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.*

**A-00114162. David T. Wertz** (109 Oakwood Road, P. O. Box 639, Moon Township, Allegheny County, PA 15108)—persons, in paratransit service, from points in the county of Allegheny, to other points in Pennsylvania, and return; subject to the following condition: That no right, power or privilege is granted to provide service to, from or between points in the cities of McKeesport, Duquesne, and Clairton, the boroughs of Glassport, Liberty, White Oak, Dravosburg, Port Vue, Versailles, Lincoln, Elizabeth, West Elizabeth, Trafford, Braddock, North Braddock, Jefferson, and West Mifflin, and the townships of Elizabeth and North Versailles; which is to be a transfer of all of the right authorized under the certificate issued at A-00112653 to Nancy I. Zoror, t/d/b/a A.D.Z. Transportation Services, subject to the same limitations and conditions.

**A-00114167. Getaway Car, Inc.** (6020 Captain Major Avenue, Bensalem, Bucks County, PA 19020), a corporation of the Commonwealth of Pennsylvania—persons, in limousine service, between points in the counties of Bucks, Montgomery and Philadelphia, and from points in said counties, to points in Pennsylvania, and return; subject to the following condition: That no right, power or privilege is granted to transport to Delaware County; which is to be a transfer of all of the right authorized under the certificate issued at A-00108128 to Jonathan Zandell, t/d/b/a International Limousine & Coach Co., subject to the same limitations and conditions. *Attorney:* William M. Barnes, Suite 3600, 1600 Market Street, Philadelphia, PA 19103-7286.

**A-00114190. R & J Limousine, Inc.** (2524 South 75th Street, Philadelphia, PA 19153), a corporation of the Commonwealth of Pennsylvania—(1) in limousine ser-

vice, persons, attending funerals and flowers for funerals, between points in the city and county of Philadelphia, and within an airline distance of 30 statute miles of the City Hall in the said city; (2) in limousine service, persons, attending wedding and christening parties, to or from homes of wedding and christening parties and churches or places at which marriage ceremonies or christening services are performed in the city and county of Philadelphia; and (3) funeral accessories, between points in the city and county of Philadelphia, and within an airline distance of 30 statute miles of the City Hall in the said city; which is to be a transfer of all of the rights authorized Bernard Weaver, t/d/b/a Your Limousine Service, under the certificate issued at A-00108405, subject to the same limitations and conditions. *Attorney:* Mario F. Driggs, Suite 402, 1608 Walnut Street, Philadelphia, PA 19103.

**Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.***

**A-00114187. Paul W. Walters and Eric L. Becker, Copartners, t/d/b/a Able Moving and Transfer Services** (219 Carlisle Street, Hanover, York County, PA 17331)—household goods in use, between points in the borough of Hanover, York County, and within an airline radius of 25 statute miles of the limits of said borough, and from points in the said territory to points in Pennsylvania, and vice versa.

**Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer as described under each application.***

**A-00114163. Dennis Perigio, t/d/b/a Shaffer's Transfer** (513 Old Lincoln Highway, P. O. Box 114, Stoystown, Somerset County, PA 15563)—(1) household goods in use, between points in the borough of Hooversville, Somerset County, and within 18 miles by the usually traveled highways of the limits thereof, and from points in said area, to points in Pennsylvania, and vice versa; and (2) property, excluding household goods in use, between points in Pennsylvania; which is to be a transfer of all of the rights authorized under the certificate issued at A-00107088, to Steven S. Corden and Mark A. Corden, Copartners, t/d/b/a Shaffer's Transfer subject to the same limitations and conditions. *Attorney:* Scott M. Dinner, 3 Kacey Court, Suite 201, Mechanicsburg, PA 17055.

**Applications of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons by transfer of rights as described under each application.***

**A-00107618, Folder 3. Transline Limousine Service, Inc., t/a Airport One Limousine Service** (2727 Philmont Avenue, Suite 103, Huntingdon Valley, Montgomery County, PA 19006), a corporation of the Commonwealth of Pennsylvania—persons, in limousine service, between points in Delaware County, and from points in said county, to points in the counties of Chester and Montgomery, and to the Philadelphia International Airport, located in the city and county of Philadelphia and the township of Tinicum, Delaware County, and vice versa; which is to be a transfer of all of the rights authorized under the certificate issued at A-00106673, F.

3 to Kohler Transport Service, Inc., a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions. *Attorney:* Mario F. Drigg, Suite 402, 1608 Walnut Street, Philadelphia, PA 19103.

**Applications of the following for approval of the *right to begin to operate as a broker for the transportation of persons as described under each application.***

**A-00114165. Kenneth R. Gregory, Jr., t/d/b/a Cultural Tours** (116 Caitlin Drive, Cogan Station, Lycoming County, PA 17728)—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania.

**Motor Carrier Applications—Property, Excluding Household Goods in Use**

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before September 8, 1997.

A-00114194	David Paul Ayers 134 F River Road, Montague, NJ 07827
A-00114195	Randy L. Baker 171 Wenger Avenue, Sharon, PA 16146
A-00109575, F. 2	Van Lease America, Inc. 1200 Conroy Place, Easton, PA 18042; Patricia Armstrong, P. O. Box 9500, Harrisburg, PA 17108- 9500

JAMES J. MCNULTY,  
*Acting Secretary*

[Pa.B. Doc. No. 97-1376. Filed for public inspection August 22, 1997, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday, September 4, 1997 for Project No. 97-223-001, (Purchase of One Portable Air Compressor). The bid documents can be obtained from the Procurement Administrator, Philadelphia Regional Port Authority (PRPA), 210 West Washington Square, 13th Floor, Philadelphia, PA 19106, (215) 928-9100 and will be available August 26, 1997. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal opportunity laws and regulations.

JAMES T. MCDERMOTT,  
*Executive Director*

[Pa.B. Doc. No. 97-1377. Filed for public inspection August 22, 1997, 9:00 a.m.]



# TREASURY DEPARTMENT

## Request for Proposals

The Treasury Department will be accepting proposals to provide electronic data interchange/automated clearing house (EDI/ACH) services for the direct deposit of Commonwealth paychecks and annuitant checks. Interested parties may receive a copy of the request for proposals by contacting the Treasury Department at (717) 772-3296. Proposals in response to this request will be accepted no later than 12 noon on Monday, September 29, 1997.

BARBARA HAFER,  
*Treasurer*

[Pa.B. Doc. No. 97-1378. Filed for public inspection August 22, 1997, 9:00 a.m.]

# TURNPIKE COMMISSION

## Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following Contract:

Contract No. 98-004-RT64-C—Bituminous Overlay, ID-2, SRL-E from M. P. 84.94 to M. P. 94.00 WB and from M. P. 88.10 to M. P. 94.00 EB on the PA Turnpike System in Westmoreland County, PA

Bid Opening Date—September 16, 1997, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract Documents will be available and open to public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per set by check or P. O. Money Order (No Cash) to the Turnpike Commission. Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. (Do not add State tax). No refund for any reason will be made for plans, specifications and contract documents.

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

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-1379. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing

Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following Contract:

Contract No. 83-039-RF28—Demolition of Bridge No. B-489 at M. P. 133.04 and Bridge No. B-492 at M. P. 136.91 on the PA Turnpike in Bedford County, PA

Bid Opening Date—September 30, 1997, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract Documents will be available and open to public inspection at the Administration Building. Copies may be purchased upon payment of \$30 per set by check or P. O. Money Order (No Cash) to the Pennsylvania Turnpike Commission. Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. (Do not add State tax). No refund for any reason will be made for plans, specifications and contract documents.

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

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-1380. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Retention of a Developer

### Reference No. 146-111

The Turnpike Commission will consider entering into a long-term (maximum of 50 years) unsubordinated ground lease of 9± total acres in East Cocalico Township, Lancaster County. The property is also adjacent to State Route 272 and Legislative Route 148 Spur. The site is currently vacant and is surrounded by commercial and industrial activity, including motels, restaurants and a Pepperidge Farm manufacturing facility. Access to the current Reading Interchange (No. 21) of the Pennsylvania Turnpike is approximately .8 mile from the site. The Commission will consider proposals from all qualified firms for development of this property.

All interested parties will attend a mandatory meeting scheduled for 11 a.m., October 9, 1997, at the Pennsylvania Turnpike Commission's Eastern Regional Office, located at 251 Flint Hill Road, King of Prussia, PA. The proposals must be received by the Commission at its Harrisburg office by 4 p.m., December 12, 1997.

Firms interested in receiving a copy of the Request for Proposals (RFP) should call Ann Clemens at (717) 986-9685. Requests for RFPs must be received by the Commission by 4 p.m., October 6, 1997.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-1381. Filed for public inspection August 22, 1997, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

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

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

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

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

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

### Reader's Guide

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦  
(For Commodities: Contact:)  
Vendor Services Section  
717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

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

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET THAT COMPETITIVE EDGE—FOR FREE!

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

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

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

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

BARBARA HAHER,  
*State Treasurer*

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

### Commodities

**PSU 33230-G** Electronics—3 each brief patch panel and adapters, Penn State University, University Park. Contact Steve Blaxer (814) 865-1402 or fax (814) 865-3028.

**Department:** Penn State University  
**Location:** University Park, Centre County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**8503960** Engines, turbines and components—200 each motor, HYD spreader motor, hydraulic for stainless and rubber trough spreaders.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1105157** Food preparation and serving equipment—1 each electric convection steamer—Groen Model No. HY-6SE or approved equal; 2 compartments 24"; 2 each direct steam tilting kettle—Groen Model No. D-40 or approved equal; 40 gallon capacity; 2 each table top electric kettle—Groen Model No. TDB/7-40 or approved equal; 40-quart capacity; 1 each electric tilting skillet—Groen Model No. NFPC-4 or approved equal; 40 gallon capacity, open.

**Department:** Scotland School for Veterans Children  
**Location:** Scotland, Franklin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1171127** Paper and printing—630 M UC-1099G Statement for Recipients Unemployment Compensation Payments.

**Department:** Labor and Industry  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1208127** Paper and printing—227M UC2/2A/2B—Employer's Report for Unemployment Compensation 1st Quarter 1998; 267M UC2/2A/2B—Employer's Report Unemployment Compensation, 2nd Quarter 1998.

**Department:** Labor and Industry  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1245117** Plumbing, heating and sanitation equipment—100 each Eljer 111-0580 "Missouri" or approved equal vitreous chinas, plain rim, floor-mounted flush valve closet bowl w/blow out action, integral seat, wall outlet 10-1/4" center, 1-1/2" back spud.

**Department:** Corrections  
**Location:** Graterford, Montgomery County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

**1131227** Tents and tarpaulins—10 each flammable liquid storage cabinet size 44"H x 18"D x 43"W 30 gallon yellow; 9 each flammable liquid storage cabinet size 65" H x 34" W, 60 gallon yellow; 13 each flammable liquid storage cabinet size 65" H x 18" D x 43" W 45 gallon yellow.

**Department:** Fish and Boat Commission  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** FY 97/98  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

## SERVICES

### Audio/Video—04

**051-001** This contract will provide 12 cellular telephones, services and equipment for PennDOT Berks County Maintenance Office, as per attached specifications. All requests for bid packages must be received via fax at (610) 929-6920, Attn: Stephanie Rejniak.

**Department:** Transportation  
**Location:** Berks County, PA  
**Duration:** 1 year with four 1-year renewals  
**Contact:** Stephanie Rejniak, (610) 929-0766

**ESU-405-EPH** Emergency Phones RFI. East Stroudsburg University is issuing this request for interest regarding emergency phones (hardwired or cellular) project ESU 405-EPH. The University needs emergency phones at various locations on campus. Responsible bidders including MBE/WBE firms are required to tour the campus and then provide a written proposal on the best way to accomplish the task. University seeks a turn key installation including construction and 10-year operating costs. The University may choose to proceed with the project in stages, the proposal should address three phases. Proposals shall be submitted by 3:30 p.m. on September 12, 1997. The University reserves the right to make or not to make an award under this RFI. Contact Scott Heinrich at (717) 422-3668 for informational packet and site tour. For special accommodations or contracting questions call Zaffy Zaffuto at (717) 422-3595.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, East Stroudsburg, PA 18301  
**Duration:** 120 days  
**Contact:** Zaffy Zaffuto, (717) 422-3595

**SP-97-13** The contractor shall provide semi-annual preventative maintenance, emergency service, repairs and parts to all Motorola Communication Systems located at the State Correctional Institution at Coal Township.

**Department:** Corrections  
**Location:** State Correctional Institution at Coal Township, 1 Kelley Drive, Coal Township, PA 17866  
**Duration:** 3 years  
**Contact:** Nancy A. Lasko, Purchasing Agent, (717) 644-7890, ext. 142

**Computer Related Services—08**

**ITQ-Training-081** The OA/Office for Information Technology seeks qualified vendors to submit a response to ITQ-Training-081 to provide a wide variety of computer training services to all requesting agencies. Vendors will be prequalified through an Invitation to Qualify (ITQ) format and successful vendors will be placed on a Statewide computer training services contract. Services will include, but are not limited to assessment, classroom training, media based training and other computer training services.

**Department:** OA/Office for Information Technology  
**Location:** Statewide Agencies will secure services from prequalified vendors identified through the ITQ format  
**Duration:** Initial 2 year with three 1-year extensions  
**Contact:** Heather L. Matulevich, (717) 772-8046

**Construction—09**

**030005** Bradford County, State Route 1056, Section 003.

**Department:** Transportation  
**Location:** District 3-0, 715 Jordan Avenue, Montoursville, PA 17754  
**Duration:** FY 1997/98  
**Contact:** Paul W. Beaver, Contract Management Supervisor, (717) 368-4263

**030006** Tioga County, State Route 6, Section 80M.

**Department:** Transportation  
**Location:** District 3-0, 715 Jordan Avenue, Montoursville, PA 17754  
**Duration:** FY 1997/98  
**Contact:** Paul W. Beaver, Contract Management Supervisor, (717) 368-4263

**080989** Luzerne County—Group 4-97-ST11; Bucks County—Group 6-98-PR2; Franklin County—SR 611(010); Lancaster County—SR 625(003); Lancaster County SR 772(009); Somerset County—Salisbury Viaduct; Clarion County—SR 80(347); Greene County—Group 12-97-SI2; Bucks County—SR 2002(52M); Greene County SR 221(01R); District Wide (11-0)—Group 110-98-7631-1; Butler County—Group 102-94/95-GR; Washington County—SR 1030(A06); Lancaster County—SR 772(007); Erie County—SR 19(03M); Montgomery County—Group 6-97-GRM1; Bucks County—Group 6-97-SP4; Indiana County—SR 1014(450); Adams County—SR 1007(007) Etc.; Cumberland County—SR 1004(B03), 1007(006); Butler County—T-505 Glass House BR.

**Department:** Transportation  
**Location:** Districts 1-0, 4-0, 6-0, 8-0, 9-0, 10-0, 11-0, 12-0  
**Duration:** FY 1997-98  
**Contact:** V. C. Shah, (717) 787-5914

**080990** Bucks County—Group 6-97-GRB-1; Chester County—Group 6-97-SP3; Chester County—Group 6-97-GRC1; District Wide (6-0) Group 6-97-GRU; Westmoreland County—SR 31(165); Cambria County—SR 4031(01M); Blair County—Tyron RR Park; Lycoming County—SR 220(49M); Delaware County—Group 6-97-GRD1; Philadelphia County—Group 6-97-GRP1; Wayne County—SR 170(672); Somerset County—Western MO RR STA.

**Department:** Transportation  
**Location:** Districts 3-0, 4-0, 6-0, 9-0, 12-0  
**Duration:** FY 1997-98  
**Contact:** V. C. Shah, (717) 787-5914

**FM-30** Furnish all labor, materials and equipment required to provide crack filling, seal coating, and line painting of macadam surfaces at the Pennsylvania State Police, Departmental Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110. Detailed work schedule and bid must be obtained from Facility Management Division (717) 783-5484.

**Department:** State Police  
**Location:** Facility Management Division, Departmental Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110  
**Duration:** 10/01/97 to 06/30/98  
**Contact:** Deshawn Lewis or Lester Brightbill, (717) 783-5484

**Food—19**

**261** Beans (for processing). Round type, U.S. No. 1, or equal. To be delivered in self-unloading, open-sided trailers. Approximately 20 tons per delivery. Snap beans—green, white seeded—approximately 60 tons. Wax beans—yellow—approximately 40 tons.

**Department:** Corrections  
**Location:** Correctional Industries, State Correctional Institution Rockview, Route 26, Box 1200, Bellefonte, Centre County, PA 16823  
**Duration:** September 2, 1997 through September 30, 1997  
**Contact:** Cheryl Snook, Purchasing Agent II, (814) 355-4874

**705-97** Fresh baked goods, various items for delivery from October 1997 through December 1997. For more specifications, request Bid Proposal, Inquiry No. 705-97.

**Department:** Public Welfare  
**Location:** Norristown State Hospital, 1001 Sterigere Street, Norristown, Montgomery County, PA 19401  
**Duration:** October 1997—December 1997  
**Contact:** Sue Brown, Purchasing Agent, (610) 313-1026

**6958** Meat and meat products.

**Department:** Military and Veterans Affairs  
**Location:** Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, P. O. Box 319, Hollidaysburg, PA 16648-0319  
**Duration:** November 1997  
**Contact:** Becky Clapper, Purchasing Agent, (814) 696-5210

**AA-08025** Groceries and frozen foods. Additional information can be obtained by contacting this facility.

**Department:** Military and Veterans Affairs  
**Location:** PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239  
**Duration:** October 1, 1997 through December 31, 1997  
**Contact:** Jeanette J. Gualtieri, (814) 878-4930

**HVAC—22**

**325612** Provide repair services to electric motors, which will include but not be limited to, rewinding, preventative maintenance, parts, and the like.

**Department:** Corrections  
**Location:** Industries Warehouse, P. O. Box 246 (off Route 29), Graterford, PA 19426  
**Duration:** 07/01/98 to 06/30/2000  
**Contact:** J. L. Barber, Purchasing Agent I, (610) 489-4151

**325613** Provide maintenance and repair services to the refrigeration equipment and boilers located at the Farm Department State Correctional Institution at Graterford. Awarded contractor will be expected to respond for service request within 4 hours of receiving a telephone call or other informative need for service. Specification and equipment will be listed on Bid No. 325613.

**Department:** Corrections  
**Location:** Correctional industries, Dairy Department, State Correctional Institution Graterford, P. O. Box 246 (off Route 29), Graterford, PA 19426  
**Duration:** 06/01/98 to 06/30/2001  
**Contact:** J. L. Barber, (610) 489-4151

**AE-5078** Replace existing boiler with a new boiler, fax (717) 783-7971.

**Department:** Transportation  
**Location:** Chambersburg Driver and Photo License Center, 190 Mill Road, South Chambersburg, Franklin County, PA  
**Duration:** 75 calendar days; proposed bid September 1997  
**Contact:** Tina Chubb, (717) 787-7001

**FM-29** Furnish all labor, materials and equipment necessary to completely clean and sanitize the interior air distribution system at the Pennsylvania State Police, Dublin Station, 3218 Rickert Road, Perkasie, PA 18944. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Facility Management Division, Dublin Station, 3218 Rickert Road, Perkasie, PA 18944  
**Duration:** 10/01/97 to 06/30/98  
**Contact:** Deshawn Lewis or Lester Brightbill, (717) 783-5484

**SU-433C** Project title: Heiges Field House Weight Room Air Conditioning. Brief description: Work shall be completed at Shippensburg University, Shippensburg Township, Cumberland County, PA. The project shall include the furnishing of all labor, superintendence, material, tools, equipment and performing all work necessary to complete all construction to add air conditioning to the existing system in the Heiges Field House Weight Room. Work includes: install a new chilled water coil in the existing air handling unit; add controls to the existing system to accomplish the required new functions; install a new pump and piping to furnish chilled water to the new coil from the existing chilled water system; install required electrical wiring; and balance chilled water system. Pre-bid meeting: September 3, 1997, 2 p.m., Old Main, Room 203A. Bids due: September 19, 1997, 4:30 p.m., Old Main Room 200. Bids open: September 22, 1997, 2 p.m., Old Main Room 203A.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA  
**Duration:** 150 days from date of Notice to Proceed  
**Contact:** Edna G. Fenton, Contract Administrator, (717) 532-1121

**WC 654** West Chester University is soliciting sealed bids for providing and installing an electric snow melting system at Sykes Union Building. The work includes providing and installing all conduit, wiring and other appurtenances for a complete electric snow melting system in a poured in place concrete ramp at Sykes Student Union Building. Concrete work by others. The site visit will be held at 10 a.m. on September 5, 1997 meeting in the lobby of Sykes Union—located on East Rosedale Avenue between South High Street and South New Street.

**Department:** State System of Higher Education  
**Location:** West Chester University, Sykes Student Union Building, West Chester, PA 19383  
**Duration:** 45 calendar days from Notice to Proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

**300868** The removal and relocation of 4" Dry Valve System: The removal of the complete 4" Dry Valve System and relocate the complete system in another area, also relocate copper air line, fire department connection and existing sprinkler system to the riser at its new location.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** November 1, 1997 to June 30, 1998, a period of 8 months  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**300869** Inspection and Testing of Sprinkler Systems: To provide inspection and testing for hospital's sprinkler systems. There are eight dry systems and five wet systems. Each building inspection will be regulated by N.F.P.A.-25 Code.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** November 1, 1997 to June 30, 2001, a period of 5 fiscal years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

## Laboratory Services—24

**97-CI0091** Contractor to provide testing of textile materials to ensure that the products received and used in the production of Correctional Industries products, conforms to Federal Specification, or the Pennsylvania Commercial Item Description (PCID), that identifies the testing methodology for these textile products. If no reference is made to either of these standards, then the tests to be performed should comply to the Federal Trade Commission's "Rules and Regulations under the Textile Fiber Products Identification Act."

**Department:** Corrections  
**Location:** 2520 Lisburn Road, Camp Hill, PA 17011  
**Duration:** 10-1-97 to 11-30-98  
**Contact:** Linda Malinak, (717) 975-4931

## Medical Services—29

**IFB 96-07-17** To store and distribute vaccine to health care providers enrolled in the Pennsylvania Vaccines for Children Program.

**Department:** Health  
**Location:** Statewide  
**Duration:** 18 months  
**Contact:** Vickie L. Petrina, (717) 787-5681

## Property Maintenance—33

**25-1773197** The Department of Conservation and Natural Resources, Pymatuning State Park, Crawford County, is seeking a carpenter to assist with the Pennsylvania Conservation Corps project for the construction of five modern cabins. Work will consist of completion with assistance from the crewmembers of all aspects of the carpentry work on the cabins. Carpenter will be paid on an hourly basis with determination of contract length of the bid proposals received.

**Department:** Conservation and Natural Resources  
**Location:** Pymatuning State Park, 2660 Williamsfield Road, P.O. Box 425, Jamestown, PA 16134-0425  
**Duration:** June 30, 1998 (Approximately)  
**Contact:** Dennis Mihoci, (412) 932-3141

**FM-28** Furnish all labor, equipment and materials to paint the exterior of the original Hollidaysburg Headquarters Building at the Pennsylvania State Police, Hollidaysburg Headquarters, 1510 North Juniata Street, Hollidaysburg, PA 16648. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Hollidaysburg Headquarters, 1510 North Juniata Street, Hollidaysburg, PA 16648  
**Duration:** October 1, 1997 to June 30, 1998  
**Contact:** Deshawn Lewis or Lester Brightbill, (717) 783-5484

**FM-17429606** Contractor will supply all labor, tools and equipment to remove and install wallpaper, protective covering and accessories on the first and second floor lobbies at the Willow Oak Building located on the campus of the Harrisburg State Hospital. Complete specifications can be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** Willow Oak Building, Harrisburg State Hospital, Harrisburg, PA 17105  
**Duration:** 09/15/97 through 11/30/97  
**Contact:** Ed Blandy, (717) 772-4883

**SPC No. 323115** Plant hardwood and conifer trees on forested sites within the Sproul State Forest. These plantings will take place in Clinton, Centre and Cameron Counties. Planting will be done on approximately 477 acres involving approximately 63,000 trees.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Sproul District No. 10, Sproul State Forest, PA 19383  
**Duration:** June 30, 1998  
**Contact:** Jeff Prowant, (717) 923-6011

**WC 643** West Chester University is soliciting sealed bids for the Millwork repairs at Sykes Union Building. The work includes the modifications to existing interior wood panels, including labeling, removing, transit and shot alterations to existing flush wood panels; reinstallation of existing flush wood panels following shop alterations on new mounting brackets; rehanging of existing flush wood door on new hinges; new wood paneling matching existing modified panels; and back sealing of all existing panels.

**Department:** State System of Higher Education  
**Location:** West Chester University, Sykes Union Building, West Chester, PA 19383  
**Duration:** 60 calendar days from Notice to Proceed  
**Contact:** Jacki Marthinsen, Contracts Manager, (610) 436-2705

## Vehicle, Heavy Equipment—38

**325614** Vendor will provide maintenance and repair services to the forklifts at Correctional Industries Warehouse. Descriptions, models and any specifications will be on Bid Inquiry.

**Department:** Corrections  
**Location:** Correctional Industries, P.O. Box 246 (off Route 29), Graterford, PA 19426  
**Duration:** 07/01/98 to 06/30/2000  
**Contact:** J. L. Barber, (610) 489-4151

**0800-WSR-06597-01** Rental of trucks, 26,000 GVW to 73,280 GVW with plow and or spreader, loaders, 1 to 3 cubic yard bucket rated capacity; large loaders and graders and tractors with V plows for emergency use only. Service is for the following winter snow operations: snow removal and deicing material with truck and plow and/or spreader; loading deicing materials with loaders. This will be bid and awarded by individual county. Emergency loaders and graders for over the road use and tractor/plows.

**Department:** Transportation  
**Location:** Throughout District 8-0 Counties: Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry  
**Duration:** 11-1-97 to 4-30-00  
**Contact:** R. A. Wiest, (717) 783-0443

**090-000222** Trucks: 26,000—58,400 GVW with a 10 foot one-way plow and a 6 cy hopper spreader (or minimum 6 cy dump bed with a tailgate spreader) for snow removal and deicing operations. Trucks: 33,000—58,400 GVW with a 10 foot one-way plow and a 6 cy hopper spreader (or minimum 6 cy dump bed with a tailgate spreader) for snow removal and deicing operations. Rubber tire loaders: 3—7 and 7—10 cy bucket capacities equipped with tire chains for standby use in the event of severe drifting snow. Graders: 28,000—34,999 GVW and all wheel drive, equipped with a front mount plow (10 foot minimum) and tire chains for standby use in the event of drifting snow. Graders: 35,000 GVW minimum, equipped with front mount plow (10 foot minimum) and tire chains for standby use in the event of drifting snow. Graders: 35,000 GVW minimum and all wheel drive, equipped with a front mount plow (10 foot minimum) and tire chains for standby use in the event of drifting snow.

**Department:** Transportation  
**Location:** District 9—Bedford, Blair, Cambria, Fulton, Huntingdon and Somerset Counties  
**Duration:** November 1, 1997 through April 30, 2000 (3 years)  
**Contact:** J. E. Hughes, P. E., District 9-0, (814) 696-7129

**Contract No. FDC-206-319** Provide a low ground pressure bulldozer with operator and six triaxle dump trucks with drivers to dredge the lake at Kooser State Park.

**Department:** Conservation and Natural Resources  
**Location:** Jefferson Township, Somerset County, PA  
**Duration:** 60 days  
**Contact:** Construction Management Section, (717) 787-5055

**325610** To provide dyeing and finishing of various size materials. Specifications will be detailed in Invitation For Bid Inquiry No. 325610.

**Department:** Corrections  
**Location:** Correctional Industries, Weave Plant at State Correctional Institution Graterford, Box 246 (off Route 29), Graterford, PA 19426  
**Duration:** 07/01/98 to 06/30/2001  
**Contact:** John L. Barber, Purchasing Agent, (610) 489-4151

**325611** Provide for scouring, softening, and dyeing of both 23" and 40" terry continuous toweling. The 23" and 40" widths are unfinished. Colors, estimated amounts and specifications will be listed on Inquiry No. 32661

**Department:** Corrections  
**Location:** Correctional Industries, Weave Plant at State Correctional Institution Graterford, P. O. Box 246 (off Route 29), Graterford, PA 19426  
**Duration:** 07/01/98 to 06/30/2001  
**Contact:** John L. Barber, Purchasing Agent I, (610) 489-4151

**Request for Information (RFI 1-97)** As of the date of this notice, the Department of Public Welfare is no longer soliciting responses to the Request for Information, RFI 1-97, published in this Bulletin on June 28, 1997, relating to Diagnostic Related Group (DRG) auditing systems.

**Department:** Public Welfare  
**Location:** N/A  
**Duration:** N/A  
**Contact:** N/A

[Pa.B. Doc. No. 97-1382. Filed for public inspection August 22, 1997, 9:00 a.m.]

## Miscellaneous—39

**038** Site preparation, installation and materials for electric deer fencing around a portion of the timber sale near Laurel Run Road, Harris Township, Centre County, on Rothrock State Forest. Perimeter approximately 9,196 linear feet.

**Department:** Conservation and Natural Resources  
**Location:** Rothrock Forest District No. 5, Rothrock Lane, Huntingdon, PA 16652  
**Duration:** Final execution/approval through 12/31/97  
**Contact:** Randall D. White, (814) 643-2340

**RFP No. 15-97** The contractor is to review all unemployment compensation claims on behalf of the Department of Public Welfare. The contractor, working in concert with the Department, must take necessary action to ensure that only proper unemployment compensation costs are incurred. Monthly and quarterly reports on all activity in the Department to be used to monitor charges, resulting in reduced costs to the Department and significant savings in assuring that the Department's position is properly represented at all levels of the claims process.

**Department:** Public Welfare  
**Location:** Statewide  
**Duration:** Multi-year—3 years or 36 months  
**Contact:** Polly Hahn, (717) 787-7585

**No. 97-03** State Transportation Advisory Committee. The objective of this project is to satisfy a need to provide support to the State Transportation Advisory Committee to help determine the goals of and the allocation of available resources among the various transportation modes in the planning, development and maintenance of programs and technologies for transportation systems. Additional information and a request for proposal (RFP) may be obtained by Faxing a request for RFP 97-03 to Tina Chubb at (717) 783-7971.

**Department:** Transportation  
**Location:** Bureau of Office Services, Forum Place, 8th Floor, 555 Walnut Street, Harrisburg, PA 17101-1900  
**Duration:** 48 months  
**Contact:** Tina Chubb, (717) 787-7001

**120005** Professionally clean district office vehicles twice a year.

**Department:** Transportation  
**Location:** Uniontown, Fayette County, PA  
**Duration:** October 1, 1997 through September 30, 1998  
**Contact:** Dave Erick, (412) 439-7362

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## DESCRIPTION OF LEGEND

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

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
1021047-01	08/11/97	Idexx Laboratories	86,848.00
1038157-01	08/05/97	Twin Medical Company	10,998.00
1083117-01	08/06/97	Thouron Industries	52,200.00
1116217-01	08/11/97	Bellco Drug Corp.	45,926.00
1125217-01	08/11/97	Bellco Drug Corp.	26,880.00
1126217-01	08/05/97	Navartis Pharmaceuticals Corp.	17,128.90
1142157-01	08/05/97	Filson Water Treatment, Inc.	9,125.00
6910-02	08/12/97	Continental Salt, Inc.	529,100.00
6910-02	08/12/97	Cargill	8,160,297.25

<b>Requisition or Contract #</b>	<b>Awarded On</b>	<b>To</b>	<b>In the Amount Of</b>
6910-02	08/12/97	International Salt Company, LLC.	5,563,162.69
6910-02	08/12/97	Rochez Brothers, Inc.	1,162,308.40
6910-02	08/12/97	American Rocksalt Company, LLC.	4,485,138.65
6910-02	08/12/97	North American Salt Co.	1,453,822.00
6910-02	08/12/97	Morton	3,617,340.00
7284230-01	08/05/97	Moore Business Forms, Inc.	131,596.80
8177530-01	08/11/97	Highway Materials, Inc.	166,067.70
8177550-01	08/11/97	McMinns Asphalt Co., Inc.	299,073.60

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 97-1383. Filed for public inspection August 22, 1997, 9:00 a.m.]