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PENNSYLVANIA BULLETIN

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Department of Banking
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Development
Department of Conservation and Natural
Resources
Department of Environmental Protection
Department of General Services
Department of Health
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State Board for Certification of Sewage
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State Board for Certification of Sewage
Treatment Plant and Waterworks Operators
Turnpike Commission

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

No. 287, October 1998

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Pennsylvania Bulletin

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

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

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

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Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CH. 300]

Proposal to Adopt Amendments to Rules 319 and 320

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 319 (Pleas and Plea Agreements) and 320 (Withdrawal of Guilty Pleas and Pleas of Nolo Contendere). This proposal clarifies the procedures for a defendant to withdraw a plea of guilty or nolo contendere, and provides the attorney for the Commonwealth a 10-day opportunity to respond to a defendant's motion to withdraw. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report. Deletions are in bold and brackets, and additions are in bold.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901, no later than Wednesday, November 4, 1998.

By the Criminal Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 300. PRETRIAL PROCEEDINGS

Rule 320. Withdrawal of plea of guilty **or nolo contendere**.

(A) At any time before **the imposition of sentence**, the court may, in its discretion, permit, **upon motion of the defendant**, or direct, **sua sponte, the withdrawal of a plea of guilty or nolo contendere [to be withdrawn]** and **the substitution of a plea of not guilty [substituted]**.

(B) **When a defendant moves for the withdrawal of a plea of guilty or nolo contendere, the attorney for the Commonwealth shall be given 10 days to respond.**

Official Note: Adopted June 30, 1964, effective January 1, 1965; Comment added June 29, 1977, effective September 1, 1977; Comment revised March 22, 1993, effective January 1, 1994; Comment deleted August 19,

1993, effective January 1, 1994; new Comment approved December 22, 1995, effective July 1, 1996; amended _____, 1998, effective _____, 1998.

Comment

Under paragraph (A), when a defendant moves to withdraw a plea of guilty or nolo contendere, ordinarily the motion should be filed in writing before the date of the sentencing hearing. For the procedures governing motions, see Chapter 9000. However, nothing in this rule would preclude a defendant from making an oral and on-the-record motion to withdraw a plea at the sentencing hearing prior to the imposition of sentence.

When the defendant orally moves to withdraw a plea of guilty or nolo contendere at the sentencing hearing, the court should conduct an on-the-record colloquy to determine whether a fair and just reason to permit the withdrawal of the plea exists. If the court finds that there is not a fair and just reason, then the motion should be denied, and the court should proceed to sentencing. If the court finds that there may be a fair and just reason, then pursuant to paragraph (B), the court must give the attorney for the Commonwealth 10 days to respond to the motion. See *Commonwealth v. Hutchins*, 683 A.2d 674 (Pa. 1996).

Under paragraph (B), the trial court may not permit the withdrawal of a guilty plea or plea of nolo contendere until the expiration of the 10 days from the date on which the attorney for the Commonwealth receives the defendant's motion to withdraw the plea, unless the attorney for the Commonwealth responds prior to the expiration, nor may it compel the attorney for the Commonwealth to respond prior to the expiration of the 10-day period.

The 10-day response period in paragraph (B) affords the attorney for the Commonwealth time to investigate whether there is a fair and just reason for the withdrawal and whether the withdrawal would result in substantial prejudice to the Commonwealth. However, nothing in this rule would preclude the attorney for the Commonwealth from responding immediately or before the expiration of the 10-day period.

When a defendant [withdraws] is permitted to withdraw a guilty plea or plea of nolo contendere under this rule and proceeds with a non-jury trial, the court and the parties should consider whether recusal might be appropriate to avoid prejudice to the defendant. See, e.g., *Commonwealth v. Pierce*, 527 A.2d 973 (Pa. 1987).

For a discussion of plea withdrawals when a guilty plea or plea of nolo contendere includes a plea agreement, see the Comment to Rule 319.

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).]

Committee Note explaining the August 12, 1993 deletion of the Comment published with the Court's Order at 23 Pa.B. 4215 (September 4, 1993).

Final Report explaining the new Comment approved on December 22, 1995 published with the Court's Order at 26 Pa.B. 8 (January 6, 1996).

Report explaining the proposed amendments concerning the requirements for the withdrawal of a plea published at 28 Pa.B. 5091 (October 10, 1998).

Rule 319. Pleas and plea agreements.

[(a)] (A) *Generally.*

* * * * *

(3) The judge may refuse to accept a plea of guilty **or nolo contendere**, and shall not accept it unless the judge determines after inquiry of the defendant that the plea is voluntarily and understandingly tendered. Such inquiry shall appear on the record.

[(b)] (B) *Plea agreements.*

* * * * *

(2) The judge shall conduct a separate inquiry of the defendant on the record to determine whether the defendant understands and voluntarily accepts the terms of the plea agreement on which the guilty plea **or plea of nolo contendere** is based.

[(c)] (C) *Murder cases.*

In cases in which the imposition of a sentence of death is not authorized, when a defendant enters a plea of guilty **or nolo contendere** to a charge of murder generally, the judge before whom the plea was entered shall alone determine the degree of guilt.

Official Note: Paragraph (a) adopted June 30, 1964, effective January 1, 1965; amended November 18, 1968, effective February 3, 1969; paragraph (b) adopted and title of rule amended October 3, 1972, effective 30 days hence; specific areas of inquiry in Comment deleted in 1972 amendment, reinstated in revised form March 28, 1973, effective immediately; amended June 29, 1977, and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraph (c) added and Comment [**amended**] revised May 22, 1978, effective July 1, 1978; Comment revised November 9, 1984, effective January 2, 1985; amended December 22, 1995, effective July 1, 1996; amended _____, 1998, effective _____, 1998.

Comment

The purpose of paragraph [(a)] (A)(3) is to codify the requirement that the judge, on the record, ascertain from the defendant that the guilty plea **or plea of nolo contendere** is voluntarily and understandingly tendered. On the mandatory nature of this practice, see *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974); *Commonwealth v. Campbell*, 304 A.2d 121 (Pa. 1973); and *Commonwealth v. Jackson*, 299 A.2d 209 (Pa. 1973).

It is difficult to formulate a comprehensive list of questions a judge must ask of a defendant in determining whether the judge should accept the plea of guilty **or a plea of nolo contendere**. Court decisions may add areas to be encompassed in determining whether the defendant understands the full impact and consequences of the plea, but is nevertheless willing to enter that plea. At a minimum the judge should ask questions to elicit the following information:

(1) Does the defendant understand the nature of the charges to which he or she is pleading guilty **or nolo contendere**?

* * * * *

It is advisable that the judge conduct the examination of the defendant. However, paragraph [(a)] (A) does not prevent defense counsel or the attorney for the Commonwealth from conducting part or all of the examination of the defendant, as permitted by the judge. In addition, nothing in the rule would preclude the use of a written colloquy that is read, completed, signed by the defendant, and made part of the record of the plea proceedings. This written colloquy would have to be supplemented by some on-the-record oral examination. Its use would not, of course, change any other requirements of law, including these rules, regarding the prerequisites of a valid guilty plea **or plea of nolo contendere**.

The "terms" of the plea agreement, referred to in paragraph [(b)] (B)(1), frequently involve the attorney for the Commonwealth—in exchange for the defendant's plea of guilty **or nolo contendere**, and perhaps for the defendant's promise to cooperate with law enforcement officials—promising concessions such as a reduction of a charge to a less serious offense, the dropping of one or more additional charges, a recommendation of a lenient sentence, or a combination of these. In any event, paragraph [(b)] (B) is intended to insure that all terms of the agreement are openly acknowledged for the judge's assessment. See, e.g., *Commonwealth v. Wilkins*, 277 A.2d 341 (Pa. 1971).

The 1995 amendment deleting former paragraph [(b)] (B)(1) eliminates the absolute prohibition against any judicial involvement in plea discussions in order to align the rule with the realities of current practice. For example, the rule now permits a judge to inquire of defense counsel and the attorney for the Commonwealth whether there has been any discussion of a plea agreement, or to give counsel, when requested, a reasonable period of time to conduct such a discussion. Nothing in this rule, however, is intended to permit a judge to suggest to a defendant, defense counsel, or the attorney for the Commonwealth, that a plea agreement should be negotiated or accepted.

Under paragraph [(b)] (B)(1), upon request and with the consent of the parties, a judge may, as permitted by law, order that the specific conditions of a plea agreement be placed on the record in camera and that portion of the record sealed. Such a procedure does not in any way eliminate the obligation of the attorney for the Commonwealth to comply in a timely manner with Rule 305 and the constitutional mandates of *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. Similarly, the attorney for the Commonwealth is responsible for notifying the cooperating defendant that the specific conditions to which the defendant agreed will be disclosed to third parties within a specified time period, and should afford the cooperating defendant an opportunity to object to the unsealing of the record or to any other form of disclosure.

When a guilty plea, **or plea of nolo contendere**, includes a plea agreement, the 1995 amendment to paragraph [(b)] (B)(2) requires that the judge conduct a separate inquiry on the record to determine that the defendant understands and accepts the terms of the plea agreement. See *Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991).

Former paragraph [(b)] (B)(3) was deleted in 1995 for two reasons. The first sentence merely reiterated an earlier provision in the rule. See [(a)] (A)(3). The second sentence concerning the withdrawal of a guilty plea was deleted to eliminate the confusion being generated when

that provision was read in conjunction with Rule 320. As provided in Rule 320, it is a matter of judicial discretion and case law whether to permit or direct a guilty plea or **plea of nolo contendere** to be withdrawn. See also *Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991) (the terms of a plea agreement may determine a defendant's right to withdraw a guilty plea).

For the procedures governing the withdrawal of a plea of guilty or nolo contendere, see Rule 320.

Paragraph [(c)] (C) reflects a change in Pennsylvania practice, which formerly required the judge to convene a panel of three judges to determine the degree of guilt in murder cases in which the imposition of a sentence of death was not statutorily authorized.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed amendments concerning references to nolo contendere pleas and the Comment reference to Rule 320 published at 28 Pa.B. 5091 (October 10, 1998).

REPORT

Proposed Amendments to Pa.Rs.Crim.P. 319 and 320

Withdrawal of Guilty Pleas and Pleas of Nolo Contendere in Court Cases

A. Background

The Committee considered correspondence that suggested that the Criminal Rules be amended to provide a notice to the attorney for the Commonwealth in those situations in which a defendant requests the withdrawal of a plea of guilty. The correspondence pointed out that, often, a defendant requests to withdraw the guilty plea immediately before sentencing, and that, in many cases, the attorney for the Commonwealth is not adequately prepared to argue the motion, or the court grants a continuance, resulting in the delay of the sentencing hearing. As a solution to this problem, it was suggested that Rule 320 be amended to require that a defendant, who wants to withdraw a plea, provide reasonable notice, in writing, to the attorney for the Commonwealth, prior to the time of the sentencing hearing.

Initially, the members considered an amendment requiring the defendant to give notice to the attorney for the Commonwealth in those situations in which a defendant moves to withdraw a plea of guilty. However, after further discussion and review of the rules and the correspondence, the Committee concluded that our initial focus on having the defendant give notice at least 10 days prior to sentencing was misdirected, and that providing a 10-day opportunity for the attorney for the Commonwealth to respond was a more logical solution to the problem presented in the correspondence. In addition, we were concerned that incorporating a 10-day notice requirement would change the substantive law that a defendant is permitted to make a motion to withdraw a plea at any time up to the imposition of sentence.

Before settling on the final procedures, the Committee reviewed Pennsylvania case law concerning plea withdrawals. We found it well established that the withdrawal of a guilty plea is to be liberally allowed, particularly prior to sentencing. *Commonwealth v. Faust*, 471 A.2d 1263 (Pa. Super. 1984). We also found that the "preferred procedure" is for a defendant to file a motion for leave to withdraw the plea, and that the trial court, in its discretion, will decide the matter on the basis of the petition and answer, or make an on-the-record determina-

tion after an evidentiary hearing. *Commonwealth v. Turiano*, 601 A.2d 846 (Pa. Super. 1992); *Commonwealth v. Zakrewski*, 333 A.2d 898 (Pa. Super. 1975). The case law sets forth a two-pronged standard for the court to employ in making its determination: that there is a fair and just reason for the withdrawal and a lack of substantial prejudice to the Commonwealth. See *Commonwealth v. Hutchins*, 683 A.2d 674 (Pa. Super. 1996).

In view of the case law and our decision to amend the rules to provide the attorney for the Commonwealth with an opportunity to respond to a defendant's motion to withdraw a plea, and recognizing that (1) a defendant may move for the withdrawal well in advance of the sentencing hearing, (2) a defendant may orally make the motion as late as immediately prior to the imposition of sentence, or (3) the trial court may, in some circumstances, sua sponte direct the withdrawal of the plea, the Committee settled on the following:

1. Rule 320 should retain the present procedure that a defendant move, orally or by written motion, to withdraw a plea.

2. The motion requirement should permit the defendant to move to withdraw a plea of guilty at any time prior to the imposition of sentence.

3. Rule 320 should provide the attorney for the Commonwealth with an opportunity to address the fair and just reason claimed by the defendant.

4. Rule 320 should provide the attorney for the Commonwealth with an opportunity to investigate whether a withdrawal of the plea of guilty would substantially prejudice its case.

5. The rule changes should not change the substantive law.

We concluded that the "10-day opportunity to respond" approach would (1) be more consistent with current practice and case law; (2) not preclude a defendant from making a motion at any time prior to sentencing (including while standing at the bar of the court at the time of sentencing); (3) still provide an adequate opportunity for the attorney for the Commonwealth to investigate whether the withdrawal would prejudice the case; (4) be consistent with Rule 9022 governing motions; (5) promote more efficient use of the court's time; and (6) benefit any victims and witnesses by providing them with information related to the progress of the case, as well as providing a measure of courtesy to them.

Having agreed to provide for a 10-day period for the attorney for the Commonwealth to respond to a defendant's motion to withdraw a guilty plea, the Committee also wanted to make it clear in Rule 320 that the 10-day period provides the attorney for the Commonwealth an opportunity to submit an answer which: 1) responds to a defendant's assertion that there is a fair and just reason to permit a withdrawal of the plea; and 2) sets forth the reasons why the Commonwealth's case would be substantially prejudiced if the defendant's motion were granted. Furthermore, although sympathetic to the concerns that the "eleventh hour" motions which result in delays are inconvenient to those who have appeared for sentencing, including the judge, the attorneys, any victims, and witnesses, the Committee concluded that the inconvenience and delays did not outweigh the right conferred upon defendants to move to withdraw the plea at any time before the sentencing. Finally, agreeing that it was important not to "cut off" a defendant by mandating that a motion to withdraw a plea be "filed in writing," and to maintain consistency throughout the Criminal Rules, and,

in keeping with the motion requirements of Rule 9022, the Committee concluded that Rule 320 should retain a defendant's ability to make an oral motion to withdraw a plea immediately prior to sentencing.

B. Discussion of Rule Changes

1. Rule 320 (Withdrawal of Guilty Pleas and Pleas of Nolo Contendere)

Rule 320 establishes the procedures for the withdrawal of a plea of guilty or nolo contendere. Rule 320 would be amended to provide a simple, logical approach to plea withdrawals. First, the rule would be divided into two paragraphs. In order to maintain the substantive law that a defendant is permitted to move to withdraw a plea at any time, orally or in writing, before the imposition of sentence, including at the bar of the court at the sentencing hearing, new paragraph (A) incorporates the current provisions of Rule 320, providing that the court, in its discretion, may permit or direct the withdrawal of a plea of guilty or nolo contendere. Paragraph (A) has been modified to include the qualifiers "upon motion of the defendant" referring to the situations in which the court may "permit" the withdrawal of a plea of guilty, and "sua sponte" referring to the situations in which the court may "direct" the withdrawal of a plea of guilty.

New paragraph (B) provides that the attorney for the Commonwealth shall be given 10 days to respond to a defendant's motion to withdraw a plea of guilty or nolo contendere.

The Rule 320 Comment makes it clear that, although the filing of a written motion to withdraw a plea of guilty is the preferred procedure, oral motions which are made on the record are acceptable. The Comment also emphasizes that, following an oral motion, if the judge determines that no fair and just reason exists to permit the withdrawal, the judge should proceed with the sentencing. However, if the court finds that there may be a fair and just reason to substantiate a withdrawal, then before proceeding, to prevent the attorney for the Commonwealth from being "blindsided" by having to respond immediately to a last minute, oral motion to withdraw for which there is no time to adequately prepare, the court must give the attorney for the Commonwealth 10 days to respond to the defendant's motion and to provide reasons why there is not a fair and just reason to permit the withdrawal, or that if the withdrawal is permitted, substantial prejudice to the Commonwealth's case will result.

We also added to the Comment a clarification that the trial court may not permit the withdrawal of a plea of guilty before the 10-day period expires, unless the attorney for the Commonwealth responds to the motion prior to the expiration of the 10 days, and that the court may not compel the attorney to respond in less than 10 days.

2. Rule 319 (Pleas and Pleas Agreements)

The Rule 319 Comment would be revised to include a cross-reference to Rule 320 concerning the procedure governing the withdrawal of a guilty plea or plea of nolo contendere.

3. Pleas of Nolo Contendere

As we were discussing the general concept of pleas, we reexamined Rules 319 and 320, and discussed whether these rules apply to nolo contendere pleas. After researching the issue, we found that the courts treat a plea of nolo contendere the same as a plea of guilty. See *Commonwealth v. Nelson*, 666 A.2d 714 (Pa. Super. 1995) and *Commonwealth v. West*, 378 A.2d 1289 (Pa. Super. 1977).

Additionally, we did not find any Committee history which distinguished between the two types of pleas. The Committee therefore agreed to modify Rules 319 and 320 to include appropriate references to nolo contendere pleas.

[Pa.B. Doc. No. 98-1643. Filed for public inspection October 9, 1998, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BEDFORD COUNTY

Local Rule Relating to Termination of Inactive Civil and Criminal Cases; Misc. Doc. No. 60071

Order of Court

And now, this 17th day of September, 1998, pursuant to Pennsylvania Rule of Civil Procedure No. 239, Pennsylvania Rule of Criminal Procedure No. 6 and Pennsylvania Rule of Judicial Administration No. 1901, the Court hereby promulgates this Local Rule of Court relating to termination of inactive civil and criminal cases for Bedford County, comprising the 57th Judicial District of the Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The said Rule follows hereto as Exhibit I.

By the Court

DANIEL LEE HOWSARE,
President Judge

TERMINATION OF INACTIVE CIVIL AND CRIMINAL CASES

Rule of Judicial Administration No. 1901.

(A) The prothonotary shall list for general call at the first civil argument court held after September 1 of each year all civil matters in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered, as provided by Pa.R.J.A. No. 1901(c). If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(B) The clerk of court shall list at the first criminal argument court held after September 1 of each year all criminal proceedings in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to the district attorney, any private prosecutor and the defendant, as provided by Pa.R.J.A. No. 1901(c). If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

Exhibit I

[Pa.B. Doc. No. 98-1644. Filed for public inspection October 9, 1998, 9:00 a.m.]

WYOMING AND SULLIVAN COUNTIES
1999 Court Calendar; No. 98-944

Order of Court

And Now, the 29th day of September, 1998, It Is Ordered that the Court Calendar of the Court of Common Pleas of the 44th Judicial District of Pennsylvania for the year of 1999, be and the same is hereby established in accordance with the schedule hereto and made a part hereof.

By the Court

BRENDAN J. VANSTON,
President Judge

1999 Court Calendar—Wyoming County

Account Confirmation

January 19	July 6
February 2	August 3
March 2	September 7
April 6	October 5
May 4	November 2
June 1	December 7

Arraignments

January 13	July 14
February 10	August 11
March 10	September 8
April 14	October 13
May 12	November 10
June 9	December 8

Domestic Relations

De Novos

January 18	Contempts	19
February 9		10
March 9		10
April 13		15
May 11		13
June 8		10
July 13		15
August 10		12
Sept. 14		9
October 12		14
November 9		12
December 6		9

General Call

September 7

Juveniles

January 19	July 7
February 3	August 4
March 3	September 1
April 7	October 6
May 5	November 3
June 2	December 1

Criminal Trial Weeks

February 16, 1999	August 16, 1999
April 19, 1999	October 18, 1999
June 21, 1999	December 13, 1999

Guilty Pleas & Status Call

January 22	June 4
February 5	July 9
March 5	August 13
April 9	September 3
May 7	October 8

November 5
 December 3

Dependency

January 22	July 15
February 11	August 12
March 11	September 9
April 15	October 14
May 13	November 12
June 10	December 9

Civil Trial Weeks

January 25, 1999	July 26, 1999
March 15, 1999	September 20, 1999
May 24, 1999	November 15, 1999

Close Civil Trial List

December 4, 1998 (March, 1999)
 February 5, 1999 (May, 1999)
 April 1, 1999 (July, 1999)
 June 4, 1999 (September, 1999)
 August 6, 1998 (November, 1999)
 October 1, 1998 (January, 2000)
 December 3, 1998 (March, 2000)

Sentences and ARD Hearings

January 20	July 16
February 10	August 11
March 10	September 8
April 14	October 13
May 12	November 10
June 9	December 8

Prison Board

January 5	July 6
February 2	August 3
March 2	September 7
April 6	October 5
May 4	November 2
June 1	December 7

1998 Calendar—Sullivan County

Miscellaneous, Arraignments and Account Confirmations

January 21	July 8
February 4	August 5
March 4	September 2
April 8	October 7
May 6	November 4
June 3	December 2

Civil and Criminal Trial Weeks

March 22, 1999
 June 14, 1999
 September 27, 1999
 October 25, 1999

Close Civil Trial List

December 4, 1998	(March, 1999 Trial Term)
March 5, 1999	(June, 1999 Trial Term)
June 4, 1999	(September, 1999 Trial Term)
August 6, 1999	(October, 1999 Trial Term)
November 5, 1999	(January, 2000 Trial Term)
December 3, 1999	(March, 2000 Trial Term)

General Call

September 2, 1999

[Pa.B. Doc. No. 98-1645. Filed for public inspection October 9, 1998, 9:00 a.m.]

RULES AND REGULATIONS

Title 10—BANKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 7]

Corrective Amendment to 10 Pa. Code § 7.2

The Department of Banking has discovered a discrepancy between the agency text of 10 Pa. Code § 7.2 as deposited with the Legislative Reference Bureau, and the official text as published at 5 Pa. B. 72 (January 11, 1975) and published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 33). When the section was reprinted in the August, 1988 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 165), and as currently appears in the *Pennsylvania Code*, the definition of "performance" was codified incorrectly.

Therefore, under 45 Pa.C.S. § 901: The Department of Banking has deposited with the Legislative Reference Bureau a corrective amendment to 10 Pa. Code § 7.2. The corrective amendment to 10 Pa. Code § 7.2 is effective August 6, 1988, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 10 Pa. Code § 7.2 appears in Annex A, with ellipses referring to the existing text of the regulation.

RICHARD C. RISHEL,
Secretary

Annex A

TITLE 10. BANKING

PART I. GENERAL PROVISIONS

CHAPTER 7. RESIDENTIAL REAL ESTATE TRANSACTIONS

§ 7.2. Definitions and rules of construction.

Unless the context indicates otherwise, the following definitions and rules of construction apply:

* * * * *

Performance—The term, for purposes of sections 403 and 404 of the act (41 P. S. §§ 403 and 404), includes, but is not limited to, a conspicuous designation as to where cure shall be tendered, if the designated location is one of the following:

(i) A regular place of business of the residential mortgage lender in the county where the real property is located or in a county contiguous thereto which is open during normal business hours.

(ii) For a period of time that the required notice provides the residential mortgage debtor with knowledge of a specific sum of money, payment of which during the period will constitute satisfactory tender of cure, an address at which tender of cure may be made by mail.

(iii) If the residential mortgage lender has no place of business as set forth in subparagraph (i), any designated location in the county where the real property is located, or in a county contiguous thereto, which is open during normal business hours. The designated location may be the office of an attorney. The residential mortgage lender may require that on the day of a scheduled sheriff's sale, tender of cure be limited to the place of the sale, provided that the residential mortgage debtor is given the name of the agent of the lender authorized to accept tender of cure

and the agent is present at the place of sale at least 1 1/2 hours prior to commencement of the sale.

* * * * *

[Pa.B. Doc. No. 98-1646. Filed for public inspection October 10, 1998, 9:00 a.m.]

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CH. 6]

Drugs Which May Be Used By Certain Optometrists

The Department of Health (Department) hereby amends Chapter 6 (relating to drugs which may be used by certain optometrists), specifically § 6.1 (relating to approved drugs), to read as set forth in Annex A. By this amendment, the Secretary of Health (Secretary) is exercising the statutory authority to establish a list of drugs which qualified optometrists may use in their practices for diagnostic purposes and for the treatment of certain parts of the eye.

A. Summary of the Regulations

The final-form regulation contains a list of drugs which may be prescribed by optometrists who meet certain conditions, including the certification standards developed by the State Board of Optometry (Board). See 63 P. S. § 244.4a. At present, § 6.1 contains a very limited list of drugs which optometrists may use: local anesthetics, miotics (for contracting the pupil) and mydriatics or cycloplegics (for dilating the pupil or stopping the movement of the eye). The list now being adopted by the Department accommodates the change in the definition of "practice of optometry" contained in section 2 of the Optometric Practice and Licensure Act (63 P. S. § 244.2) (act), as amended by section 1 of the act of October 30, 1996 (P. L. 721, No. 130) (Act 130). That definition was amended to include the use of drugs, as prescribed by the Secretary, in the treatment of certain conditions of the human visual system under specified limitations. The final-form regulation expands the list of drugs that may be used by qualified optometrists, to reflect the authority of the optometrist to now, within the parameters of the act, treat the anterior segment of the eye, the eyelids, the lacrimal system and the conjunctiva and to remove superficial foreign bodies from the surface and adnexa. See paragraph (2) of the definition of "practice of optometry," 63 P. S. § 244.2.

B. Discussion of Comments

Notice of proposed rulemaking was published at 28 Pa.B. 485 (January 31, 1998). A 30-day comment period was provided. Following that publication, the Department received many comments from persons both opposed to, and supportive of, portions of the proposed amendment. Commentators included ophthalmologists, optometrists, professional organizations, institutions of higher learning and physicians with specialties other than ophthalmology. Commentators also included members of the General Assembly: the Majority and Minority Chairs of the Senate

Public Health and Welfare Committee, Senator Harold F. Mowery, Jr., and Senator Hardy Williams, respectively; Senator Jeffrey E. Piccola, who was the prime sponsor of Act 130, Senators Clarence D. Bell, Joe Conti, Vincent J. Fumo, Melissa A. Hart, Edwin G. Holl, Timothy F. Murphy and James J. Rhoades; the collective members of the House of Representatives Health and Human Services Committee by letter of its Majority Chairperson, Representative Dennis M. O'Brien; Speaker of the House Matthew J. Ryan and Representatives Mario J. Civera, Jr., Roy W. Cornell, Robert W. Godshall and David J. Steil.

The Department's responses to the comments received on specific provisions of its proposed amendment follow:

Proposed subsection (a)(4)(i). "Treatment undertaken by an optometrist pursuant to this section shall be limited to 6 weeks duration"

The Independent Regulatory Review Commission (IRRC), the Pennsylvania Academy of Ophthalmology and several members of the General Assembly made the comment that this provision would conflict with the statutory definition of "practice of optometry," which allows an optometrist to treat a patient for more than 6 weeks upon consultation with a licensed physician. The Department has revised subsection (a)(4)(i) to reflect the language of the statute.

Proposed subsection (a)(4)(ii). "Treatment undertaken by an optometrist pursuant to this section may not include . . . steroids"

Proposed subsection (a)(5). "An optometrist may not treat glaucoma."

Several commentators, all optometrists, took the position that the proposed amendment should be expanded to allow for treatment of glaucoma and the use of steroids. According to these commentators, many states permit optometrists to treat glaucoma and to use steroids in treating the human visual system, and there are continuing education courses taken by optometrists which address these practices.

The treatment of glaucoma and the use of steroids by optometrists are specifically prohibited by statute. See paragraph (3)(iii) and (v) of the definition of "practice of optometry," 63 P. S. § 244.2. Any change in these requirements would have to be undertaken by the Legislature through statutory amendment, not by the Department through regulation.

Proposed subsection (a)(6). "An optometrist may not prescribe or administer a . . . Schedule II controlled substance."

The Lehigh Valley Pharmaceutical Association pointed out that codeine, when prescribed alone, is a Schedule II controlled substance. Permitting an optometrist to prescribe a Schedule I or II controlled substance would conflict with the statutory definition of the practice of optometry. See paragraph (3)(ii) of the definition of "practice of optometry," 63 P. S. § 244.2. As proposed subsection (b)(8)(i)(A) was written, however, it would allow an optometrist to prescribe codeine.

The Department has revised subsection (b)(8)(i)(A) to clarify its intention to permit codeine to be prescribed only in combination with aspirin or acetaminophen. Prescribed in combination with these other drugs, codeine is not being prescribed as a Schedule II controlled substance, and the act would not be violated.

Proposed subsection (b). "Allowable pharmaceutical products."

Two commentators recommended that the Secretary not limit allowable drugs in the final-form regulation to an exhaustive list, but list drugs by category. They contended that this would allow all drugs included in those approved categories to be used by optometrists as they became available for use, and so eliminate time consuming regulatory updates.

The Department did initially consider proposing a list of categories of drugs, rather than proposing an exhaustive drug list. The Department believes, however, that it would be more appropriate to list drugs specifically. This would enable the Department to consider each drug on a case-by-case basis. It is a safer course to consider the effects of each drug within a category, rather than to approve a category as a whole without being able to predict the effects of each new drug. Also, the Department's opportunity to consider public comment on the addition or deletion of drugs from the approved list should be preserved.

Proposed subsection (b)(7). "Antimicrobial agents—access to culture and sensitivity testing (as clinically indicated) is urged."

In the proposed amendment, the Department had included language to recommend that optometrists have access to culture and sensitivity testing when prescribing antimicrobial agents. The Pennsylvania Academy of Ophthalmology and several other commentators took the position that the language, "access to culture and sensitivity testing (as clinically indicated) is urged," would go beyond the scope of the act. According to these commentators, the Secretary only has the authority under the act to create a list of drugs which may be prescribed, and neither may place conditions upon, nor expand, the practice of optometry. Further, they argued that the determination that testing is clinically indicated would require professional judgment which belongs to the practice of medicine, not optometry.

Commentators also pointed out that the use of the phrase, "is urged," would be unenforceable. IRRC recommended that the phrase be deleted for this reason as well.

Because the Department agrees that urging conduct is not a regulatory standard, it has not included the language, "access to culture and sensitivity testing (as clinically indicated) is urged," in the final-form regulation. Further, the Department has been assured by the Board that optometrists who are authorized by it to prescribe drugs are familiar with culture and sensitivity testing when clinically indicated and are trained to make the appropriate clinical decisions.

Proposed subsection (b)(7)(ii) and (iv). Inclusion of oral antibacterial drugs and oral antiviral drugs in the list of drugs which may be prescribed by certain optometrists.

The proposed language which would permit the prescription of oral antibacterial drugs and oral antiviral drugs by optometrists received the second highest number of comments. There was both support and opposition to the inclusion of these drugs. The opposition fell into two categories. First, more than 30 ophthalmologists sent letters opposing the prescription of any medication by optometrists. Several of these letters argued that optometrists did not have the education or experience to prescribe medications. Several commentators expressed the opinion that there were sufficient numbers of ophthalmologists to perform these functions, so that it was unnecessary to allow optometrists to do so. One commen-

tators expressed concern that HMOs would use optometrists rather than ophthalmologists to treat patients to cut costs, and that this would severely impact the health and welfare of those patients.

The second group of opponents, approximately 20 ophthalmologists, the Pennsylvania Academy of Ophthalmology and the Pennsylvania Osteopathic Medical Association, objected specifically to language which would permit the prescription of oral antiviral and antibacterial medications. Their objections centered around a concern that the education and training of optometrists were insufficient to permit the safe prescription of these drugs. According to these commentators, allowing optometrists to prescribe these drugs independently would also result in delay in proper diagnosis and thus cause harm to the patient. Members of this group found no public health imperative requiring the Department to provide optometrists with the power to prescribe these drugs, and they believed that adoption of the proposal would be at the expense of the health and welfare of patients.

One commentator noted that if the condition of the patient was serious enough to require the use of oral antibacterial and antiviral drugs (which, in his opinion, were rarely used), the patient should be seen by a physician, not an optometrist. Another commentator expressed concern that individuals without medical training would be prescribing antibacterial and antiviral drugs when antibiotic resistance was becoming a major concern. He believed that adoption of such a regulation would lead to the over-prescription of these drugs, to the detriment of the patient and the citizens of this Commonwealth, who could then suffer from the effects of drug resistant diseases.

Commentators in opposition to this provision also stated that the language of the act did not specifically allow for the prescription of oral antibacterial and antiviral drugs. Therefore, they argued that the Secretary did not have the authority to approve those drugs as part of the proposed list.

The members of the House Health and Human Services Committee opposed the Department's proposal to include oral antiviral and antibacterial drugs in the final list if the Department had included those drugs based upon the existence of the proposed concurrence requirement. The Committee took this position because it was of the opinion that the act only allowed those drugs to be approved which could be used by an optometrist without seeking the concurrence of a physician. Because the Department's proposed amendment conditioned the prescription of oral antiviral and antibacterial drugs by a qualified optometrist on a physician's concurrence, it asserted that those drugs should be excluded to promote good medical practice.

The Department also received many comments in support of the approval of these drugs. A group of approximately 30 optometrists, as well as the Pennsylvania College of Optometry and the Pennsylvania Optometric Association, wrote to commend the Department for including oral antiviral and antibacterial medications in the proposed list. Several members of the General Assembly also expressed their support. These commentators stressed the importance of having the medications available for treatment by optometrists when needed, which would eliminate unnecessary referral of patients to physicians. The Vice President and Dean of Academic Affairs for the Pennsylvania College of Optometry pointed out that other states began to permit this prescription and usage in 1976 with low malpractice rates. Another com-

mentator stated that currently 49 states permit their use. One commentator argued that it was absurd for him to be permitted to prescribe such drugs in his Delaware practice for his Delaware patients, but not in this Commonwealth for his Pennsylvania patients.

Further, commentators in support of the proposed inclusion of these drugs noted the existence of continuing education and examinations for optometrists on the use of the drugs. According to the Pennsylvania College of Optometry, optometrists have had extensive didactic and clinical training in using and applying skills relating to these medications, and use of these medications is an integral part of the curriculum.

Several commentators in this group stated that the language of the statute did authorize the Secretary to exercise his discretion to permit use of oral antibacterial and antiviral drugs by optometrists in treating the visual system.

In response to those commentators who argued that optometrists should not be permitted to prescribe any medication, the Department notes that the General Assembly has already determined that qualified optometrists may prescribe some drugs in the course of their practice. It has given the Secretary the authority and the discretion to approve these drugs in two definitions in the act: the definition of "practice of optometry," and the definition of "examination and diagnosis."

The argument made by some commentators that the Secretary was not given authority by the act to approve oral antiviral and antibacterial drugs is not supported by the clear language of the act. Had the General Assembly intended to limit the Secretary's authority to approve drugs under the definition of "practice of optometry" to certain categories of drugs which could only be used topically, it would have expressly done so as it did in the definition of "examination and diagnosis."

The definition of "examination and diagnosis" contained in the act provides the Secretary with the authority to approve pharmaceutical agents for diagnosis within certain categories: "miotics, mydriatics, cycloplegics, topical anesthetics and dyes when applied topically to the eye." See the definition of "examination and diagnosis," 63 P. S. § 244.2. The definition of "practice of optometry" provides the Secretary with the authority to approve drugs for treatment so long as they are "for the treatment of the anterior segment of the eye, the eyelids, the lacrimal system and the conjunctiva and the removal of superficial foreign bodies from the ocular surface and adnexa" See paragraph (2) of the definition of "practice of optometry," 63 P. S. § 244.2. Unlike in the first definition, there is no mention in the latter definition of specific categories of drugs, and no statement that the approved drugs may only be applied topically. If the General Assembly had intended to limit the Secretary's authority to approve only certain categories of drugs and to restrict them to topical applications for treatment purposes, language similar to that included in the definition of "examination and diagnosis" would have appeared in the definition of "practice of optometry." Both definitions were revised in the 1996 amendments to the act.

Also, the definition of "practice of optometry" does include a list of categories of drugs which may not be approved by the Secretary. An optometrist may not prescribe Schedule I and Schedule II controlled substances, beta blockers or steroids. See paragraph (3)(ii) and (iii) of the definition of "practice of optometry," 63 P. S. § 244.2. If the General Assembly intended to pro-

hibit optometrists from prescribing oral antibacterial drugs, oral antiviral drugs or certain analgesics, those drugs would have been specifically included in the statute's list of prohibited substances. If certain things are specifically designated in a statute, omissions from that list are to be understood as exclusions. *City Council of Hazelton v. City of Hazelton*, 134 Pa. Cmwlth. 174, 180, 578 A.2d 580, 583 (1990). Therefore, the Secretary may approve whatever drug he finds to be necessary for the treatment, both topically and orally, of those parts of the eye specifically set out in the statute, so long as the other conditions of the statute are met.

The Department is also not convinced that the inclusion of these drugs in the final-form regulation would lead to them being excessively or improperly prescribed, and, thereby, add significantly to the problem of drug-resistant diseases. The Department has consulted with the Board and is satisfied that the current educational curriculum for optometrists, and the certification requirements developed by the Board, are sufficient to make practicing optometrists aware of this problem. The Board, as the expert in this area, has developed, and both IRRC and the General Assembly have approved, certification requirements designed to ensure that optometrists using drugs specified by the Secretary are qualified to do so. See section 4.1 of the act (63 P.S. § 244.4a) (relating to certification to prescribe and administer pharmaceutical agents for therapeutic purposes). The Board has advised the Department that optometrists who meet its standards are qualified to use the listed drugs in their practice.

Further, the Department notes that the areas of the eye which may be treated by optometrists with drugs from the list are narrowly circumscribed by the General Assembly. This also limits the possibilities for over-prescription of drugs.

The Department agrees that the use of oral antibacterial and antiviral drugs are important in the practice of optometry, which now includes, by definition, the treatment of specified parts of the eye. Education and certification requirements do exist. Optometrists who are qualified to prescribe these drugs must satisfy these requirements to be authorized to prescribe oral antibacterial and antiviral drugs. Therefore, the Department has included these drugs in its final-form regulation.

Proposed subsection (b)(7)(ii). "Prior to prescribing oral antibacterial agents, the optometrist shall obtain verbal or written concurrence from the patient's referring physician or usual primary care physician or from an ophthalmologist if the patient's condition so indicates. The optometrist shall record the concurrence in the patient's medical record and on the prescription form. If the patient has no continuing medical care provider, the optometrist shall refer the patient to a primary care physician or an ophthalmologist before prescribing these agents."

Proposed subsection (b)(7)(iv). "Prior to prescribing oral antiviral agents, the optometrist shall obtain verbal or written concurrence from the patient's referring physician or usual primary care physician or from an ophthalmologist if the patient's condition so indicates. The optometrist shall record the concurrence in the patient's medical record and on the prescription form. If the patient has no continuing medical care provider, the optometrist shall refer the patient to a primary care physician or an ophthalmologist before prescribing these agents."

Verbal or written concurrence.

The Department's proposed requirement that an optometrist obtain written or verbal concurrence from a physi-

cian before prescribing oral antiviral and antibacterial drugs drew more than 120 comments. All but five of these commentators, including ophthalmologists, optometrists, professional organizations and Legislators, opposed the concurrence requirement contained in proposed subsection (b)(7)(ii) and (iv). Many commentators, mostly ophthalmologists and their professional organizations, opposed the proposed concurrence requirement because they viewed it as a "comanagement" requirement. These commentators noted that the act does not specifically include language requiring concurrence before prescription of an oral antiviral or antibacterial medication. They contended that the Legislature did not intend to require such a concurrence, and that the Department's proposed concurrence requirement would be an impermissible departure from the statute. Other commentators stated that the Secretary only has authority under the act to create a list of drugs, not to circumscribe or expand the practice of optometry. Several members of the General Assembly opposed the provision because they were of the opinion that it would place impermissible restrictions on the practice of optometry under the law.

Additionally, several Legislators commented that Legislative history forbade the inclusion of a concurrence requirement. They pointed out that the concept of comanagement had been considered and specifically rejected by the General Assembly in the passage of the act. They suggested that the issue of oversight of optometrists by the medical licensure boards had been a controversial one, and that the statute was crafted to avoid oversight. Many commentators argued that if the regulation imposed a concurrence requirement, the Boards of Medicine and Osteopathic Medicine would be called upon to set standards for physician concurrence, which would, in effect, contravene the Legislature's intention to prevent optometrists from being subject to oversight by those Boards. IRRC also took the view that the proposed amendment would create an impermissible comanagement requirement, which would contravene the Legislative intent.

Commentators also raised concerns that the proposed concurrence requirement would harm patients. Many, including IRRC, were concerned that a physician would be requested to give concurrence to an optometrist's opinion without first seeing the patient. Others commented that for an optometrist to obtain a physician's concurrence, the patient would have to be referred to the physician. They suggested that this would require a patient to make three visits to different health care providers—first to an optometrist, then to an ophthalmologist or other physician for concurrence, and then back to the optometrist for treatment. They complained that the excessive referrals would be burdensome and add to the cost of health care. Because of limitations in managed care plans, one commentator thought the proposed concurrence requirement would be unworkable. Other commentators took the position that the proposed amendment should have required the concurrence to be obtained from an ophthalmologist only.

The Pennsylvania Medical Society (PMS) pointed out that the act requires referral to, not consultation with, a physician when systemic disease is identified, and took the position that the language of the proposed amendment would violate this requirement. The PMS took issue with the proposed concurrence language, because it believed this proposed language would require a physician to authorize up to 6 weeks of treatment without seeing or evaluating a patient. According to The PMS, a patient could be treated for 6 weeks by an optometrist under this

authorization without the physician having the opportunity to reevaluate the patient. The PMS believed this would not be in the best interest of the citizens of this Commonwealth, and would contravene the intent of the Legislature in passing Act 130.

Other concerns with the proposed language raised by commentators included issues of possible abuse by both optometrists and physicians, including the temptation to use prescription forms presigned by physicians, and physicians feeling pressured to concur with optometrists to obtain referrals. Several commentators, including the Pennsylvania Academy of Ophthalmology, expressed concern that the proposed amendment could create liability for the physician giving a concurrence without examining the patient. The Academy felt that if an optometrist were capable of prescribing the drugs in question, the optometrist should be required to assume the legal and medical responsibility for the decision. Several commentators also pointed out that as optometry is an independent profession, an optometrist should not be permitted to prescribe a drug if the optometrist would need supervision to do so.

A second large group of commentators, made up of optometrists and their professional organizations, opposed the proposed concurrence provision because they took the position that the act gives optometrists the authority to prescribe oral antibacterial and antiviral drugs, if the drugs are approved by the Secretary, without the need to obtain permission from a physician. This was also the position expressed by several State senators.

Several commentators in this group, including IRRC, expressed concern about the logistics of obtaining concurrence. IRRC questioned whether both the physician and the optometrist would be required to document the concurrence. Several commentators felt it would be difficult to locate an available physician during times when an optometrist would find it necessary to seek a concurrence. These commentators cited a probable difference in office hours as a cause of difficulty. They expressed concern that delays in locating a physician would lead to delays in the provision of treatment, or cause the optometrist to resort to less effective treatment. One commentator expressed concern that this requirement would add to already burdensome paperwork, and would create problems with managed care entities.

Some commentators were concerned that physicians would refuse to give concurrence. This would put the optometrist in the difficult ethical and legal position of either refusing treatment to a patient, or risking legal problems if treatment were to be given without meeting the proposed requirements.

Also, many commentators in this group expressed their belief that an optometrist's training and education are more than adequate to enable the optometrist to prescribe the drugs without physician concurrence. These commentators pointed to continuing education courses for optometrists and to examinations which currently exist addressing the treatment and management of ocular disease. Several commentators argued that since podiatrists and dentists are permitted to prescribe drugs without obtaining concurrence from a physician, optometrists should be permitted to do so as well. Further, they stated that other states currently allow optometrists to prescribe drugs without prior concurrence.

One commentator argued that requiring an optometrist to obtain concurrence before prescribing these drugs is what actually occurs now, so that if the proposed provision were to be included in the final-form regulation, nothing in the practice of optometry would be changed.

Another commentator expressed concern that patients would be confused as to why a concurrence was needed.

Several commentators stated that requiring prior concurrence from a physician would undermine the statute's purpose in allowing optometrists to prescribe medications. IRRC also questioned how the Department could take the position that it was reasonable to require that an optometrist obtain concurrence prior to prescribing the drugs if in fact the optometrist was prescribing oral medications and treating conditions with oral medications within the scope of the practice of optometry.

A very few commentators, some optometrists and physicians, as well as the Pennsylvania Optometric Association felt that the proposed concurrence requirement was acceptable. Some of these commentators did express concern about how the concurrence would be documented. One commentator doubted that a physician would know the correct treatment for a problem involving the eye, and believed that a concurrence requirement would be ineffective.

Two commentators recommended changing the proposed language relating to oral antibacterial and oral antiviral drugs to require that an optometrist be required to consult with a physician if a patient were to show no improvement within a specified time after treatment with the drugs had begun. One commentator suggested 72 hours as an appropriate time frame, another suggested 2 to 3 days.

One commentator suggested that the conditions for which a patient could be treated by an optometrist should be listed in the final-form regulation.

Additional issues raised relating to the proposed concurrence requirement are as follows:

Concurrence from the patient's referring physician or usual primary care physician or from an ophthalmologist if the patient's condition so indicates.

The Pennsylvania Academy of Ophthalmology commented that use of the phrase, "if the patient's condition so indicates," in the proposed amendment did not clearly state from whom the concurrence would be required. It was not clear to the Academy whether the phrase would apply to the referring physician, the primary care physician or ophthalmologist, or all three. IRRC raised this same issue.

IRRC also questioned what criteria would determine whether the condition "so indicates," and recommended the removal of the language, or its clarification.

Concurrence documented on the prescription form.

Approximately 35 commentators, all optometrists, commented on the inclusion of this requirement in the proposed amendment. All of them opposed the inclusion, contending that additional delay and confusion would occur by requiring such a statement on the prescription form as well as in the patient record. One State representative also stated that the language should not be included in the final-form regulation. Many commentators, including the Pennsylvania Optometric Association, noted their approval of the Department's notice published at 28 Pa.B. 1008 (February 21, 1998). That notice explained that the Department had inadvertently included the language in the proposed amendment, as it had previously communicated its intention to remove that language from an earlier draft of the proposed amendment.

Referral of patients who do not have continuing medical care providers prior to prescription.

Several commentators chose to address this specific proposal in the proposed concurrence provision separately. These commentators opposed the proposed language, arguing that there would be no reason to treat persons without continuing medical care providers any differently than those with providers. They cited delay in treatment and increase in health care costs as the most detrimental results of implementing the language. One commentator noted that there was no language in the statute supporting the proposed provision, and expressed his concern that the proposed language would remove the exercise of optometric judgment from the optometrist, and turn it over to the medical doctor. One commentator noted that many patients seen by optometrists on an emergency basis have no continuing medical provider. They contended that, if the regulation would require such an emergency patient to be referred first to a medical provider, treatment would be delayed, and the patient could be harmed.

Act 130, which amended the act to expand the definition of the "practice of optometry," was the culmination of some 15 years of discussion by persons interested in the Legislative handling of this matter. In attempting to implement the provisions relating to the prescription of drugs in a manner consistent with Act 130, the Department sought to reach a consensus among these groups prior to promulgating the proposed amendment. Unfortunately, no consensus was reached. The Department, nevertheless, felt compelled to issue proposals so that the regulatory oversight process would be engaged, and lead to a resolution of controversial issues. In promulgating the proposed amendment, the Department's intention was not to go beyond what was permitted by the act and required for the health and safety of the patient. Consultation between optometrists and ophthalmologists in the interest of the patient is required by the act in some instances. Otherwise, consultation should occur in the ordinary course of an optometrist's practice, without the Department requiring it, if necessary for the well-being of the patient. The Department now believes that it showed an excess of caution in proposing that certain conditions be met before the drugs would be considered as approved for use.

By enacting Act 130, the Legislature has proclaimed that there is a pressing need for optometrists to be able to prescribe medications enabling them to properly treat a patient who presents with one or more of the conditions of the segments of the eye listed in the act. See paragraph (2) of the definition of "practice of optometry," 63 P. S. § 244.2. The Department is not persuaded by those commentators who call into question the expertise and education of optometrists. The Board, which is the body with expertise in determining what is required of optometrists licensed in this Commonwealth, has set out in its regulation the requirements an optometrist must meet before the optometrist may prescribe drugs in the practice of optometry. See 49 Pa. Code §§ 23.1, 23.82 and 23.201 and 23.202 (relating to therapeutic drugs). The Board has assured the Department that the current educational curriculum required of persons studying to be optometrists and the certification requirements promulgated by the Board are sufficient to ensure safety for those patients treated by optometrists in accordance with the final-form regulation.

Further, the Department notes that the use of the drugs on the Secretary's approved list is limited to

treatment for a very specific area of the eye. The optometrist may only use the drugs on the list to treat for conditions of the anterior segment of the eye, the eyelids, the lacrimal system and the conjunctiva and to remove superficial foreign bodies from the ocular surface and adnexa. See paragraph (2) of the definition of the "practice of optometry," 63 P. S. § 244.2. The act also prohibits an optometrist from continuing to treat a patient for longer than 6 weeks without consultation with a physician. If the patient's condition becomes one which the optometrist cannot continue to treat effectively, the optometrist, as a licensed professional, should be knowledgeable enough to refer the patient to, or to consult with, an individual with expertise in that area. Referral to a physician is required under the act when accepted practice standards so dictate. See section 7(a)(10) and (11) of the act (63 P. S. § 244.7(a)(10) and (11)).

In response to comments which suggested that the Department list the condition of the eye which may be treated, rather than the drugs which may be used to treat the eye, the Department does not have the authority to do so. Only the Legislature can provide that authority. Use of the drugs, however, must be in accordance with accepted standards of optometric practice. See section 7(a)(10) of the act.

The Department also agrees that there could be logistical problems resulting from the proposed concurrence requirement which could cause delay in needed treatment. These logistical problems could also create liability for both physicians and optometrists if physician concurrence were provided without the physician actually seeing the patient. These logistical issues, and the difficulty they could create for patients in obtaining needed treatment, outweigh whatever additional safeguards the proposed concurrence requirement would have added to an already safeguarded system of treatment.

The Department's decision not to include the proposed concurrence requirement of subsection (b)(7)(ii) and (iv) in the final-form regulation is supported by the Board's recently promulgated regulations, the current educational requirements for optometrists and the possibility of logistical problems leading to a delay in treatment and an increase in its cost.

Proposed subsection (b)(8)(i). "An optometrist shall only be permitted to prescribe the following drugs, either alone or in combination with acetaminophen or aspirin, for up to 72-hours per patient visit."

Several Legislators opposed this provision, stating that it impermissibly set limitations on the practice of optometry, which is solely for the Board to regulate. According to the House Health and Human Services Committee, as well as IRRC, optometrists have either the authority to prescribe certain drugs under the act, or they do not—if conditions beyond those set forth in the act are necessary to ensure patient safety, optometrists should not be allowed to use drugs requiring additional conditions. Further, these commentators believed that the language would violate case law principles set out in *Pennsylvania Medical Society v. Commonwealth, State Board of Medicine*, 118 Pa. Cmwlth. 635, 546 A.2d 720 (1988). PMS also opposed the proposed 72-hour prescription limitation.

Three commentators, all optometrists, as well as the Pennsylvania Optometric Association, supported the provision. The Association did recommend an additional limitation on the prescription of analgesic drugs, and suggested that the Department require that a patient be referred to a physician or ophthalmologist if these drugs are needed longer than a set period of time.

After reviewing the list of drugs in question, and the comments received, the Department has determined not to include the proposed 72-hour limitation on prescription in the final-form regulation. The Department is satisfied that the expertise exists among qualified optometrists to prescribe the drugs listed, and to make a determination of when other expertise should be called in. Therefore, the Department has not included the proposed 72-hour limitation on prescription in the final-form regulation.

General comments.

The Department received several other comments on the amendment as a whole. Those comments and the Department's responses follow:

Several commentators, including the Pittsburgh Ophthalmological Society and the Pennsylvania Academy of Ophthalmology, expressed concern that the proposed amendment would allow the expansion of the scope of the practice of optometry beyond the scope of the law. Most of these commentators were concerned about the possibility of expanding the practice of optometry to include the treatment of glaucoma. One commentator read the proposed amendment to allow treatment of glaucoma, and strongly objected to it.

The list of drugs included in the proposed amendment, as well as those set forth in the final-form regulation, are within the scope of the authority provided to the Secretary under the act. With respect to the specific comment suggesting that the proposed amendment would lead to permission for optometrists to treat glaucoma, the proposed, as well as the final amendment, expressly prohibit treatment of glaucoma by optometrists, consistent with the language of the act. See paragraph (3)(v) of the definition of "practice of optometry," 63 P. S. § 244.2.

Further, the act only gives the Secretary the authority to approve drugs which may be used by optometrists; he cannot expand the conditions for which those drugs may be used. Those conditions are set out in statute. See paragraph (3) of the definition of "practice of optometry," 63 P. S. § 244.2. Only the General Assembly may choose to allow optometrists to treat glaucoma, or to expand the scope of the practice of optometry.

IRRC requested that the Department either justify its use of trade names or revise the proposed amendment to include generic names. It was not the Department's intention to prohibit the use of generic drugs, or to require the use of trade name drugs exclusively. The Department, therefore, has added language to subsection (b) (relating to allowable pharmaceutical products) of the final-form regulation to permit the use of a generic drug when it is the A-rated generic therapeutically equivalent to the drug listed.

One commentator stated that the Secretary should create and amend the list through some procedure other than the regulatory process. This commentator found the regulatory process to be too cumbersome and time consuming. The Department has no discretion in determining how the list will be promulgated. Because the requirements contained in the regulation must be legally enforceable, and because the nature of the requirements and the list demand public input, the list may only be promulgated by regulation.

One commentator felt that the Cost Section of the Preamble to the proposed amendment was inappropriate and unnecessary because cost had nothing to do with the practice of optometry. State agencies are required by law to include in the Preamble information concerning the cost of proposed amendments to regulated parties and to

the Commonwealth. See 71 P. S. § 745.5(a)(4). This is done to fully inform the public of the cost of the proposed amendments, and to enable them, as well as the Commonwealth, to make an informed decision about their cost effectiveness. The Department cannot voluntarily choose to eliminate a statutorily required component of the Preamble.

One commentator stated that the Board had incorrectly interpreted the criteria for certification, and inclusion of this requirement in the final-form regulation would be costly and redundant. The determination of what education and certification requirements need to be placed on optometrists to render them qualified to utilize the approved list of drugs is entrusted to the Board by statute. See section 4.1 of the act (63 P. S. § 244.4a). The Department has no authority to set these requirements. The Board has advised the Department that optometrists who meet its regulatory requirements are adequately trained and educated to employ the listed drugs in their practices.

The Lehigh Valley Pharmaceutical Association suggested that optometrists would need to obtain a DEA number to prescribe medications as permitted under the proposed amendment. According to the Association, pharmacies might be reluctant to fill prescriptions without this number. The Association pointed out that a DEA number would be needed for pharmacists to obtain reimbursement. The Department acknowledges that a DEA number is required for the prescription of some of the drugs listed. Optometrists who choose to prescribe these drugs will need to obtain a DEA number before doing so.

The Department also received a comment from the PMS stating that the Department's proposed amendment did not match an earlier draft which the PMS understood the Department would be proposing. The regulations commented on by the PMS were only proposed regulations. The Department has given consideration to every comment received by it in its development of the final-form regulation in Annex A.

C. Cost and Paperwork Estimate

1. Cost

The addition of new drugs to the approved list contained in Chapter 6 will not affect the Commonwealth, local government or the general public financially. It is possible that the expansion of the practice of optometry to include the administration and prescription of certain drugs under certain enumerated conditions may adversely affect the practice of some ophthalmologists, if individuals who would otherwise find it necessary to consult an ophthalmologist could, under the 1996 statutory amendments and this amendment, consult an optometrist and choose to do so. It is not certain that this will be the case, however, and the statute does provide for consultation with a licensed physician after treatment for a 6-week period by an optometrist.

2. Paperwork

No changes to reporting, recordkeeping or other paperwork are required, except to the extent that the number of drugs optometrists are permitted to administer and prescribe under certain conditions have increased, which may require optometrists to increase notations in patient records.

D. Effective Date/Sunset Date

This amendment will be effective immediately upon final adoption. The amendment will be continually monitored and updated as needed. Therefore, no sunset date has been set.

E. *Statutory Authority*

The Department has the authority to amend Chapter 6 under the act. Specifically, the Department's authority is contained in the definitions of "examination and diagnosis" and "practice of optometry" found in section 2 of the act (63 P. S. § 244.2), as amended by section 1 of Act 130. The Department also has general authority to promulgate regulations under section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

F. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 21, 1998, the Department submitted a copy of the proposed amendment to IRRC and the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In compliance with section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), the Department submitted a copy of the final-form regulation to IRRC and the Committees on August 10, 1998. In addition, the Department provided IRRC and the Committees with information pertaining to commentators and 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 preparing this final-form regulation, the Department has considered all comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House Health and Human Services Committee and the Senate Public Health and Welfare Committee on August 31, 1998. IRRC met on September 10, 1998, and approved the final-form regulation in accordance with section 5.1(e) of the Regulatory Review Act.

G. *Contact Person*

Persons having questions concerning the final-form regulation may contact Lori Gerhard, Director of Policy, Department of Health, P. O. Box 90, Harrisburg, PA 17108, (717) 787-4525. Persons with disabilities may submit questions in alternative formats, such as by audiotape, braille or by using TDD: (717) 783-6514. Persons with a disability who wish to obtain a copy of the final-form regulation in an alternative format (that is, large print, audio tape, braille), should contact Lori Gerhard at the telephone numbers or address listed so that the necessary arrangements may be made.

H. *Findings*

The Department finds that:

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

(2) A public comment period was provided as required by law, and all comments were considered prior to the promulgation of this final-form regulation.

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

I. *Order*

The Secretary of Health, acting under authorizing statutes, orders that:

(a) The regulations of the Department, 28 Pa. Code Chapter 6, are amended by amending § 6.1 to read as set forth in Annex A.

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

(c) The Secretary of Health shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.

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

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

DANIEL F. HOFFMANN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4845 (September 26, 1998).)

Fiscal Note: 10-152. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 28. HEALTH AND SAFETY

PART I. GENERAL HEALTH

CHAPTER 6. DRUGS WHICH MAY BE USED BY CERTAIN OPTOMETRISTS

§ 6.1. Approved drugs.

(a) *Administration and prescription of pharmaceutical agents.* Optometrists who are certified to prescribe and administer pharmaceutical agents for therapeutic purposes under section 4.1 of the Optometric Practice and Licensure Act (35 P. S. § 244.4a), may prescribe and administer the drugs listed in subsection (b) in their practice of optometry under the following conditions:

(1) The drugs shall be approved by the Food and Drug Administration (FDA).

(2) Over-the-counter medications (per FDA listing) are fully authorized.

(3) An optometrist may not administer any drug parenterally.

(4) The treatment undertaken by an optometrist under this section:

(i) May not continue beyond 6 weeks from the initiation of treatment unless the prescribing optometrist documents consultation with a licensed physician.

(ii) May not include beta-blockers or steroids.

(iii) May not be prescribed for systemic conditions except as an adjunctive therapy and shall be limited to the anterior eye structures (and adnexa).

(5) An optometrist may not treat glaucoma.

(6) An optometrist may not prescribe or administer a Schedule I or II controlled substance.

(b) *Allowable pharmaceutical products.* Optometrists may prescribe and administer the following pharmaceutical products or the A-rated generic therapeutically equivalent drug:

- (1) Topical anesthetics
 - (i) Proparacaine.
 - (ii) Benoxinate.
 - (iii) Tetracaine.
- (2) Topical ocular lubricants.
- (3) Topical ophthalmic dyes and stains.
 - (i) Fluorescein.
 - (ii) Rose Bengal.
 - (iii) Fluorexen.
- (4) Topical hyperosmotic agents.
- (5) Autonomic drugs—topical only.
 - (i) Cholinergic agonists.
 - (A) Pilocarpine nitrate and pilocarpine hydrochloride—diagnostic use only.
 - (B) Physostigmine.
 - (C) DFP (diisopropylfluorophosphate).
 - (D) Echothiopate.
 - (ii) Cholinergic antagonists.
 - (A) Homatropine hydrobromide.
 - (B) Tropicamide.
 - (C) Atropine sulfate.
 - (D) Cyclopentolate hydrochloride.
 - (E) Scopolamine hydrobromide.
 - (iii) Adrenergic agonists.
 - (A) Hydroxyamphetamine hydrobromide.
 - (B) Phenylephrine hydrochloride.
 - (C) Tetrahydrozoline.
 - (D) Nefazoline.
 - (E) Oxymetazoline.
 - (iv) Adrenergic antagonists—diagnostic use only.
 - (A) Dapiprazole.
 - (B) Thymoxamine.
 - (6) Nonsteroidal antiinflammatory drugs—topical only.
 - (i) Diclofenac.
 - (ii) Ketorolac.
 - (iii) Flurbiprofen.
 - (iv) Suprofin.
 - (7) Antimicrobial agents.
 - (i) Antibacterial—topical use only.
 - (A) Cell wall inhibitors.
 - (I) Bacitracin.
 - (II) Cephalosporins.
 - (III) Penicillins.
 - (IV) Vancomycin.
 - (B) Protein synthesis inhibitors.
 - (I) Aminoglycosides.
 - (II) Tetracycline.
 - (III) Erythromycin.
 - (IV) Chloramphenicol.
 - (C) Intermediary metabolism inhibitors.
 - (I) Sodium sulfacetamide and sulfisoxazole.
 - (II) Trimethoprim.
 - (D) DNA synthesis inhibitors.
 - (I) Ciprofloxacin.
 - (II) Norfloxacin.
 - (III) Ofloxacin.
 - (E) Cell membrane permeability.
 - (I) Polymyxin B.
 - (II) Gramicidin.
 - (ii) Antibacterial—oral.
 - (A) Cell wall inhibitors.
 - (I) Penicillins—including in combination with clavulanic acid.
 - (II) Cephalosporins.
 - (1) First generation—cephalexin and cefadroxil.
 - (2) Second generation—cefaclor and cefuroxime.
 - (B) Protein synthesis inhibitors.
 - (I) Tetracycline.
 - (II) Doxycycline.
 - (III) Erythromycin.
 - (IV) Azithromycin.
 - (iii) Antivirals—topical only.
 - (A) Idoxurine.
 - (B) Vidarabine.
 - (C) Trifluridine.
 - (iv) Antivirals—oral.
 - (A) Acyclovir.
 - (B) Valacyclovir.
 - (C) Famciclovir.
 - (v) Antifungal and antiparasitic—topical only.
 - (A) Amphotericin B, nystatin, natamycin.
 - (B) Miconazole, ketoconazole, clotrimazole.
 - (C) Thiabendazole.
 - (D) Neomycin and polymyxin B.
 - (E) Paromycin.
 - (8) Analgesic drugs—oral and topical.
 - (i) Analgesic drugs—oral.
 - (A) Codeine in combination with acetaminophen or aspirin.
 - (B) Hydrocodone.
 - (C) Pentazocine.
 - (D) Propoxyphene.
 - (ii) Antihistamines and mast cell stabilizers—topical only.
 - (A) Pheniramine.
 - (B) Pyrilamine.
 - (C) Antazoline.

- (D) Levocarbastine.
- (E) Cromolyn.
- (F) Nedocromil.
- (G) Lodoxamide.
- (H) Olopatadine.

[Pa.B. Doc. No. 98-1647. Filed for public inspection October 9, 1998, 9:00 a.m.]

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA CODE CH. 11]

Wine in Kegs; Sale by Limited Winery Licensees

The Liquor Control Board (Board) under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), adopts amendments to §§ 11.104 and 11.111 (relating to wine in kegs; and sale by limited winery licensees).

The Board regulations amended by this order will permit the sale of sparkling grape wines, as defined in 27 CFR 4.21(b)(1)—(3) (relating to standards of identity), in glass containers larger than 5 liters by the Board's liquor stores and by Pennsylvania limited wineries for sale within this Commonwealth.

Comments

Notice of proposed rulemaking was published at 28 Pa.B. 2591 (June 6, 1998), with a 30 day written public comment period.

The Board received no comments either in support of or in opposition to the proposed amendments during the public comment period.

Fiscal Impact

These final-form regulations will not impose additional costs on the regulated community, the State or local governments.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 11, 1998, the Board submitted a copy of the notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Liquor Control and the Senate Committee on Law and Justice for review and comment. These final-form regulations were submitted to the Chairpersons of the Senate Committee on Law and Justice and the House Committee on Liquor Control and the IRRC on August 20, 1998.

Under 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on September 9, 1998, and were deemed approved by IRRC on September 10, 1998, in accordance with section 5.1(e) of the Regulatory Review Act.

Contact Person

Persons requiring an explanation of the final-form regulations, or information related thereto should contact Jerry Danyluk, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Findings

The Board finds that:

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

(2) The adoption of the final-form regulations set forth in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Board, acting under the enabling statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 11, are amended by amending §§ 11.104 and 11.111 to read as set forth at 28 Pa.B. 2591.

(b) The Board shall submit this order and 28 Pa.B. 2591 to the Office of the Attorney General for approval as to form and legality as required by law.

(c) The Board shall certify this order and 28 Pa.B. 2591 and deposit them with the Legislative Reference Bureau as required by law.

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

JOHN E. JONES III,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 4845 (September 26, 1998).)

Fiscal Note: Fiscal Note 54-54 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 98-1648. Filed for public inspection October 9, 1998, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Fishing

The Fish and Boat Commission (Commission) by this order amends §§ 61.1 and 61.2 (relating to Commonwealth inland waters; and Delaware River and River Estuary). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments relate to fishing.

A. Effective Date

These amendments will go into effect on January 1, 1999.

B. Contact Person

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

C. Statutory Authority

These amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The amendments are designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the various amendments is described in more detail under the summary of changes.

E. Summary of Changes

Sections 61.1 and 61.2. Management of American shad, hickory shad, gizzard shad and river herring (alewife and blueback herring) stocks are a real challenge to today's fisheries managers. Restoration efforts to one extent or the other for one or more of these species are occurring in the Susquehanna River basin and the Delaware River drainage, specifically the Lehigh River and to a lesser extent the Schuylkill River.

Recently, the Commission amended its prohibition of harvest of American shad in the Susquehanna River to include hickory shad and river herring (alewife and blueback herring) and increased the coverage to include all tributaries. Hickory shad are listed as a Candidate Species in § 75.3 (relating to candidate species) and, as such, could achieve endangered or threatened status in the future. The Commission is concerned that existing regulations, particularly as applied to the Delaware River, Estuary and tributaries, are not in harmony with the Candidate Species listing or the intent of restoration efforts.

Also, river specific and Statewide regulations are not clear as to the harvest of gizzard shad, particularly those longer than 8 inches (those 8 inches or less are considered baitfish) taken by means of hook and line either for personal consumption or use as bait for larger gamefish, such as muskellunge or striped bass. Gizzard shad occur in various waters across this Commonwealth with many "landlocked" populations maintained through natural reproduction, while others are of a migratory nature congregating in large concentrations downstream of dams. Harvest of this species should pose no threat to the stock but needs to be regulated from the standpoint of natural resource conservation ethics. Therefore, the Commission has amended § 61.1 by adding "no open season" for hickory shad, by adding gizzard shad with an open year-round season with a 50 fish possession limit, and by adding a 50 fish daily possession limit for herring. The Commission also has amended § 61.2 by adding hickory shad with a "no open season."

F. Paperwork

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

G. Fiscal Impact

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

H. Public Involvement

A notice of proposed rulemaking containing the proposed amendments were published at 28 Pa.B. 1840 (April 18, 1998). The Commission received one comment from the Water Quality Subcommittee of the Pennsylvania Electric Association that opposes the proposal. A copy of this public comment was provided to all Commissioners.

Findings

The Commission finds that:

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

(2) A public comment period was provided and that all comments received were considered.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 61, are amended by amending §§ 61.1 and 61.2 to read as set forth at 28 Pa.B. 1840.

(b) The Executive Director will submit this order and 28 Pa.B. 1840 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 28 Pa.B. 1840 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-80 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 98-1649. Filed for public inspection October 9, 1998, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 103]

Personal Income Tax; Net Gains or Income from Disposition of Property

The Department of Revenue (Department), under the authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7354) and section 20 of the act of April 23, 1998 (P. L. 239, No. 45) (Act 45), by this notice of proposed rulemaking omitted, adopts amendments to § 103.13 (relating to net gains or income from disposition of property) to read as set forth in Annex A.

Purpose of Amendment

The amendment of § 103.13 is the result of statutory changes set forth in Act 45. Act 45 repeals the current rules for determining whether gain from the sale or other disposition of a principal residence is subject to the personal income tax. The statutory change is effective for taxable years beginning after December 31, 1997.

Explanation of Regulatory Requirements

The heading of subsection (g) of § 103.13 has been amended to address the exclusion of gain from sale of a principal residence before January 1, 1998. Prior to Janu-

ary 1, 1998, and subject to the limitations of § 103.13(g)(2), and except as provided in § 103.13(g)(1)(iii), (3) or (5), a taxpayer could elect to exclude the taxpayer's portion of the aggregate gain realized on the sale of a residence only under the following conditions:

- The taxpayer is at least 55 years of age on the date of sale.
- The taxpayer used the residence as his principal residence for periods aggregating 3 years or more, during the 5-year period ending on the date of sale.
- The taxpayer owned the residence for periods aggregating 3 years or more, during the 5-year period ending on the date of sale.
- The date of sale of the residence is after June 30, 1987.
- The taxpayer has not previously made an election under § 103.13(g)(1)(i) for Pennsylvania tax purposes or has revoked previous elections.

A new subsection (h) has been added to § 103.13 to address the exclusion of all gain from disposition of a principal residence after December 31, 1997. Paragraph (1) provides that an individual may exclude from tax gain realized on the sale or other disposition of a principal residence if the conditions in subparagraphs (i)—(iv) are met.

Section 103.13(h)(2) provides that for purposes of paragraph (1)(iv), it shall be immaterial that a prior disposition was delayed due to market exigencies or other reason. Section 103.13(h)(3)(i) explains how situations where a taxpayer holds title to a residence with a spouse or other person as joint tenants, tenants in common or tenants by the entireties are handled; subparagraph (ii) explains how Act 45 applies when a joint return of income is made with respect to the sale of a married couple's jointly owned residence. Subparagraphs (iii)—(v) under subsection (h)(3) explain how Act 45 applies regarding unmarried widow or widower, tenant-stockholders in cooperative housing corporations and when an estate is the taxpayer.

Section 103.13(h)(3) explains in subparagraph (vi) what is a principal residence and the use and ownership requirements. For purposes of the new § 103.13(h), subparagraph (vii) under paragraph (3) defines the word "disposition" and explains what is meant by the phrase "date of disposition." Subparagraph (viii) explains the rules that apply when the property consists of farms, duplexes and other mixed use property. Subparagraph (ix) addresses the rules pertaining to depreciable property and subparagraph (x) explains how split interests are addressed.

The existing subsections (h), (i) and (j) under § 103.13 are relettered as (i), (j) and (k) accordingly. No other revisions are being made to these subsections.

Fiscal Impact

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

Paperwork

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

Effectiveness/Sunset Date

The amendment will become effective upon final publication in the *Pennsylvania Bulletin*. The amendment is

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 amendment is Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Statutory Authority

The amendment is promulgated under section 354 of the TRC and section 20 of Act 45.

Regulatory Review

In accordance with section 20 of Act 45, the Department was directed to promulgate regulations which are final-form regulation, under the Regulatory Review Act, and omit notice of proposed rulemaking under section 201 of the act of July 31, 1968 (P. L. 769, No. 240), referred to as the Commonwealth Documents Law. Section 20 of Act 45-1998 also requires the regulation to be submitted to the Legislative Reference Bureau by November 24, 1998, for publication in the *Pennsylvania Bulletin*.

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on August 25, 1998, the Department submitted a copy of the final-form regulation 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 final-form regulation 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 5.1(d) of the Regulatory Review Act, the final-form regulation was deemed approved by the House and Senate Committees on September 14, 1998. IRRC met on September 24, 1998, and approved the final-form regulation.

Findings

The Department finds that the amendment is necessary and appropriate for the administration and enforcement of the authorizing statute. In accordance with section 20 of Act 45, the Department was directed to promulgate regulations which are final-form regulations, under the Regulatory Review Act, and omit notice of proposed rulemaking under section 201 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201).

Order

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

(a) The regulations of the Department, 61 Pa. Code Chapter 103, are amended by amending § 103.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

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

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

ROBERT A. JUDGE, Sr.
Secretary

Fiscal Note: 15-405. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 103. IMPOSITION AND DETERMINATION OF TAX

§ 103.13. Net gains or income from disposition of property.

* * * * *

(g) *Exclusion of gain from sale of principal residence before January 1, 1998.*

(1) *Eligible individuals.* In determining whether an individual is eligible to claim the exclusion of gain from the sale of a principal residence, the individual shall comply with the following:

(i) Subject to the limitations of paragraph (2), and except as provided in subparagraph (iii), paragraph (3) or paragraph (5), a taxpayer may elect to exclude the taxpayer's portion of the aggregate gain realized on the sale of a residence only under the following conditions:

(A) The taxpayer is at least 55 years of age on the date of sale.

(B) The taxpayer used the residence as his principal residence for periods aggregating 3 years or more, during the 5-year period ending on the date of sale.

(C) The taxpayer owned the residence for periods aggregating 3 years or more, during the 5-year period ending on the date of sale.

(D) The date of sale of the residence is after June 30, 1987, and before January 1, 1998.

(E) The taxpayer has not previously made an election under this subparagraph for Pennsylvania tax purposes or has revoked previous elections.

* * * * *

(h) *Exclusion of all gain from disposition of principal residence after December 31, 1997.*

(1) *Eligible individuals.* An individual may exclude from tax gain realized on the sale or other disposition of the taxpayer's principal residence of the following conditions are met:

(i) The date of disposition of the residence is after December 31, 1997.

(ii) The taxpayer used the residence as his principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of its disposition.

(iii) The taxpayer owned the residence for periods aggregating 2 years or more during the 5-year period ending on the date of its disposition.

(iv) One of the following applies:

(A) During the 2-year period ending on the date of disposition of the taxpayer's principal residence, there was no prior disposition by the taxpayer of a principal residence.

(B) The disposition of the taxpayer's principal residence is by reason of an unforeseen change in employment or health or severe financial hardship to the taxpayer

resulting from a sudden and unexpected accident, loss of property due to casualty or other similar extraordinary and unforeseeable circumstance arising as a result of events beyond the control of the taxpayer.

(2) *Market exigencies.* For purposes of paragraph (1)(iv), it shall be immaterial that a prior disposition was delayed due to market exigencies or other reason.

(3) *Ownership and use conditons.* For purposes of paragraph (1):

(i) *Exception.* Except as provided in subparagraph (ii), when a taxpayer holds title to a residence with a spouse or other person as joint tenants, tenants in common or tenants by the entireties, the ownership and use conditions in paragraph (1) apply separately to each coowner and only the coowner who meets the conditions of paragraph (1) may claim the exclusion.

(ii) *Joint return.* When a joint return of income is made with respect to the disposition of a married couple's jointly owned residence, it is not necessary that both spouses satisfy the ownership and use conditions of paragraph (1). If one spouse satisfies the conditions, both spouses shall be considered to satisfy the conditions. If separate returns of income are made, the general rule that the ownership and use conditions apply separately to each spouse is applicable and only the spouse who meets ownership and use conditions may make an election.

(iii) *Unmarried widow or widower.* If a decedent, during the 5-year period ending on the date of disposition, satisfied both ownership and use conditions with respect to the property sold, the surviving spouse is also treated as satisfying the ownership and use conditions if not remarried.

(iv) *Tenant-stockholders in cooperative housing corporations.* An individual who holds stock as a tenant-stockholder in a cooperative housing corporation may qualify for exclusion with respect to the disposition of the stock. To determine whether a taxpayer meets requirements, the usual ownership conditions are applied to the holding of the stock and the usual use conditions are applied to the house or apartment which the taxpayer is entitled to occupy because of the taxpayer's stock ownership.

(v) *Estate as taxpayer.* A disposition made by an estate will not qualify for the exclusion, unless the disposition is under an executory contract made prior to death by an individual meeting the ownership and use conditions.

(vi) *Principal residence; use and ownership conditions.*

(A) A residence is a house, lodging or place of habitation, including a trailer or condominium, which:

(I) Has independent or self-contained cooking, sleeping and sanitation facilities.

(II) Is physically occupied and used for residential purposes by the taxpayer.

(B) The ownership and use conditions need not be met simultaneously. Both tests shall be met during the 5-year period preceding the date of the disposition. For example, a lessee could rent a residence for 1 year, then purchase the residence and again live in it for only 1 of the 4 following years and could still qualify for the election.

(C) The residence which the taxpayer physically occupies the most within a time period shall be his principal residence for the period. When a taxpayer alternates between homes, the home that he personally occupies the most shall be considered his principal residence. The test of physical occupancy is not satisfied by merely moving

furniture or other personal belongings into a residence without actually living there or by the taxpayer's family's physical occupancy.

(D) In determining whether a residence has been occupied and used for residential purposes, a taxpayer need not consider temporary absences from the principal residence if the residence was not rented during the taxpayer's absence. A temporary absence is an absence of less than 90 consecutive days or an absence of any length when the taxpayer is convalescing in a hospital, nursing home or a personal care facility.

(vii) *Disposition and date of disposition.*

(A) For purposes of this subsection, the word "disposition" means a sale, exchange, taking by eminent domain, destruction or other conversion of property into cash or other property giving rise to taxable gain. The date of disposition by sale of a principal residence is the date on which the deed is accepted by the buyer and title passes—ordinarily, the date of settlement—or, if delivery of the deed is postponed, the date on which possession and the burdens and benefits of beneficial ownership pass from the seller to the buyer under the contract of sale.

(B) The date a taxpayer received condemnation proceeds giving rise to taxable gain will be considered the date of disposition in the case of a condemnation. In the case of the destruction of a residence, the date the taxpayer receives casualty insurance proceeds or damages giving rise to taxable gain will be considered the date of disposition.

(viii) *Farms, duplexes and other mixed use property.* If the property sold includes business or rental property or the land surrounding the residence is in excess of that which is reasonably necessary for the use of the dwelling as a home, special rules apply:

(A) Where the land surrounding the residence is in excess of that which is reasonably necessary for the use of the dwelling as a home, only the portion of the gain on the disposition of the property allocable to the portion used as a residence is subject to the exclusion. Real estate used for commercial farming or for another commercial purpose is not reasonably necessary for the use of the dwelling as a home.

(B) If a residence includes business or rental premises, only that portion of gain on the disposition of the property allocable to the portion used as a residence is subject to the exclusion. Examples include a sole proprietor's residence above the sole proprietor's store, an office in home and a duplex where one unit is rented.

(ix) *Depreciable property.* If, at any time during the taxpayer's holding period, any portion of the principal residence sold was ever subject to the allowance for depreciation, only that part of gain on the disposition of the principal residence that is allocable to the portion of the principal residence which has never been subject to the allowance is subject to the exclusion.

(x) *Split interests.* A taxpayer's disposition of an immediate possessory interest, remainder interest or other interest in his principal residence shall qualify for exclusion, if the taxpayer would have qualified had he disposed of the entire interest in the property.

(i) *Accounting methods.*

(1) *Immediately recognized gain.* If gain on disposition of property does not qualify for installment or cost recovery treatment or if the transaction does qualify but

the seller chooses not to use the installment method of accounting, the excess of the face amount of the evidence of indebtedness given the exchange for the property sold or otherwise disposed of together with the value of other consideration received by the seller over the seller's adjusted basis shall be recognized as gain in the year of the sale or disposition.

(2) *Installment sales method.* When a seller who is a cash basis taxpayer enters into an agreement for the sale of tangible personal property or real property under which agreement at least one payment is to be received in a taxable year following the year of sale, the seller may irrevocably elect to allocate the gain upon the transaction in equal proportion to each payment to be received under the following conditions:

- (i) The sale was made on or after January 1, 1984.
- (ii) The object of the transaction is not the lending of money or the rendition of services.
- (iii) The taxpayer has not elected to exclude gains under subsection (g).

(3) *Cost recovery method.* When a seller who is a cash basis taxpayer enters into an agreement for the sale of intangible personal property under which agreement at least one payment is to be received in a taxable year following the year of sale, the seller shall use the cost recovery method of accounting if the note, contractual promise or other evidence of that obligation is not assignable.

(4) *Repossessed property.* When property is sold pursuant to a deferred payment contract, and the seller repossesses the property upon default of the buyer in a subsequent tax year, the seller shall account for the gain or loss by adjusting his basis in the property repossessed by the amount of gain previously reported on that sale.

(j) *Determination of net gain or income.* For purpose of determining net gains or income from the disposition of property, gain or loss shall be recognized on the sale, exchange or other disposition of obligations issued by the Commonwealth, a public authority, commission, board or other agency created by the Commonwealth, a political subdivision of this Commonwealth or a public authority created by the political subdivision or exempt from State taxation under the laws of the United States only with respect to obligations issued on or after February 1, 1994. Regardless of the obligation's date of issuance, gain or loss shall be recognized on the sale, exchange or other disposition of obligations issued by this Commonwealth, a public authority, commission, board or other agency created by the Commonwealth, a political subdivision of the Commonwealth or a public authority created by the political subdivision or exempt from State taxation under the laws of the United States for one or more of the following purposes:

- (1) Computing earnings and profits.
- (2) Adjusting basis.
- (3) Determining an individual's poverty income.

(k) *Adjustments to basis.*

(1) For taxable years beginning on or after January 1, 1993, the basis of a debt instrument in the hands of the holder shall be adjusted upward by the amount of unstated or imputed interest includible in the income of the holder and shall be adjusted downward, but not below zero, by the amount of any payment under the debt instrument other than a payment of stated interest.

(2) The basis of an obligation issued by the Commonwealth, a public authority, commission, board or other agency created by the Commonwealth, a political subdivision of this Commonwealth or a public authority created by the political subdivision or an obligation exempt from tax under the laws of the United States in the hands of the holder shall be adjusted upward by the amount of unstated or imputed interest that would have been

includible in income but for its statutory exemption and shall be adjusted downward, but not below zero, by the amount of any payment under the debt instrument other than a payment of stated interest.

[Pa.B. Doc. No. 98-1650. Filed for public inspection October 9, 1998, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

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

Weights, Measures and Standards

The Department of Agriculture (Department) proposes to establish regulations required or authorized under 3 Pa.C.S. §§ 4101—4194 (relating to Consolidated Weights and Measures Act) (act).

This proposed regulatory objective will be accomplished by deleting Chapters 1, 3, 35 and 39; by amending Chapter 21 (relating to general provisions); and by adding Chapters 2 and 4—10 to read as set forth in Annex A.

Authority

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

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

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

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

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

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

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

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

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

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

Need for the Proposed Amendments

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

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

There is also a consumer protection aspect to the proposed amendments. Implementation of the proposed amendments should ultimately make the weighing or measuring devices in commercial use in this Commonwealth more reliable, and help ensure that a consumer gets the full measure of any product the consumer purchases by weight, measure or count, or which is passed through a Universal Product Code (UPC) scanning system or Price Look Up (PLU) device.

The business community needs the proposed amendments in that they should ultimately help lessen underpricing or underweighing of products and the monetary losses associated with the underpricing or underweighing.

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

Summary of the Proposed Amendments

The proposed amendments are formatted to address various topics in approximately the same order in which these topics are addressed in the act.

Proposed § 2.1 (relating to definitions) contains definitions from the act, prior regulations and other sources.

Proposed Chapter 4 (relating to certified examiners of weights and measures) would establish a procedure by which a qualified person could apply to be designated a Certified Examiner of Weights and Measures (CEWM) by the Department. A CEWM could then inspect particular types of weighing or measuring devices (listed in section 4112(b) of the act), and the Department would accept the inspection report of a CEWM in lieu of conducting the inspection itself. A CEWM could charge a fee for inspection services. Proposed §§ 4.5 and 4.6 (relating to certification standards and training courses) would require a person successfully complete applicable training prescribed by the National Institute of Standards and Technology (NIST) as a prerequisite to becoming a CEWM.

Proposed Chapter 5 (relating to UPC scanning systems and PLU devices) deals with the general subject of UPC scanning systems and PLU devices. These systems and devices comprise the bar code scanner technology that consumers typically encounter in their shopping. In sum-

mary, the technology allows a store to maintain a computerized database of each item in its inventory—and its corresponding price. When a consumer purchases an item from that inventory, a code number is scanned or manually entered into the system and the resulting sales receipt reflects the item and its corresponding price.

The Department had not, historically, considered UPC scanning systems and PLU devices weighing or measuring devices. The act includes these systems and devices under the definition of “weights and measures,” though, and makes it the responsibility of the Department to inspect these types of systems and devices in commercial use in this Commonwealth by June 30, 1999, and thereafter within intervals of no more than 12 months.

As an alternative to an annual inspection by the Department (or a county sealer or city sealer acting in accordance with a memorandum of understanding with the Department), the act allows for a qualified private certification program to conduct an unannounced inspection. A private certification program could charge a fee for its services. Only a qualified person who had been designated a certified UPC/PLU inspector by the Department could conduct an inspection of a UPC scanning system or PLU device. Proposed § 5.5 (relating to authority of certified UPC/PLU inspector) sets forth the various circumstances under which this inspection authority could be exercised.

Proposed Chapter 5 (relating to registration of sellers, installers and repairers of weighing and measuring devices) would supplant the current Chapter 39 (relating to interim guidelines for the certification of inspectors of commercially used universal product code scanning systems and price look up devices), which are authorized under section 4112(d) of the act and which were published at 28 Pa.B. 2416 (May 23, 1998).

Proposed Chapter 6 (relating to registration of sellers, installers and repairers of weighing and measuring devices) would establish a formal procedure under which sellers, installers and repairers of weighing and measuring devices would register with the Department.

Proposed § 6.3 (relating to field standards) would require adequate, accurate standards be used in placing a commercial weighing or measuring device into service.

The general subject matter of proposed Chapter 7 (relating to registration and report of inspection of commercial weighing and measuring devices) is required by section 4114 of the act. In summary, owners of commercially-used weighing or measuring devices would have to register their devices with the Department. A person who inspected a device would be required to file an inspection report form with the Department.

Proposed Chapter 8 (relating to training program for inspectors and sealers) pertains to the minimum training requirements for State inspectors, county sealers and city sealers.

Proposed § 8.2 (relating to general adoption of NIST training program) would require any State inspector, county sealer or city sealer to complete the NIST training for inspectors and sealers of weights and measures. In addition, proposed § 8.3 (relating to training with respect to individual types of weighing and measuring devices) would, as its title suggests, prescribe the minimum training required with respect to inspectors of various types of weighing or measuring devices.

Proposed Chapter 9 (relating to weighmasters) deals with weighmasters, and sets forth a number of provisions

relating to solid fuel. In summary, this chapter combines requirements imposed under sections 4150—4168 of the act with the relevant provisions of the former regulations on this subject. These former regulations appeared in Chapters 1 and 3, and would be supplanted by the proposed amendments.

Proposed Chapter 10 (relating to device type approval) contains provisions to establish a procedure under which the Department would approve various types of weighing or measuring devices for commercial use. Proposed § 10.3 (relating to general standard for approval by the Department) would establish the general requirement that a weighing or measuring device give correct results, be reasonably permanent and be constructed so as not to facilitate the perpetration of fraud. The National Conference of Weights and Measures or NIST, or both, issues a “certificate of conformance” with respect to various types of weighing or measuring devices. Proposed § 10.5 (relating to meeting the general standard for approval) would allow approval of a device type with respect to which a certificate has been issued.

In summary, the proposed amendments would effect a comprehensive revision of current regulations relating to weights and measures, and would implement numerous changes under the act. The proposed amendments would allow the Department to more effectively carry-out the extensive duties assigned it under the act.

Persons Likely to be Affected

The proposed amendments will affect a large number of persons and businesses.

Any business that makes commercial use of a weighing or measuring device in this Commonwealth would be affected by these amendments. The affected businesses include those dealing in the commercial sale of liquid or solid fuel, retail or wholesale stores using UPC scanning systems or PLU devices and businesses that sell any product by weight, measure or count.

The proposed amendments will also affect any person who seeks the Department’s certification as either a CEWM or a certified UPC/PLU inspector. Once certified, a person could offer his services for a fee.

The proposed amendments will affect consumers throughout this Commonwealth. The proposed amendments are expected to help bring about greater accuracy in commercial weights and measures, and to ensure consumers get full value for their money when purchasing items by weight, volume, count or measure, or when their purchases are totaled using a UPC scanning system or PLU device. In summary, the proposed amendments should result in greater accuracy and fewer errors with respect to merchandise pricing.

Fiscal Impact

Commonwealth

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

private certification programs perform inspections the Department would otherwise be required to perform under the act.

Political Subdivisions

The proposed amendments will not impose appreciable costs upon political subdivisions. Although a county or city that agrees to perform required inspections under a memorandum of understanding with the Department must ensure that its county sealers or city sealers are adequately trained and certified to inspect the types of weights and measures they intend to inspect, this training is not expected to be costly. The Department will offer training for free or at cost to the extent practicable.

Private Sector

The proposed amendments might result in some cost to those persons who seek to become a CEWM or a certified UPC/PLU inspectors but have not taken the training the proposed amendments would require.

The proposed amendments will cost a business that elects to hire a CEWM to perform an inspection whatever fee that inspector charges. Similarly, a business that has a certified UPC/PLU inspector working as part of a private certification program conduct an inspection of its UPC scanning systems or PLU devices might be assessed a fee for this service. Since the number of businesses that will use these inspection alternatives is unclear, and inspection fee amounts are at the discretion of the inspector, the Department cannot offer a realistic estimate of the total costs involved.

Although the Department intends to offer some initial training for free or at cost, its ultimate intention is to allow industry groups or for-profit training providers to undertake a greater role in providing training.

General Public

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

Paperwork Requirements

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

Regulatory Review

The Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs on September 29, 1998, in accordance with section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)). The Department also provided IRRC and the Committees 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.

If IRRC has an objection to any portion of the proposed amendments, it must so notify the Department within 10 days of the close of the Committees' review period.

The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to final publication of the proposed amendments.

Public Comment Period

The public comment period with respect to the proposed amendments shall be 30 days from the date of publication of these proposed amendments in the *Pennsylvania Bulletin*.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Ride and Measurement Standards, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Charles Bruckner, Director, (717) 787-9089.

Annotated Copy

The Department will provide an unofficial annotated copy of Annex A upon request. This annotated copy contains numerous footnotes and may provide useful background information to potential commentators.

Sunset/Expiration Date

Although the proposed amendments will have no sunset date, their efficacy would be reviewed on an ongoing basis.

Effective Date

The proposed amendments will take effect on the date of final adoption.

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 2-11. (1) General Fund; (2) Implementing Year 1998-99 is \$100,000; (3) 1st Succeeding Year 1999-00 is \$103,000; 2nd Succeeding Year 2000-01 is \$106,000; 3rd Succeeding Year 2001-02 is \$109,000; 4th Succeeding Year 2002-03 is \$113,000; 5th Succeeding Year 2003-04 is \$116,000; (4) Fiscal Year 1997-98 \$1,622,000; Fiscal Year 1996-97 \$1,337,000; Fiscal Year 1995-96 \$1,439,000; (7) General Government Operations; (8) recommends adoption.

Annex A

TITLE 70. WEIGHTS, MEASURES AND STANDARDS

PART I. [WEIGHMASTERS] GENERAL

(Editor's Note: As part of this proposed rulemaking, the Department proposes to delete the text of Chapters 1 and 3 which currently appear at 70 Pa. Code pages 1-1—1-8, serial pages (244723)—(244730) and 3-1—3-4, serial pages (244731)—(244734).)

CHAPTER 1. (Reserved)

§ 1.1. (Reserved).

§§ 1.11—1.14. (Reserved).

§ 1.21. (Reserved).

§§ 1.31—1.33. (Reserved).

§ 1.41. (Reserved).

(Editor's Note: Chapters 2—10 are proposed to be added. The text has been printed in regular type to enhance readability.)

CHAPTER 2. GENERAL PROVISIONS

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

§ 2.1. Definitions.

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

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

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

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

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

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

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

Commodity in package form—A commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale exclusive of auxiliary shipping container enclosing packages that individually conform to the requirements of the act. An individual item or lot of any commodity not in package form but on which there is a marked selling price based on an established price per unit of weight or measure shall be construed to be a commodity in package form.

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

Commercial feed facility—Each separate mill or plant, whether fixed or mobile, or distributor of commercial feed or customer-formula feed, as those terms are defined in sections 5101—5115 of the act (relating to commercial feed act).

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

Department—The Department of Agriculture of the Commonwealth.

Director—The Director of the Bureau.

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

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

Food Act—31 P. S. §§ 20.1—20.18.

Food establishment—A retail food store and a room, building or place or portion thereof or vehicle maintained, used or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, baking, canning, freezing, packing or otherwise preparing or transporting or handling food. The term includes those portions of public eating and drinking licensees which offer food for sale for off-premises consumption, except those portions of establishments operating exclusively under milk or milk products permits.

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

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

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

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

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

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

NCWM—The National Conference on Weights and Measures.

NIST—The National Institute of Standards and Technology.

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

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

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

PLU device—Price look-up device—A device that can access a database price file. The term includes bar code beam or contact scanners, Optical Character Recognition (OCR) scanners or readers, magnetic scanners or readers, alpha or numeric keyboards, or both, voice response systems and computer-based retail price retrieval systems.

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

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

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

Public eating and drinking place—A place within this Commonwealth where food or drink is served to or provided for the public, with or without charge, or a place which otherwise conforms to the definition in section 1 of the Public Eating and Drinking Place Law (35 P. S. § 655.1). The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

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

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

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

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

Secretary—The Secretary of the Department.

Sell or sale—Barter and exchange.

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

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

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

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

UPC scanning system—A UPC scanning system.

UPC/PLU inspector's certificate—A document issued by the Department to a particular person to evidence that the named individual has successfully completed the training necessary for the person to be qualified to inspect UPC scanning systems and PLU devices for purposes of section 4112(c) of the act.

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

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

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

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

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

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

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

§ 2.2. Contacting the Department.

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

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

CHAPTER 3. (Reserved)

§ 3.1. (Reserved).

§ 3.2. (Reserved).

§§ 3.11—3.14. (Reserved).

CHAPTER 4. CERTIFIED EXAMINERS OF WEIGHTS AND MEASURES

| | |
|-------|--|
| Sec. | |
| 4.1. | Purpose. |
| 4.2. | CEWM. |
| 4.3. | Authority of a CEWM. |
| 4.4. | Categories and types of weighing or measuring devices. |
| 4.5. | Certification standards. |
| 4.6. | Training courses. |
| 4.7. | Audit by Department. |
| 4.8. | Applying for certification. |
| 4.9. | CEWM certificate. |
| 4.10. | Expiration of CEWM certificate. |
| 4.11. | Obtaining a new CEWM certificate. |
| 4.12. | Testing and inspection performance standards. |
| 4.13. | Reporting procedures for CEWM. |
| 4.14. | Inspection and testing by the Department. |
| 4.15. | Suspension or revocation of certification. |
| 4.16. | CEWM list. |
| 4.17. | Civil penalties. |

§ 4.1. Purpose.

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

§ 4.2. CEWM.

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

§ 4.3. Authority of a CEWM.

(a) *General.* A CEWM may perform the annual testing and inspection of any weighing or measuring device which the Department is required to perform under section 4112(b) of the act (relating to general testing and inspections), and with respect to which the CEWM is certified. These weighing and measuring devices consist of commercially used small capacity retail computing scales, retail package shipping scales, vehicle scales, small platform scales which weigh items to 1,000 pounds, truck-mounted fuel oil meters, truck-mounted liquid petroleum gas meters, compressed natural gas meters and retail motor fuel dispensers. The Department may accept the report of a CEWM as sufficient to meet these statutory testing and inspection requirements.

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

§ 4.4. Categories and types of weighing or measuring devices.

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

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

§ 4.5. Certification standards.

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

- (1) Successfully complete a training course prescribed by NIST and approved by the Department in accordance with § 4.6 (relating to training courses), for the category or type of weighing or measuring device with respect to which the certificate is sought.
- (2) Comply with the application and other requirements of this chapter.

§ 4.6. Training courses.

(a) *General approval of NIST training courses.* A training course now or hereafter prescribed by NIST and approved by the Department for a particular category or type of measuring or weighing device is hereby designated an appropriate training course for the subject category or type of weighing or measuring device. The Department will grant its approval of a training course prescribed by NIST by either including it on the list set in subsection (b) or by adding it to the list by publication in accordance with subsection (c).

(b) *List of current approved NIST training courses.* The current NIST training courses and the category or type of

weighing or measuring device with respect to which each is approved are as follows:

| <i>Course Number/Title</i> | <i>Category/Type</i> |
|--|---|
| 202/Retail Computing Scales | Small capacity retail computing scales |
| None | Retail package shipping scales |
| 206/Vehicle and Axle-Load Scales | Vehicle scales |
| 203/Medium-Capacity Scales | Small platform scales which weigh items to 1,000 pounds |
| 303/Vehicle Tank Meters | Truck-mounted fuel oil meters |
| 305/Liquified Petroleum Gas Liquid-Measuring Devices | Truck-mounted liquid petroleum gas meters |
| None | Compressed natural gas meters |
| 302/Retail Motor-Fuel Dispensers and Consoles | Retail motor fuel dispensers |

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

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

§ 4.7. Audit by Department.

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

§ 4.8. Applying for certification.

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

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

(1) The name and mailing address of the person seeking a certificate.

(2) The name, location and date of completion of any approved training course completed by the person seeking a certificate.

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

(4) The category or type of weighing or measuring device with respect to which the certificate is sought.

(5) A detailed description of the equipment the person seeking the CEWM certificate will use in conducting inspections of the weighing or measuring devices of the category or type with respect to which certification is sought, with copies of applicable verifications of accuracy, inspection records and other documentation demonstrating the equipment is adequate and meets the requirements of § 6.3 (relating to field standards).

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

(7) The date of the application.

(8) Other information the Department might reasonably require.

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

§ 4.9. CEWM certificate.

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

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

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

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

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

(4) A unique identification number.

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

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

(7) Other information the Department might reasonably include.

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

(d) *Obligation to produce CEWM certificate for inspection.* A CEWM shall have the CEWM certificate with him

whenever performing inspections or tests under authority of that certificate, and shall produce the certificate for inspection upon demand by the Department or a person on whose behalf the CEWM is performing the inspection or test.

§ 4.10. Expiration of CEWM certificate.

A CEWM certificate will expire no greater than 3 years from the date it is issued.

§ 4.11. Obtaining a new CEWM certificate.

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

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

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

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

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

§ 4.12. Testing and inspection performance standards.

The Department has adopted the applicable NIST standards as its testing and inspection performance standards.

§ 4.13. Reporting procedures for CEWM.

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

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

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

(1) The printed name of the CEWM.

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

(3) The date of the inspection.

(4) The location of the inspection.

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

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

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

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

(9) The signature of the CEWM.

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

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

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

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

§ 4.14. Inspection and testing by the Department.

(a) *Random inspection and testing.* In accordance with section 4110 of the act (relating to specific powers and duties of department; regulations), the Department will conduct random inspection and testing of a sample of devices that have been inspected and tested by a CEWM to determine whether the CEWM conducted the inspection and testing in accordance with the act and this chapter.

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

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

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

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

§ 4.15. Suspension or revocation of certification.

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

- (1) Violates a provision of this chapter.
- (2) Violates a provision of the act.
- (3) Violates an applicable NIST standard, unless that standard is inconsistent with the act or this chapter.

(4) Intentionally or fraudulently reports inaccurate information on an inspection report form.

(5) Is found, following inspection and testing by the Department in accordance with § 4.14 (relating to inspection and testing by the Department), to have inaccurately, improperly or incompetently performed testing and inspections of the category or type of weighing or measuring device with respect to which the certificate was issued.

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

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

§ 4.16. CEWM list.

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

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

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

§ 4.17. Civil penalties.

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

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

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

CHAPTER 5. UPC SCANNING SYSTEMS AND PLU DEVICES

GENERAL

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|-------|--|
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PRIVATE CERTIFICATION PROGRAMS

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

§ 5.1. Purpose.

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

(1) Establish the Department's specifications, tolerances and procedures with respect to the inspection of UPC scanning systems and PLU devices, and supplant Chapter 39 (relating to interim guidelines for the certification of inspectors of commercially used universal product code scanning systems and price look up devices—statement of policy) as authorized in section 4112(d) of the act.

(2) Identify the minimum level of training necessary for a person to be qualified to inspect UPC scanning systems and PLU devices.

(3) Establish a procedure by which a person may apply to the Department to become a certified UPC/PLU inspector.

(4) Prescribe a procedure under which the Department can review inspections performed by certain certified UPC/PLU inspectors and revoke or suspend certification.

(5) Establish minimum requirements for the "private certification programs" referenced in section 4112(c) of the act.

(6) Otherwise comply with the requirements of section 4112(c) of the act.

§ 5.2. Requirement of annual testing and inspection.

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

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

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

(1) The system or device is inspected at intervals of no greater than 1 year.

(2) The inspection is unannounced.

(3) The inspection is conducted as part of a private certification program.

(4) The private certification program has registered with the Department in accordance with § 5.17 (relating to private certification programs: registration).

(5) The certified UPC/PLU inspector conducting the inspection on behalf of the private certification program files a price verification inspection report with the Department in accordance with the procedure described in § 5.12 (relating to inspections: reporting procedures).

(6) The private certification program meets the requirements of this chapter.

§ 5.3. Testing and inspection standards.

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

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

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

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

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

§ 5.4. Certified UPC/PLU inspector.

A person shall be a certified PLU/UPC inspector to conduct an inspection of a commercially used UPC scanning system or PLU device described in section 4112(c) of the act (relating to general testing and inspections) regardless of whether the inspection is performed by a State inspector of weights and measures, an employe of a city or county acting in accordance with a memorandum of understanding entered into with the Department, or a person acting as part of a private certification program. A person may apply to the Department to become a certified UPC/PLU inspector.

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

(a) *General.* A certified UPC/PLU inspector is qualified to perform the annual testing and inspection of any commercially used UPC scanning system or PLU device which is required under section 4112(c) of the act (relating to general testing and inspections).

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

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

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

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

(c) *Fees.* A certified UPC/PLU inspector may not charge a fee for inspection and testing services, unless that person is acting as part of a private certification program.

§ 5.6. Certification requirements.

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

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

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

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

§ 5.7. Training courses.

(a) *General approval of NIST/NCWM training courses.* The Department has approved any NIST/NCWM price verification training course utilizing the "Examination Procedure for Price Verification" in the NCWM Publication No. 19 (August 1995), or any subsequent successor publication thereto, as an approved training course for certified UPC/PLU inspector candidates.

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

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

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

§ 5.8. Applying for certification.

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

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

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

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

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

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

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

(6) The date of the application.

(7) Other information the Department might reasonably require.

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

§ 5.9. UPC/PLU inspector's certificate.

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

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

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

(2) The expiration date of the certificate, which, in accordance with § 5.10 (relating to expiration of UPC/PLU inspector's certificate), shall be 3 years from the date of issuance.

(3) A unique identification number.

(4) A photograph of the person to whom the certificate is issued.

(5) A statement that the Department has determined the person identified on the certificate to be a "Certified UPC/PLU inspector" in accordance with section 4112 of the act (relating to general testing and inspections).

(6) Other information the Department might reasonably include.

(c) *Ownership of UPC/PLU inspector's certificate.* A certificate issued by the Department will remain the property of the Department. A certified UPC/PLU inspector or other person having physical possession of a

certificate shall, upon written notice from the Department, surrender and return the certificate to the Department.

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

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

A UPC/PLU inspector's certificate will expire 3 years from the date it is issued.

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

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

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

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

§ 5.12. Inspections: reporting procedures.

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

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

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

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

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

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

§ 5.13. Inspections: enforcement levels.

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

§ 5.14. Inspection and testing by the Department.

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

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

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

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

§ 5.15. Suspension or revocation of certification.

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

(1) Violates any provision of this chapter.

(2) Violates any provision of the act.

(3) Violates an applicable standard prescribed by NCWM's Examination Procedure for Price Verification, unless that standard is inconsistent with the act or this chapter.

(4) Intentionally or fraudulently reports inaccurate information on a price verification inspection report form.

(5) Is found, following inspection and testing by the Department in accordance with § 5.14 (relating to inspection and testing by the Department), to have inaccurately, improperly or incompetently performed an inspection of a UPC scanning system or PLU device.

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

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

§ 5.16. Certified UPC/PLU inspector list.

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

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

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

PRIVATE CERTIFICATION PROGRAMS

§ 5.21. Registration.

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

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

(1) The name, business address and telephone number of the private certification program.

(2) The name of any certified UPC/PLU inspector who will be conducting UPC scanning system or PLU device inspections on behalf of the private certification program, together with the unique identification number appearing on that person's UPC/PLU inspector's certificate.

(3) The signature, printed name and title of the person making the statement.

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

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

§ 5.22. Private certification programs: Requirements and fees.

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

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

§ 5.23. Program list.

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

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

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

Page ___ of ___

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

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

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

Comments/Remarks:

Evaluation of Results:

Report Acknowledgement

___ Sample- ___ Not on File= ___ Adjusted Sample

Name/Title _____

___ Errors+ ___ Adjusted Sample= ___ Error in %

Inspector _____ Time In: _____
 Time Out: _____

Accuracy ___ % Ratio: ___ Overcharges ___ Undercharges

Reinspection will be made within 30 days.

Original white - Bureau copy

Pink - Inspector's copy

Yellow - Company copy

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

| | |
|------|--|
| Sec. | |
| 6.1. | Purpose. |
| 6.2. | Registration requirement. |
| 6.3. | Field standards. |
| 6.4. | Registration procedure. |
| 6.5. | Registration card. |
| 6.6. | Newly-installed or repaired commercial weighing and measuring devices. |
| 6.7. | Expiration/renewal of registration. |

§ 6.1. Purpose.

This chapter establishes the program referenced in section 4113 of the act (relating to registration of sellers, installers and repairers of weighing and measuring devices), under which persons engaged in the business of selling, installing, servicing and repairing various types of commercial weighing and measuring devices shall register with the Department, maintain field standards that adequately test weighing and measuring devices being placed into commercial service and provide the Department notice of newly-installed commercial weighing and measuring devices.

§ 6.2. Registration requirement.

(a) *General registration requirement.* A person who is engaged in the business of selling, installing, servicing or repairing commercially used weighing and measuring devices shall maintain a current registration with the Department, as described in § 6.4 (relating to registration procedure).

(b) *Exception.* The registration requirement established in subsection (a) is not applicable in instances when the commercially used weighing and measuring device being sold, installed, serviced or repaired is a UPC scanning system, a PLU device or a component of either system or device.

§ 6.3. Field standards.

(a) *General requirement.* A person who is engaged in the business of installing, servicing or repairing commercially used weighing and measuring devices shall have, maintain and use field standards that are adequate to test and place weighing and measuring devices into commercial service, and otherwise meet the requirements of NIST Handbook 44, or any subsequent amendment thereof.

(b) *Adequate field standards.* For purposes of this chapter, field standards will not be considered adequate for use in placing commercially used weighing and measuring devices into service unless there exists a current verification of accuracy issued by the State Metrology Laboratory with respect to those field standards. This verification of accuracy may take the form of a "Report of Test for Weights and Measures Standards" or a similar document.

§ 6.4. Registration procedure.

(a) *Filing of registration form required.* A person who is engaged in the business of selling, installing, servicing or repairing commercially used weighing or measuring devices shall submit a complete registration form to the Department, unless the commercially used weighing and measuring device being sold, installed, serviced or repaired is a UPC scanning system, a PLU device or a component of either system or device.

(b) *Registration form.* A person seeking to register with the Department under this chapter may obtain a registration form from the Department at the address in § 2.2

(relating to contacting the Department). The prospective registrant shall complete the form and return it to that same address. The registration form shall require the following information:

(1) The name and mailing address of the person seeking to register with the Department.

(2) A designation of whether the person seeking to register with the Department is a seller, installer, servicer or repairer of commercially used weighing and measuring devices.

(3) The name and address of any business through which the person seeking to register with the Department is employed as a seller, installer, servicer or repairer of commercially used weighing or measuring devices.

(4) A designation of the category or type of weighing or measuring device sold, installed, serviced or repaired by the person seeking to register with the Department.

(5) If the person seeking to register with the Department is an installer, servicer or repairer of commercially used weighing or measuring devices, a copy of the current verification from the State Metrology Laboratory that the field standards used by that person are accurate.

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

(7) The date of the application.

(8) The signature of the person seeking to register with the Department.

(9) Other information the Department might reasonably require.

(c) *Departmental action on registration form.* The Department will, within 30 days of receiving a complete registration form, mail the person who filed the registration form a registration card. If the registration form is incomplete, illegible or otherwise deficient, the Department will notify the person who filed the registration form, in writing, of the problem and the action required to resolve it. If the Department notifies a person who filed a registration form of some deficiency, its review and consideration of the registration form will cease until the deficiency is corrected, at which time the 30-day review period shall begin again.

§ 6.5. Registration card.

(a) *Form of registration card.* The Department will provide a registrant under this chapter a registration card that may be carried conveniently on a registrant's person.

(b) *Contents of registration card.* A registration card will bear the following information:

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

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

(3) The effective date of registration.

(4) The maximum expiration date of the registration, which, in accordance with § 6.6 (relating to expiration/renewal of registration), is 3 years from the date of registration.

(5) A unique identification number.

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

(7) A statement that the person identified on the registration card has registered with the Department in

accordance with section 4113 of the act (relating to registration of sellers, installers and repairers of weighing and measuring devices).

(8) Other information the Department might reasonably include.

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

(d) *Obligation to produce registration card for inspection.* A registrant under this chapter shall have the registration card with him whenever selling, installing, servicing or repairing a commercially used weighing or measuring device.

§ 6.6. Newly-installed or repaired commercial weighing and measuring devices.

(a) *Inspection required.* A newly-installed or repaired commercial weighing or measuring device, other than a UPC scanning system or PLU device, may not be used in commerce unless it has been inspected and sealed in accordance with the act and this part, or unless use in commerce occurs during a period of conditional short-term use as described in subsection (d).

(b) *Responsibilities of installer or repairer.* A registrant under this chapter shall promptly notify the Department of any commercial weighing or measuring device it installs or repairs. Although the initial notification may be made by telephone, written notice shall be mailed, faxed or delivered to the Department within 48 hours of the installation or repair. The written notice shall provide the following with respect to the device:

- (1) The location of the newly-installed or repaired device, the date of the installation or repair and a statement of whether the device is a newly-installed device or a repaired device.
- (2) The manufacturer's name or brand name.
- (3) The model number listed on the device.
- (4) The capacity of the device, if applicable.
- (5) The serial number of the device.
- (6) The category or type of weighing or measuring device to which the newly-installed or repaired device belongs.
- (7) The name and telephone number of a contact person through which the Department, a county sealer or a city sealer may arrange an inspection of the device.

(c) *Responsibilities of inspector.*

(1) *State inspectors.* If the Department has not delegated inspection responsibility to a county sealer or city sealer, it will inspect the newly-installed or repaired weighing or measuring device at the earliest date practicable, but within 15 days of the installation or repair, and affix a seal (as required) if the device meets the requirements of the act and this part.

(2) *County sealers and city sealers.* If the Department has delegated this inspection responsibility to a county sealer or city sealer, it will promptly notify the sealer of the installation or repair and the sealer shall inspect the newly-installed or repaired weighing or measuring device at the earliest date practicable, but within 15 days of the installation or repair, and affix a seal (as required) if the device meets the requirements of the act and this part.

(d) *Conditional short-term use.* If the installer has fulfilled the responsibilities described in subsection (b), an uninspected newly-installed or repaired commercial weighing or measuring device may be used in commerce for a period of no more than 15 days from the date of installation or repair. If, for any reason, the inspection referenced in subsection (c) is not accomplished during this 15-day period of conditional short-term use, the device will be removed from commercial use until the inspection is completed.

§ 6.7. Expiration/renewal of registration.

If a person is registered under this chapter, registration shall expire 3 years from the date the registration card is issued. If, as a condition of registration in accordance with § 6.4(b)(5) (relating to registration procedure), the registrant was required to submit a copy of the current verification from the State Metrology Laboratory that the field standards used by that person are accurate, registration shall expire as of the expiration of that verification. Registration may be renewed by following the registration procedure in § 6.4 (relating to registration procedure).

CHAPTER 7. REGISTRATION AND REPORT OF INSPECTION OF COMMERCIAL WEIGHING AND MEASURING DEVICES.

- Sec. 7.1. Purpose.
- 7.2. Weighing and measuring devices affected.
- 7.3. Requirement: registration of devices by owners.
- 7.4. Report by inspectors.
- 7.5. Registration process.

§ 7.1. Purpose.

This chapter is intended to establish the program described in section 4114 of the act (relating to registration and report of inspection and testing of weighing and measuring devices used for commercial purposes), requiring the registration and reporting of inspection and testing of those commercially used weighing and measuring devices required to be tested and inspected in accordance with section 4112 of the act (relating to general testing and inspections).

§ 7.2. Weighing and measuring devices affected.

The requirements of this chapter apply to the following:

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

(3) Commercially used small capacity retail computing scales, retail package shipping scales, vehicle scales, small platform scales which weigh items to 1,000 pounds, truck-mounted fuel oil meters, truck-mounted liquid petroleum gas meters, compressed natural gas meters and retail motor fuel dispensers.

(4) Commercially used UPC scanning systems and PLU devices.

§ 7.3. Requirement: registration of devices by owners.

(a) *Owners required to register.* The owner of any weighing or measuring device described in § 7.2 (relating to weighing and measuring devices affected) shall register the device with the Department in accordance with the procedure in § 7.5 (relating to registration process).

(b) *Exception: certain establishments engaged in the retail sale of gasoline.* Subsection (a) notwithstanding, an establishment involved in the retail sale of gasoline for use in the fuel supply tanks of motor vehicles, which is required to obtain an annual liquid fuels permit from the Department of Revenue in accordance with 75 Pa.C.S. Chapter 90 (relating to Liquid Fuels and Fuels Tax Act) shall be exempt from the registration requirement.

§ 7.4. Report by inspectors.

(a) *City or county sealer.* A city or county sealer who tests or inspects a weight or measure described in § 7.2(1) or (2) (relating to weighing and measuring devices affected), in accordance with section 4112(a) of the act (relating to general testing and inspections) and under a memorandum of understanding with the Department, shall submit a monthly written report to the Department. This written report shall be submitted to the Department by the 15th day of each month, and shall describe the following with respect to work performed in the preceding month:

- (1) A summary of the work performed.
- (2) A description of the weights, measures and weighing and measuring devices inspected or tested, and the results of the inspection or test.
- (3) A description of the nature and result of all criminal prosecutions of violations of the act or this chapter.

(b) *CEWM.* A CEWM who tests and inspects a weighing or measuring device described in § 7.2(3) in accordance with section 4112(b) of the act shall report the inspection to the Department in the manner set forth at § 4.13 (relating to reporting procedures for certified examiners of weights and measures).

(c) *Certified UPC/PLU inspector.* A certified UPC/PLU Inspector who tests and inspects a UPC scanning system or PLU device described in § 7.2(4) in accordance with section 4112(c) of the act shall report the inspection to the Department in the manner in § 5.12 (relating to inspections: reporting procedures).

§ 7.5. Registration process.

(a) *Obtaining a registration form.* The Department will provide a weighing or measuring device registration form upon request. The form will be formatted so that multiple devices can be registered using a single form. In lieu of the form provided by the Department, a person may use a form of his own construction, if the information in subsection (b) appears in a legible and understandable fashion on the document.

(b) *Required information.*

(1) *Information to be included.* A weighing or measuring device registration form shall require the following information:

- (i) The name and address of the person registering the device.
- (ii) The location of the device.
- (iii) The manufacturer's name or brand name.
- (iv) The model number listed on the device.
- (v) The capacity of the device, if applicable.
- (vi) The serial number of the device.
- (vii) The category or type of weighing or measuring device to which the newly-installed device belongs.

(2) *Exception.* If the weighing or measuring device being registered is a UPC scanning system or PLU

device, the registrant may provide the information required under paragraph (1)(i) and (ii), and provide a general description of the various components of the system or device rather than the information required under paragraphs (1)(iii)—(vii).

(c) *Time for filing the form.*

(1) *General.* A person required to file a registration form shall do so within 30 days of the installation of a weighing or measuring device with respect to which registration is required, unless the registrant belongs within one of the categories of registrant described in paragraph (2), (3) or (4).

(2) *Food establishments.* A food establishment shall register its weighing and measuring devices at the same time it submits its annual registration to the Department under the Food Act.

(3) *Public eating and drinking places.* A public eating and drinking place shall register its weighing and measuring devices at the time it submits its annual license fee under the Public Eating and Drinking Place Law.

(4) *Commercial feed facilities.* A commercial feed facility shall register its weighing and measuring devices at the time it submits its annual license fee under section 5103 of the act (relating to licensing).

(d) *Action by Department.* The Department will review each registration form it receives under this chapter and, within 30 days of receiving the form, mail the registrant a registration document or a written request for clarification of any inaccurate or illegible material on the form. If the Department requests additional clarification, its review and consideration of the registration form will cease until the requested clarification is received, at which time the 30-day review period shall begin again.

(e) *Registration document.* The registration document shall be in the form of a letter from the Director appended to a copy of the registration form. Registration shall remain valid until the registered device is moved to a new location.

CHAPTER 8. TRAINING PROGRAM FOR INSPECTORS AND SEALERS

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| Sec. | |
| 8.1. | Purpose. |
| 8.2. | General adoption of NIST training program. |
| 8.3. | Training with respect to individual types of weighing and measuring devices. |
| 8.4. | Prior training. |
| 8.5. | Supplemental or refresher training. |

§ 8.1. Purpose.

This chapter is intended to establish the minimum training requirements for State inspectors, county sealers and city sealers, under section 4115 of the act (relating to training program).

§ 8.2. General adoption of NIST training program.

(a) *General.* The training program prescribed by NIST for inspectors and sealers of weights and measures is hereby adopted as the minimum training requirement for State inspectors, county sealers and city sealers under the act and this title.

(b) *NIST training course 102.* As of January 1, 2000, a State inspector, county sealer or city sealer shall successfully complete NIST training course 102, entitled "Introduction to Handbook 44," or any successor course thereto, to meet the minimum training requirements of the act and this chapter.

§ 8.3. Training with respect to individual types of weighing and measuring devices.

An inspector or sealer shall successfully complete applicable NIST training with respect to each type of weighing or measuring device he seeks to test or inspect under authority of the act. In addition to the general training described in § 8.2 (relating to general adoption of NIST training program), the following training or certification, or both, is required of persons who inspect or test particular types of weighing or measuring devices:

(1) *UPC scanning systems and PLU devices.* A State inspector, county sealer or city sealer shall be a certified UPC/PLU inspector, as described in Chapter 5 (relating to UPC scanning systems and PLU devices), as a prerequisite to inspecting UPC scanning systems or PLU devices for purposes of the act.

(2) *Types of weights and measures listed in § 4.4.* A State inspector, county sealer or city sealer shall successfully complete the applicable training course in § 4.6(b) (relating to training courses), or any updated list published in accordance with § 4.6(c), as a prerequisite to inspecting or testing any of the categories and types of weighing and measuring devices in § 4.4 (relating to categories and types of weighing and measuring devices) for purposes of the act.

(3) *Other weights and measures with respect to which NIST training courses exist.* If there exists a NIST training course applicable to a specific category or type of weighing and measuring device not described in paragraph (1) or (2), a State inspector, county sealer or city sealer shall successfully complete that training course as a prerequisite to inspecting or testing that category or type of device for purposes of the act.

§ 8.4. Prior training.

A State inspector, county sealer or city sealer who has successfully completed a NIST training course prior to ____ (*Editor's Note:* The blank refers to the effective date of adoption of this chapter.), and who has continued to work as a State inspector, county sealer or city sealer since completing the course, shall be deemed to have met the minimum training requirements of this chapter with respect to any category or type of weighing and measuring device addressed in that NIST training course.

§ 8.5. Supplemental or refresher training.

The Department may develop supplemental training courses or refresher courses for State inspectors, county sealers or city sealers. The Department may require the successful completion of such a course by a State inspector, county sealer or city sealer by providing the inspector or sealer written notice of this requirement. The Department will afford an inspector or sealer at least 6 months within which to complete the training course or refresher course, and will schedule adequate course sessions to allow all inspectors and sealers to attend.

CHAPTER 9. WEIGHMASTERS

GENERAL

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- 9.11. Issuing a public weighmaster's certificate.
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- 9.13. Weighmaster's certificate required.
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- 9.17. Responsibilities of weighmasters and shippers.
- 9.18. Certificate of special transportation.
- 9.19. Issuance of weighmaster certificates with respect to mine track scales and tippie scales.
- 9.20. Reweighing and issuance of certificates.
- 9.21. Reciprocity with New York.

§ 9.1. Purpose.

This chapter is intended to establish terms, conditions and procedures applicable to the licensure and performance of licensed public weighmasters in accordance with Subchapter C of the act (relating to public weighmasters).

§ 9.2. Definitions.

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

Gross weight—Total weight of vehicle and load.

Net weight—Gross weight less tare weight.

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

Tare weight—The actual weight of only the vehicle.

Weighmaster's certificate—A document in the format set forth in § 9.11 (relating to weighmaster's certificate), evidencing that the issuer is licensed by the Department in accordance with section 4151 of the act (relating to licenses), has weighed the material described in that document on an approved scale which has been tested for accuracy and has complied with relevant provisions of this subchapter.

§ 9.3. License required.

A person may not assume the title "licensed public weighmaster" or any title of similar import, perform the duties or acts to be performed by a licensed public weighmaster under the act or this chapter, hold himself out as a licensed public weighmaster, issue any weighmaster's certificate, ticket memorandum or statement or engage in the full-time or part-time business of public weighing unless the person holds a valid license as a licensed public weighmaster.

§ 9.4. Qualifications.

A person shall meet the following requirements to be qualified to apply for a public weighmaster's license:

(1) The prospective applicant shall be at least 18 years of age as of the date of application.

(2) The prospective applicant shall own or have use of a type of weighing device approved by the Bureau in accordance with Subchapter D of the act (relating to device type approval) and with Chapter 10 (relating to device type approval) and approved by a weights and measures officer of the Commonwealth for use as of the date of application.

§ 9.5. Application for public weighmaster's license.

(a) *Obtaining an application form.* The Department will provide a person an application form for a public weighmaster's license upon request. Requests should be directed to the Department at the address in § 2.2 (relating to contacting the Department).

(b) *Requirements of the form.* The application form for a public weighmaster's license shall require the following information of the applicant:

(1) The name and address of the business for which the licensed public weighmaster would be conducting weighing.

(2) The name, address and age of the applicant.

(3) The location of the scales where weighing would be conducted by the licensed public weighmaster.

(4) Verification that the scales referenced in paragraph (3) belong to a type of weighing device approved by the Bureau in accordance with Chapter 10 (relating to device type approval) and approved by a weights and measures officer of the Commonwealth for use as of the date of application.

(c) *License fee.* The fee for a public weighmaster's license is \$60. This fee shall be by check or money order made payable to the "Commonwealth of Pa."

(d) *Submitting the application and fee.* An applicant for a public weighmaster's license shall submit the application form and the license fee to the Department at the address in § 2.2 (relating to contacting the Department).

(e) *Departmental action on application.* The Department will, within 30 days of receiving an application form and the correct license fee, do one of the following:

(1) Mail the applicant a public weighmaster's license.

(2) If the application form is incomplete, illegible or otherwise deficient, the Department will mail the applicant written notice of the problem and the action required to resolve it. If the Department notifies an applicant of a deficiency, its review and consideration of the application will cease until the deficiency is corrected, at which time the 30-day review period will begin again.

(3) Refer the application to any county or city inspector of weights and measures for a report as to the accuracy of the statements made on the application, the suitability of the scales to be used by the applicant and other information the Department might reasonably require, and mail the applicant written notice of this referral and advise the applicant that the Department will complete its review of the application within 30 days of receiving the report from the entity to whom the application was referred.

§ 9.6. Term of license; subsequent licenses.

(a) *Term.* A public weighmaster's license is valid for 2 years from the date it is issued.

(b) *Subsequent licenses.* A licensed public weighmaster shall follow the application process described in § 9.5. (relating to application for public weighmaster's license) to acquire a new license. To avoid a lapse in licensure, a licensed public weighmaster is encouraged to apply for a new license at least 60 days in advance of the expiration of his current license.

(c) *Change of status.* If there is a change to any name or address provided the Department on the public weighmaster's license application, a licensed public weighmaster shall notify the Department of this change within 48 hours of its occurrence. Although this notification may be made by a telephone to meet this 48 hour deadline, the licensed public weighmaster shall subsequently mail or deliver written notice of this change to the Department within 7 days of its occurrence.

§ 9.7. Format of a public weighmaster's license.

A public weighmaster's license issued by the Department under this subchapter will contain the following:

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

(2) A unique license number assigned to the public weighmaster.

(3) The name and address of the business for which the licensed public weighmaster conducts public weighing.

(4) The location of the scales where the licensed public weighmaster conducts public weighing.

(5) The date the license was issued.

(6) The date the license will expire.

(7) Other information the Department deems reasonable.

§ 9.8. Display of license required.

A licensed public weighmaster shall conspicuously display his license, or a photocopy of the license, at the place where the licensed public weighmaster is engaged in weighing.

§ 9.9. Commodities sold by weight.

Any commodity to be sold by weight in this Commonwealth shall be weighed by a licensed public weighmaster at the time of sale or delivery on scales which meet the following requirements:

(1) The scales are suitable for weighing the tare and gross weight of the vehicle or vehicle and trailer transporting the commodity.

(2) The scales are located within this Commonwealth.

(3) The scales are of a type approved by the Department in accordance with Subchapter D of the act (relating to device type approval) and Chapter 10 (relating to device type approval).

(4) The scales measure weights of greater than 1,000 pounds.

§ 9.10. Weighmaster's certificate.

(a) *Certificates required.* A licensed public weighmaster shall, at his own expense, supply himself with weighmaster certificates formatted in accordance with subsection (b). The Bureau will provide a sample weighmaster's certificate upon request.

(b) *Contents.* A weighmaster's certificate shall contain the following information:

(1) The kind and size of the commodity.

(2) The name and address of the seller.

(3) The name and address of the purchaser.

(4) The license number of the vehicle and trailer, or other means of permanent identification.

(5) The signature and license number of the licensed public weighmaster who weighed the commodity and who issued the weighmaster's certificate.

(6) The date and hour when weighed.

(7) The gross weight in avoirdupois pounds of the vehicle and the load, the tare weight and net weight of the commodity, and, where the load is divided into lots, the net weight of each lot.

(8) A sequential serial number.

(9) Other relevant information the licensed public weighmaster deems necessary.

(c) *Triplicate form.* A weighmaster's certificate shall be prepared in triplicate.

(d) *Distinguishing original from copies.* The original weighmaster's certificate shall bear the words "Customer's Copy," and the two copies shall bear the words "Void—Customer Do Not Accept."

(e) *Variations in format and size.* The form and size of a weighmaster's certificate may be such as to suit any system or accounting device, as long as the certificate otherwise meets the requirements of this subchapter.

§ 9.11. Issuing a public weighmaster's certificate.

(a) *General requirement.* A licensed public weighmaster shall issue a weighmaster's certificate with respect to any public weighing he conducts.

(b) *Required weighing device.* A licensed public weighmaster shall, when making a public weighing, use a weighing device which is of a type approved by the Department in accordance with Subchapter D of the act (relating to device type approval) and Chapter 10 (relating to device type approval), suitable for the weighing of the amount and kind of commodity to be weighed and which has been tested and approved for use by a weights and measures officer of the Commonwealth preceding the date of the weighing.

(c) *Order of issuance.* A licensed public weighmaster shall issue weighmaster's certificates in consecutive order of the serial numbers affixed thereon.

(d) *Computer generated, typewritten or indelible pencil.* The original weighmaster's certificate shall be computer generated, typewritten or made out in indelible pencil.

(e) *One licensed public weighmaster per certificate.* A public weighmaster's certificate shall be entirely the product of a single licensed public weighmaster. A licensed public weighmaster may not enter any weight value on a weighmaster's certificate unless the public weighmaster has personally determined that weight, and may not make any entry on a weighmaster's certificate of another licensed public weighmaster.

(f) *Clarity required.* A licensed public weighmaster shall issue a complete and accurate weighmaster's certificate that clearly shows what weights were actually determined. If the certificate form provides for the entry of gross, tare and net weights, and the licensed public weighmaster determines fewer than these three weights, the public weighmaster shall strike through or otherwise cancel these undetermined weights on the certificate. If weights recorded on a certificate were determined on different dates, the certificate shall clearly report these dates. If the weights recorded on the certificate were determined using different scales, the certificate shall clearly identify these scales.

(g) *Reweighing solid fuel.* A licensed public weighmaster may not reweigh or issue a weighmaster's certificate for solid fuel unless the motor vehicle operator has surrendered the original and all duplicate weighmaster's certificates in his possession pertaining to the solid fuel. The licensed public weighmaster shall attach these certificates to the scale copy of the new weighmaster's certificate. The new certificate shall be retained in a manner that may be easily reconciled with the previous certificate. These provisions notwithstanding, a duplicate copy of the original weighmaster's certificate may be returned to the operator of the vehicle if it is obliterated with a rubber stamp using the following legend:

This solid fuel has been reweighed and this certificate should not be accepted. Any attempt to use this certificate to deliver solid fuel should be reported to your local or State inspector of weights and measures at once.

(h) *Distribution of original and copies.*

(1) The original of a weighmaster's certificate shall be delivered to the purchaser of the commodity specified in the certificate at the time of delivery.

(2) One copy of a weighmaster's certificate shall be maintained at the place of weighing for at least 2 years. A copy of a weighmaster's certificate may be retained by the business selling or delivering the commodity.

§ 9.12. Retention and inspection of certificates.

A licensed public weighmaster is responsible to retain a copy of each weighmaster's certificate issued for at least 2 years. These records shall be subject to inspection or subpoena for use as evidence by any State, county or city inspector of weights and measures.

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§ 9.13. Weighmaster's certificate required.

(a) *Rule for lots exceeding 100 pounds.* A person may not sell, transport over a public highway, deliver or cause to be delivered or start out to deliver solid fuel in a lot in amounts exceeding 100 pounds unless each lot in each separate compartment of the vehicle or vehicle and trailer is accompanied by a weighmaster's certificate.

(b) *Exceptions.* The rule in subsection (a) does not apply to solid fuel when any of the following occur:

(1) The weighing takes place at the point of delivery or sale.

(2) The producer of the solid fuel furnishes proof, satisfactory to the Department or to an inspector of weights and measures, that the solid fuel being transported comes from the producer's own mine, is the producer's own property and is being transported for purposes other than sale.

(3) The sale transaction entails the sale of a boatload or railroad carload of solid fuel delivered directly from the boat or car to a purchaser and accepted as to weight by the purchaser on the bill of lading or other voucher issued by the carrier.

(c) *Rule for lots of 100 pounds or less.* A person may not sell, transport over a public highway, deliver or cause to be delivered or start out to deliver any solid fuel in a lot in amounts of 100 pounds or less unless each lot in each separate compartment of the vehicle or vehicle and trailer is accompanied by a weighmaster's certificate unless the solid fuel is in closed containers or closed bags and the following information is plainly printed on the container or bag or on a tag securely attached to the container or bag:

(1) The net contents of the container or bag (expressed in avoirdupois pounds).

(2) The type of solid fuel.

(3) The name, address, city, state and zip code of the seller.

§ 9.22. Sales by employer-producer to employees.

(a) *Sales generally.* If it is specified under the provisions of a contract, an employer-producer of solid fuel may sell solid fuel at cost, by cubic contents instead of weight, to its employees for their own use and consump-

tion. No solid fuel sold in this way may be transported over a public highway unless the operator of the vehicle possesses a certificate of origin.

(b) *Obtaining a certificate of origin.* The Department will provide a sample copy of a certificate of origin upon request. A sample certificate may be photocopied for use by a producer-employer.

(c) *Content of certificate of origin.* A certificate of origin shall require the following:

- (1) The name and address of the producer-employer.
- (2) A description of the type and approximate cubic volume of the solid fuel being transported.
- (3) The destination of the solid fuel.
- (4) A statement that the certificate of origin is issued in accordance with section 4168 of the act (relating to sales by employer-producer to employees).
- (5) The signature of the producer-employer or its agent.

(d) *Record retention.* A copy of any certificate of origin issued under section 4168 of the act shall be retained at the place of production for at least 2 years, and shall, during business hours, be subject to inspection or subpoena for use as evidence by any State, county or city inspector of weights and measures.

§ 9.23. Certificate affecting weighing requirements.

(a) *Authorization to haul without weighmaster's certificate.* If, for any good and sufficient reason, it is impossible to weigh solid fuel at the point of origin and if the solid fuel is loaded into vehicles by the producer but the sale is not consummated nor delivery actually started, and if the producer or merchant can prove to the satisfaction of the Department that a new scale cannot be purchased or repairs secured for a scale already installed, the Department will issue an authorization to haul the solid fuel on the public highway to the nearest available scale of a licensed weighmaster of the Commonwealth for a distance not to exceed 10 miles, at which point the gross, tare and net weight of the solid fuel is determined so that the producer of the solid fuel is able to consummate its sale and the trucker will be furnished with a proper weighmaster's certificate prior to the departure of the solid fuel for delivery to the consumer.

(b) *Certificate of transport.* A conveyor of solid fuel operating under this section shall have in his possession at all times during the period of transport from point of origin to place of weighing and departure for delivery a certificate of transport containing the following information:

- (1) The date on which the certificate is issued.
- (2) The time of leaving mine or breaker.
- (3) The name of the driver of vehicle.
- (4) The license number of the vehicle and trailer.
- (5) The name of the owner or lessor of the mine or breaker.
- (6) The location of the mine or breaker.
- (7) The location of the scale to which solid fuel is being conveyed.

(c) *Source and disposition of certificate of transport.* The certificate of transport shall be furnished by the owner or lessor of the mine or breaker and surrendered to the weighmaster upon issuance of the certificate of a weighmaster.

(d) *Registration.* An owner or lessor of mines or breakers operating under this section shall register with the county inspector of weights and measures in the county in which they are located the name and location of the mines or breakers and the names and locations of the scales to which they propose to transport solid fuel for the purpose of weighing before starting it out for delivery. A copy of this registration shall be filed with the Department, at the address in § 2.2 (relating to contacting the Department).

§ 9.24. Limitations of certificate for anthracite.

(a) *Certificate of quality required.* In the case of anthracite, except barley and the smaller sizes, being transported under § 9.23 (relating to solid fuel: certificate affecting weighing requirements), a weighmaster may not weigh the anthracite unless the certificate of transport is accompanied by the following certificate of quality, made out in ink or indelible pencil, in triplicate with the original bearing the legend "original" and the copies bearing the legend "copy" in 1 inch letters diagonally across the face, and sufficiently mutilated at the left end to permit it to be securely attached to the corresponding copies of the certificate of the weighmaster as provided in subsection (b):

**CERTIFICATE OF QUALITY
PENNSYLVANIA ANTHRACITE STANDARDS LAW**

Name of Producer _____
 ADDRESS OF PREPARATION PLANT OR BREAKER _____
 Weighmaster's Certificate Serial No. _____
 Quality Certificate Serial No. _____
 Date _____
 Name and Address of Purchaser or Consignee: _____
 Size of Anthracite _____
 Model and Registration Number of Transporting Vehicle _____
 ATTESTED: "STANDARD ANTHRACITE" or "SUBSTANDARD ANTHRACITE"
 (State which kind)

 (Name of Shipper)
 By: _____
 (Signature or facsimile signature)
 (Officer, partner or owner)

(b) *Requirements.* The weighmaster may not deliver the certificate of the weighmaster to the transporter until the weighmaster has first inserted the serial number of the certificate of the weighmaster on copies of the certificate of quality and securely attached the certificate of quality to the appropriately corresponding copies of the certificate of the weighmaster including the scale copy.

§ 9.25. Responsibilities of weighmasters and shippers.

(a) *Weighmasters.* Weighmasters will be held responsible and their licenses will be subject to revocation for negligence, failure to abide by the requirements of this chapter or failure to reconcile their records.

(b) *Shippers.* Both the shipper and the weighmaster shall be held to strict accountability. If the provisions of §§ 9.21—9.24 and this section are not strictly observed, the license of the weighmaster, as well as authorization to transport from the preparation plant or breaker to weigh scales on a certificate of transport, will be revoked.

§ 9.26. Certificate of special transportation.

(a) *Requirement.* If coal is not offered for sale and it is necessary to transport the coal over the public highway from the point of mining, stripping operation or culm bank to railroad cars, coke ovens, breakers, washery or other form of preparation plants, the operator of the vehicle transporting the coal shall have in his possession a certificate of special transportation, containing the following information, written in ink or indelible pencil:

- (1) The date and time on which the certificate was issued.
- (2) The license number of the truck.
- (3) The name of the owner or lessor mine, stripping operation or culm bank.
- (4) The destination of the vehicle.
- (5) The purpose for which the coal is being transported; that is, coking, preparation for sale or railroad cars.

(b) *Issuance and surrender.* A certificate of special transportation shall be issued for each day to the driver of each truck by a responsible employe of the operator in charge of the mine, stripping or culm bank or of the preparation plant, at or before starting out for delivery for that day, and shall be surrendered at the point of delivery when the last load for the day is delivered, to a responsible employe at the operation, where the certificate shall be kept for 90 days.

(c) *Other requirements.* The certificates of special transportation shall be consecutively numbered, made in duplicate, and shall be furnished by and at the expense of the operator. The duplicate shall be retained at the point of issuance for 90 days.

§ 9.27. Issuance of weighmaster certificates with respect to mine track scales and tippie scales.

Weighmaster certificates, as prescribed by the act, may be issued by licensed weighmasters of mine track scales or tippie scales if there is compliance with the following provisions:

- (1) The operator of the vehicle shall present to the weighmaster a certificate of the weighmaster showing the tare weight, as weighed on a scale capable of weighing the vehicle, prior to loading.
- (2) The net weight being loaded in the vehicle shall be determined at the time of loading by weighing mine cars or buggies and deducting the tare weight of the mine cars or buggies.
- (3) The gross weight shall be determined by adding the tare and the net weight.

§ 9.28. Reweighing and issuance of certificates.

(a) *Conditions of reweighing.* A licensed weighmaster may not reweigh or issue a certificate of a weighmaster for solid fuel unless the motor vehicle operator has surrendered the original and duplicate certificates of a weighmaster in his possession pertaining to the solid fuel. These certificates shall be attached by the weighmaster to the scale copy of the new certificate which shall be issued and maintained in a manner that they may be easily reconciled. A duplicate copy may be returned to the operator of the vehicle if it is obliterated with a rubber stamp using the following legend:

This solid fuel has been reweighed and this certificate should not be accepted. Any attempt to use this certificate to deliver solid fuel should be reported to your local or State inspector of weights and measures at once.

(b) *Certain anthracite.* In the case of anthracite, except barley and the smaller sizes, before issuing the new certificates, the weighmaster shall accurately and legibly imprint on the original and each copy the complete certificate of quality required by the Anthracite Standards Law (73 P. S. §§ 261—269), as it appears on the surrendered certificates.

(c) *Consequence of failure to surrender weighmaster certificate.* If the operator refuses or fails to surrender the weighmaster certificate, the weighmaster shall refuse to weigh the vehicle.

§ 9.29. Reciprocity with New York.

Due to reciprocal policies of New York, the several county, city and State inspectors of weights and measures are authorized to recognize and accept weight certificates issued within a zone of 5 miles from the New York State border line, if solid fuel is weighed and the certificates are issued by a weighmaster licensed by New York, whose scales are located not more than 5 miles distant from the border line of this Commonwealth.

CHAPTER 10. DEVICE TYPE APPROVAL

| | |
|--------|---|
| Sec. | |
| 10.1. | Purpose. |
| 10.2. | Prohibition with respect to unapproved devices. |
| 10.3. | General standard for approval by Department. |
| 10.4. | Basic procedure. |
| 10.5. | Meeting the general standard for approval. |
| 10.6. | Application and review. |
| 10.7. | Certificate of approval. |
| 10.8. | Marking of approved devices. |
| 10.9. | Specifications, variations and tolerances with respect to device type approval. |
| 10.10. | Fees. |

§ 10.1. Purpose.

This chapter is intended to establish the procedures by which the Department will review and approve or disapprove each type of weighing and measuring device intended for commercial use or in commercial use within this Commonwealth, in accordance with Subchapter D of the act (relating to device type approval).

§ 10.2. Prohibition with respect to unapproved devices.

A person may not manufacture, offer or expose for sale or sell or give away for use in trade or commerce any weighing and measuring device of a type not approved in accordance with Subchapter D of the act (relating to device type approval) and this chapter.

§ 10.3. General standard for approval by the Department.

The Department will approve a type of weighing and measuring device if the type is so designed and constructed that it conforms to or gives correct results in terms of values derived therefrom, is reasonably permanent in its indication and adjustment and does not facilitate the perpetration of fraud.

§ 10.4. Basic procedure.

A person seeking approval of a type of weighing and measuring device shall follow the application procedure in § 10.6 (relating to application and review).

§ 10.5. Meeting the general standard for approval.

(a) *Certificate of conformance from NCWM.* The Department will approve a type of weighing and measuring device if a certificate of conformance has been issued by the National Type Evaluation Program administered by NCWM with respect to that particular type of weighing and measuring device.

(b) *Certificate of conformance from NIST.* The Department will approve a type of weighing and measuring device if a certificate of conformance has been issued by NIST with respect to that particular type of weighing and measuring device.

(c) *UPC scanning systems and PLU devices.* The Department will approve a type of UPC scanning system or PLU device if the person seeking approval can document to the Department's satisfaction that the type of weighing and measuring device meets the standard in § 10.3 (relating to general standard for approval by the Department).

§ 10.6. Application and review.

(a) *Obtaining an application.* A person seeking the Department's approval of a type of weighing and measuring device shall obtain an application form from the Department. The Department will provide the form upon request. The prospective applicant may contact the Department at the address in § 2.2 (relating to contacting the Department).

(b) *Contents of application form.* The application form shall require the following information:

- (1) The name and address of the applicant.
- (2) A detailed description of the type of weighing and measuring device with respect to which approval is sought.
- (3) A copy of any certificate of conformance issued by the National Type Evaluation Program administered by NCWM with respect to that type.
- (4) A copy of any certificate of conformance issued by NIST with respect to that type.
- (5) Other documentation necessary to a reasoned determination by the Department as to whether the type meets the general standard in §§ 10.3 and 10.5 (relating to general standard for approval by the Department; and meeting the general standard for approval). If a certificate of conformance as described in paragraph (2) or (3) is not submitted, a sample of the type—or specifications with respect to the type—shall be submitted as part of the application.

(6) Either a precise description of the manner in which devices of the type with respect to which approval is sought are clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device, or an explanation of the reason it is impracticable to mark the devices as required by this section and a request for a waiver of some or all of these marking requirements under section 4174 of the act (relating to marking of approved weights and measures).

(7) Other information the Department might reasonably require.

(c) *Submitting the application.* The applicant shall forward the completed application form to the address in § 2.2.

(d) *Review by Department.* The Department will complete its review of an application within 30 days of receiving a complete application form. If the Department requests additional information from an applicant, this 30-day period does not commence until the requested information is received. The Department will approve a type of weighing and measuring device if it meets the standards for approval described in §§ 10.3 and 10.5. The Department will mail the applicant either a certificate of approval or a notice of disapproval within that 30-day period. A notice of disapproval will contain an explanation of the basis upon which the decision to disapprove was made, and otherwise meet the requirements of section 4172 of the act (relating to certificates of approval; notice of disapproval appeals).

(e) *Review of decision to disapprove a device type.* An applicant shall follow the procedure in section 4172 of the act to obtain review of a decision by the Department to disapprove a device type.

§ 10.7. Certificate of approval.

(a) *Content of certificate.* A certificate of approval issued by the Department under this chapter will contain the following:

- (1) The name and address of the person to whom it is issued.
- (2) A description of the type of weighing and measuring device with respect to which approval is granted.
- (3) A reference to the requirement that devices of the approved type be clearly marked for purposes of identification with the name, initials or trademark of the manufacturer and with the manufacturer's designation which positively identifies the pattern or design of the device unless a waiver is obtained from the Department in accordance with section 4174 of the act (relating to marking of approved weights and measures).
- (4) The date of issuance of the certificate.
- (5) Other information deemed relevant by the Department.

(b) *Effect of issuance of certificate.* The issuance of a certificate of approval by the Department with respect to a type of weighing and measuring device confirms that the type meets the standards for device type approval in Subchapter D of the act (relating to device type approval) and this chapter, and is not a guarantee or verification of the correctness of any individual weight or measure belonging to that type.

§ 10.8. Marking of approved devices.

(a) *General.* A weighing and measuring device that is of a type approved under Subchapter D of the act (relating to device type approval) and this chapter shall be conspicuously, clearly and permanently marked in accordance with the representations made on the approval application, unless the Department grants an exception in accordance with section 4174 of the act (relating to marking of approved weights and measures).

(b) *UPC scanning systems and PLU devices.* The Department is satisfied it is generally impracticable to mark a UPC scanning system or PLU device as required under section 4174 of the act. The Department will issue a certificate to that effect to any manufacturer applying for the same. A certificate issued under this subsection exempts the system or device described therein from having to be marked as otherwise required under section 4174 of the act.

§ 10.9. Specifications, variations and tolerances with respect to device type approval.

(a) *General.* The specifications, variations and tolerances recommended by the NIST and published in the NIST Handbook 44, and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, variations and tolerances of the Department with respect to the approval of types of weighing and measuring devices under this chapter.

(b) *Meeting the standards.*

(1) If either the NIST or NCWM has issued a certificate of conformance with respect to a type of weighing and measuring device, that type shall be deemed to be in compliance with the specifications, variations and tolerances of the Department for device type approval.

(2) In determining whether to issue a certificate of approval with respect to a type of UPC scanning system or PLU device, the Department will apply the general standard for approval in §§ 10.3 and 10.5 (relating to general standard for approval by the Department; and meeting the general standard for approval).

§ 10.10. Fees.

(a) *Fees.* The State Metrology Laboratory may charge an applicant a fee for conducting the tests as might be required for device type approval under this chapter.

(b) *Exemption.* A city or county which is required to procure standards of weights and measures and additional equipment in accordance with section 4123 of the act (relating to city and county standards and equipment) to enforce the act is exempt from having to pay fees with respect to the calibration, evaluation or other testing of those standards and that equipment.

PART II. PACKAGING AND LABELING

CHAPTER 21. GENERAL PROVISIONS

PRELIMINARY PROVISIONS

§ 21.1. Definitions.

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

[*Act—The Weights and Measures Act of 1965 (76 P. S. §§ 1651—1692) (Transferred from 76 P. S. §§ 100-1—100-42 in 1978).*]

Commodity in package form or package—A commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, **exclusive of any auxiliary shipping container containing packages that individually conform to the requirements of the act.** An individual item or lot of a commodity not in package form, or which does not meet this definition, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be a commodity in package form.

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

* * * * *

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

* * * * *

§ 21.3. Adoption of “Uniform Regulation for the Method of Sale of Commodities.”

(a) *General.* The Department adopts the “Uniform Regulation for the Method of Sale of Commodities,” as adopted by the NIST in its Handbook 130, and supplements thereto and revisions thereof, as the method of sale of commodities in this Commonwealth.

(b) *Exception.* If any provision of the “Uniform Regulation for the Method of Sale of Commodities” contradicts any provision of the act or this title, the provision of the “Uniform Regulation for the Method of Sale of Commodities” may not be applied, and the relevant provision of the act or this title shall be applied.

(*Editor’s Note:* As part of this proposed rulemaking, the Department proposes to delete the existing text of §§ 35.1—35.3 which appear at 70 Pa. Code pages 35-1 and 35-2, serial pages (244743) and (244744).)

CHAPTER 35. (Reserved)

§ 35.1. (Reserved).

§ 35.2. (Reserved).

§ 35.3. (Reserved).

(*Editor’s Note:* As part of this proposed rulemaking, the Department proposes to delete §§ 39.1—39.20 which appear at 70 Pa. Code pages 39-1—39-13, serial pages (244747) to (244759).)

CHAPTER 39. (Reserved)

§§ 39.1—39.20. (Reserved).

[Pa.B. Doc. No. 98-1651. Filed for public inspection October 9, 1998, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 97]

Boating

The Fish and Boat Commission (Commission) proposes to amend § 97.1 (relating to personal flotation devices). The Commission is publishing this amendment as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendment relates to the mandatory wearing of personal flotation devices (PFD).

A. *Effective Date*

This proposed amendment, if approved on final rulemaking, will go into effect on January 1, 2000.

B. *Contact Person*

For further information on the proposed change, contact John F. Simmons, Director, Bureau of Boating and Education, (717) 657-4538, or Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA

17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory Authority

This proposed amendment is published under the statutory authority of section 5123 of the code (relating to general boating regulations).

D. Purpose and Background

The proposed amendment is designed to update, modify and improve Commission regulations pertaining to boating. The specific purpose of the proposed amendment is described in more detail under the summary of proposal. Prior to consideration by the Commission, the Commission's Boating Advisory Board reviewed the proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

E. Summary of Proposal

Section 97.4 (relating to personal flotation devices). From 1988 through 1997, 147 people lost their lives in recreational boating accidents in this Commonwealth. About one-half of these fatalities occurred during the cool weather months outside the traditional summer boating season. It has been proven that wearing PFDs will save lives. Government has been reluctant to mandate the wearing of PFDs because of personal liberty issues as well as the unavailability of devices that could be worn comfortably while participating in various boating activities. Manufacturers of PFDs have made great strides in recent years. In 1997, fully inflatable devices were approved for use on recreational boats for the first time.

The United States Coast Guard has recently closed its request for comments about the mandatory wearing requirements for recreational boaters. The data has not been compiled yet, but preliminary reports are that most comments stated that this requirement is rightly the responsibility of the states and not the Federal government. The Commission has considered the issue of mandatory PFD wearing several times. The latest was in January 1996. At the time, the proposal was not accepted because inflatable PFDs were not yet approved. Only four comments were received. Two opposed the requirement and two supported the requirement. Additionally, the Type IV throwable PFD is no longer accepted on recreational boats. All boats must now carry wearable PFDs.

Considering the increased availability of new PFDs and the continuing deaths during cool weather months, the Commission is again proposing the adoption of amendments that would require boaters to wear PFDs from October 1 through the Friday before Memorial Day. Thirty to 40 people might be alive today if they had worn a PFD during this critical time period.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat

Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 60 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-86. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 97. OPERATOR PROVIDED EQUIPMENT

§ 97.1. Personal flotation devices.

* * * * *

(i) Between October 1 and the Friday before Memorial Day, all persons shall wear a Type I, II, III or V Coast Guard approved PFD when onboard any canoe or kayak or any other boat less than 16 feet in length when the boat is being operated and not affixed or made fast to the shore.

[Pa.B. Doc. No. 98-1652. Filed for public inspection October 9, 1998, 9:00 a.m.]

[58 PA. CODE CHS. 53, 93 AND 109]

Commission Property and Boating

The Fish and Boat Commission (Commission) proposes to amend §§ 53.8, 93.13 and 109.4 (relating to boats; issuing agents; and water skiing, aquaplaning, site skiing and similar activities). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to Commission property and boating.

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

These proposed amendments are published under the statutory authority of sections 741, 5122 and 5123 of the code (relating to control of property; and registration, licenses, permits, plates and statistics; and general boating regulations).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations pertaining to Commission property, issuing agents and boating. The specific purpose of the proposed amendments is described in more detail under the summary of proposal. Prior to consideration by the Commission, the Commission's Boating Advisory Board reviewed all proposals relating to boating and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

E. Summary of Proposal

1) Section 53.8 (relating to boats). In response to a request by an individual boater, the Commission in the early 1990s approved the use of non-Coast Guard approved inflatable personal flotation devices (PFDs) by operators of sculls and rowing shells and racing kayaks. Without this exemption, these boats were excluded from Commission lakes because at the time no approved inflatable PFDs were available. In the spring of 1998, manufacturers began to make approved devices. With the introduction of these devices, the exemption is no longer needed.

Additional staff review of this regulation determined that it was redundant in that the requirement for PFD carriage is covered under § 97.1 (relating to personal flotation devices). Section 97.1(f) exempts sculls, shells and racing kayaks from the PFD requirements except on Commission and State Park lakes. The Commission therefore proposes to restate this restriction in § 53.8 to assure that there is no misunderstanding about the requirements.

(2) Section 93.13 (relating to issuing agents). In an attempt to provide a greater opportunity for the boating public to be able to register or transfer registration of a boat, the addition of businesses dealing in temporary tag services or messenger services as boat issuing agents will provide one-step service for the boater with regard to the registration of the boat trailer and boat. Currently these businesses fill out boat registration forms and bring them to the Harrisburg office for the issuance of temporary boat registration decals. This practice has placed an additional demand on the staff in the Registration Section. Boaters currently using these businesses for processing their boat registrations may at times leave with the impression that their boats are legally registered once the messenger or tag service has completed the application. Many of these messengers and tag services provide evening and weekend hours that will be a direct benefit to the public. The Commission therefore proposes to amend § 93.13 to include temporary tag services or messenger services as issuing agents for temporary boat registrations.

3) Section 109.4 (relating to water skiing, aquaplaning, site skiing and similar activities). In February 1998, the Commission received a letter requesting that it consider permitting the use of longer rope by commercial parasail operators using winch boats and platforms. This type of operation is common in resort areas and has been successfully used for many years. The benefit of using a winch boat and platform is that rope up to 1,200 feet is possible. This gives the user a greater thrill than the standard 300 foot length currently permitted in this Commonwealth. Additionally, the user is able to take his trip and unless planned can take off and land on the boat without getting in the water. Overall, this type of operation is safer than a nonplatform boat or taking off from

the shore or dock. Therefore, the Commission is proposing to amend this section to allow ski tow ropes of 600 feet for commercial winch boat parasails.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

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

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

PETER A. COLANGELO, Executive Director

Fiscal Note: 48A-85. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 53. COMMISSION PROPERTY

§ 53.8. Boats.

* * * * *

(b) [Watercraft on Commission lakes shall have on board a Coast Guard approved Type I, II, III or V personal flotation device in good serviceable condition for each occupant. Occupants of sculls, shells and racing kayaks may substitute and use non-Coast Guard approved inflatable personal flotation devices in accordance with their design and manufacturer recommendation.] Occupants of sculls, shells and racing kayaks are required to carry or wear a Coast Guard approved personal flotation device.

* * * * *

Subpart C. Boating

CHAPTER 93. REGISTRATION AND NUMBERING

§ 93.13. Issuing agents.

(a) The designation of issuing agents for temporary boat registrations shall be limited to the Commission and Commission offices, county treasurers [and], businesses dealing in boats, boating equipment or sporting goods and temporary tag services or messenger services approved by the Department of Transportation for the issuance of temporary boat trailer registrations.

* * * * *

**CHAPTER 109. SPECIALTY BOATS AND
WATERSKIING ACTIVITIES**

§ 109.4. Water skiing, aquaplaning, site skiing and similar activities.

* * * * *

(e) *Ski tow ropes.* Ski tow ropes may not exceed the following lengths:

* * * * *

(5) Commercial winch boat parasails—600 feet.

* * * * *

[Pa.B. Doc. No. 98-1653. Filed for public inspection October 9, 1998, 9:00 a.m.]

[58 PA. CODE CH. 65]

Fishing

The Fish and Boat Commission (Commission) proposes to amend (relating to miscellaneous special fishing regulations). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to fishing.

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

This proposed amendment is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed amendment is designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

Section 65.24 (relating to miscellaneous special regulations).

(1) In 1991, the Commission received requests for the issuance of net permits under section 2902 of the code (relating to net permits) to use throw or cast nets to take gizzard shad and alewife in Lake Raystown. Based upon the recommendations of the Bureaus of Law Enforcement and Fisheries, and after discussion at a FUTURE Taskforce meeting, the Executive Director exercised his discretion to issue the permits subject to certain conditions. For 1998, the Commission has issued about 160 cast net permits valid for Lake Raystown only to be used exclusively for the seining of gizzard shad and alewife. The nets are limited to a 6-foot radius (12-foot diameter). Although the original discussion indicated that mesh size should be no less than 1/2 inch, the vast majority of the current permits cover mesh size of at least 3/8 inches. Six of the current permits cover nets with 1/8 inch mesh.

This program has worked well on Lake Raystown, and the Commission has received requests to issue similar permits for cast nets or throw nets for use on other waters. The original intent, however, was to limit these permits to Lake Raystown, and the Commission believes that it would be inappropriate to expand the program at this time.

Although no regulatory action is required to maintain the program in its present scope since the issuance of these permits on a discretionary basis is expressly authorized by both statute and regulation, the Commission believes that it would be desirable to spell out the guidelines for use of cast nets and throw nets in its regulations and the Summary booklet. The Commission, therefore, proposes an amendment that will allow the present practice to continue with standardized guidelines for net size and mesh size. The proposed amendment also will make it clear that these permits will only be issued for Lake Raystown.

(2) The Youghiogheny River, located in Somerset, Fayette, Westmoreland and Allegheny Counties, provides a popular coldwater fishery in southwestern Pennsylvania. As a result of the coldwater release from Youghiogheny River Lake, 28.3 miles of the river is managed to provide trout angling opportunities. Present management provides for catchable trout angling opportunities on the 1.1 mile section from the outflow of the lake downstream to the confluence with the Casselman River, and an additional 27.2 miles downstream of the confluence with the Casselman River managed with the planting of fingerling trout. Currently, the section of the river from the confluence with the Casselman River downstream to the mouth is managed under § 65.24. Under this regulation, there is no closed season on trout, a minimum size limit of 7 inches, a creel limit of 8 trout per day from opening day through Labor Day and a three trout per day creel limit until the following opening day of trout season.

The provision of the coldwater release offers an opportunity to enhance the quality of the coldwater fishery on the Youghiogheny River. Therefore, the Commission has designated a 3.5 mile section (from the confluence with Ramcat Run downstream to the pipeline crossing at the confluence with Lick Run) to be regulated and managed under § 65.4a (relating to all-tackle trophy trout). This regulation provides for year 'round trout angling with no tackle restriction and a 14 inch minimum size limit and two trout daily creel limit during the regular trout season (8 a.m. opening day through midnight Labor Day) and no harvest permitted during the remainder of the season. Because the Commission has added this stream section to its all-tackle trophy trout program, the Commission proposes to clarify the length of the section described in § 65.24.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Pennsylvania Fish

and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-84. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS
§ 64.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulation:

| <i>County</i> | <i>Name of Water</i> | <i>Special Regulations</i> |
|---------------|--|--|
| ***** | | |
| Huntingdon | Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River) | *****
The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife on Lake |

| <i>County</i> | <i>Name of Water</i> | <i>Special Regulations</i> |
|---------------|----------------------|---|
| | | Raystown. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 6 feet in radius (12 feet in diameter) with a mesh size of at least 3/8 inches. |
| ***** | | |

| | | |
|--|---|--|
| Somerset,
Fayette,
Westmoreland and
Allegheny | Youghiogheny River from confluence with Casselman River downstream to [mouth of river] the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river | No closed season on trout. Daily limit opening day of trout season to Labor Day—eight trout; day after Labor Day to succeeding opening day of trout season—three trout per day. Inland regulations apply to warmwater/coolwater species. |
| ***** | | |

[Pa.B. Doc. No. 98-1654. Filed for public inspection October 9, 1998, 9:00 a.m.]

STATEMENTS OF POLICY

Title 16—COMMUNITY AFFAIRS

HUMAN RELATIONS COMMISSION

[16 PA. CODE CH. 45]

Housing Accommodations/Commercial Property; Schedule of Penalties, Guidelines For Their Imposition and Procedures for Appeal

The Human Relations Commission (Commission), has adopted the following schedule of penalties, guidelines for their imposition and procedures for appeal to read as set forth in Annex A. The schedule of penalties, guidelines for their imposition and procedures for appeal were adopted in compliance with and under the authority of section 9.3 of the Pennsylvania Human Relations Act (act) (43 P. S. § 959.3). The schedule of penalties, guidelines for their imposition and procedures for appeal are not subject to review under section 205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1205) and are effective for a period not to exceed October 10, 2000. On or before October 10, 2000, this schedule of penalties, guidelines for their imposition and procedures for appeal shall expire and will be replaced by regulations which will have been promulgated, adopted and published as provided by law.

The purpose of this statement of policy is to create a schedule of penalties, guidelines for their imposition and procedures for appeal for violation of section 5 of the act (43 P. S. § 955(h)(5)) by advertisers and publishers in instances when the complainant does not take action to secure housing accommodations or financing and is not denied housing accommodations or financing based on the alleged discriminatory language in the advertisement.

Fiscal Impact

The Commission believes that the schedule of penalties, guidelines for their imposition and procedures for appeal will result in no additional cost to the Commission or to the general public.

Any costs which arise to advertisers or publishers due to a fine imposed upon them are more than offset by the absence of costs of the current adversarial method of case processing.

Paperwork Requirements

Additional paperwork created by the system will be offset by a lessening in the normal case processing paperwork to be eliminated.

Effective Date

The schedule of penalties, guidelines for their imposition and procedures for appeal shall take effect upon publication in the *Pennsylvania Bulletin*.

Contact Person/Public Comments

Interested persons are invited to submit written comments regarding the schedule of penalties, guidelines for their imposition and procedures in writing to Nancy L. Gippert, Assistant Chief Counsel, Human Relations Commission, 101 South Second Street, Suite 300, P. O. Box 3145, Harrisburg, PA 17101.

HOMER C. FLOYD,
Executive Director

(*Editor's Note:* The regulations of the Commission are amended by adding a statement of policy in 16 Pa. Code Chapter 45, §§ 45.201—45.208 (relating to citation procedure—statement of policy) to read as set forth in Annex A.)

Fiscal Note: 52-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 16. COMMUNITY AFFAIRS

PART II. GOVERNOR'S OFFICE

Subpart A. HUMAN RELATIONS COMMISSION

CHAPTER 45. HOUSING ACCOMMODATIONS/ COMMERCIAL PROPERTY

Subchapter C. CITATION PROCEDURE—STATEMENT OF POLICY

Sec.

| | |
|---------|---|
| 45.201. | Purpose. |
| 45.202. | Initial procedure. |
| 45.203. | Administrative procedures. |
| 45.204. | Hearing. |
| 45.205. | Appeals. |
| 45.206. | Enforcement of orders/nonpayment of civil penalties/default judgment. |
| 45.207. | Schedule of civil penalties. |
| 45.208. | Form. |

§ 45.201. Purpose.

Advertisements covered by section 5(h)(5) of the act (43 P. S. § 955(h)(5)) shall be subject to a schedule of civil penalties for violation of section 5(h)(5) of the act by the advertiser and the publisher in instances when the complainant does not take action to secure housing accommodations for financing and is not denied housing accommodations or financing based on the alleged discriminatory language in the advertisement. Section 5(h)(5) of the act states that it is an unlawful act to:

“Print, publish or circulate any statement or advertisement: (i) relating to the sale, lease or acquisition of any housing accommodation or commercial property or the loan of money, whether or not secured by mortgage, or otherwise for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or commercial property which indicates any preference, limitation, specification, or discrimination based upon race, color, familial status, age, religious creed, ancestry, sex, national origin, handicap or disability or because of the handicap or disability of an individual with whom the person is known to have a relationship or association, or (ii) relating to the sale, lease or acquisition of any housing accommodation or commercial property which indicates any preference limitation, specification, or discrimination based upon use of a guide or support animal because of the blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support of guide animals”

§ 45.202. Initial procedure.

When the Commission becomes aware of an unlawful advertisement, which is subject to a citation, from sources other than aggrieved persons seeking housing or commercial property or financing in connection therewith, the following procedures apply:

(1) The advertisements shall be forwarded to the appropriate regional housing staff in their original form, if possible, with information regarding their publication.

(2) Housing staff shall complete the Commission Citation Form (see § 45.204 (relating to form)).

(i) The form shall be forwarded to the housing director for review and transmittal to the Executive Director/designee.

(ii) The Executive Director/designee shall sign and return the citation to the housing director.

(iii) The Housing Director shall cause the citation to be entered on an appropriate database assigning the citation a number consisting of:

- (A) "C" = Citation
- (B) "1,2,3" = Regional Office
- (C) "Y" = Calendar Year
- (D) "#" = Representing sequential numerical docketing

(3) A copy of the citation and Subchapter B (relating to housing advertisements—guidelines and statement of policy) shall be sent to the parties cited and when appropriate to licensing or regulatory agencies, or both. The letter shall set forth the following options:

(i) Admission of violation and payment of the appropriate civil penalty.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission to some violations and denial of others which would involve appropriate payment, in separate payments, of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(4) Failure to respond or take any of the options set forth in paragraph (3) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(5) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspension of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

(6) Procedures will be established in the Commission's Office of Administration to administer the following options:

(i) Process checks and forward them when violations are admitted.

(ii) Denial of violation, payment of the appropriate amount of civil penalty and request for formal hearing. Included in this option is the notice that failure to appear at the hearing will result in a default judgment.

(iii) Admission of some violations and denial of others which would involve appropriate payment (in separate payments) of the amount of civil penalties for those admitted and those denied for which a hearing was requested.

(7) Failure to respond or take any of the actions set forth in paragraph (6) within 15 days of service of the citation will result in a default judgment for the full amount of the penalty.

(8) Failure to pay a civil penalty could result in additional penalties, or a request for revocation, suspen-

sion of other disciplinary actions against licensees or other action including court proceedings which the Commission deems appropriate.

§ 45.203. Administrative procedures.

(a) Procedures will be established in the Commission's Office of Administration to:

(1) Process checks and forward them when violations are admitted.

(2) Escrow checks for those citations when a hearing is requested.

(b) The housing director will note on the appropriate data base:

(1) Citations when violations are admitted and civil penalties paid.

(2) Citations when violations are denied and the following apply:

(i) Payment is received and escrowed and a hearing requested.

(ii) Payment is not received and default judgment is required.

(iii) When no response is received and default proceedings are necessary.

(c) When violations are admitted and payment is made, the following apply:

(1) The fact will be noted and payment forwarded to the Department of Revenue.

(2) The record will be closed.

(3) Letters will be sent to parties advising of closing.

(d) When violations are denied and payment is included, the following apply:

(1) The payment will be noted on the record.

(2) The hearing request will be forwarded to a citation officer.

(3) The parties will be advised.

(4) The housing counsel will prepare the matter for hearing.

(e) When violations are denied and payment is not received, the following apply:

(1) The record will note the deficiency.

(2) The parties will be given written notice of a 5-day extension to submit payment.

(3) If payment is received, the procedure in subsection (b) will be followed.

(4) If payment is still not received, the default procedure will be applied.

(f) If there are both admissions of some violations and denial of some with payment, or nonpayment, the appropriate procedure will be utilized as outlined in this section.

(g) If there is no response, a request for a default judgment shall be made to the citation officer.

(h) The conduct of the hearing by the citation officer in any of these circumstances will be governed by appropriate Commission regulations/requirements or these procedures, or both.

§ 45.204. Hearing.

(a) An order following a hearing shall be issued by the citation officer who may:

- (1) Order the payment of the amount of the citation.
- (2) Modify the amount of payment.
- (3) Dismiss the citation and direct the return of the payment.
- (4) Order remedial actions or reasonable cost, or both.
- (5) Order other appropriate equitable relief.
- (b) Orders affirming a violation shall be referred to any appropriate licensing or regulating agencies, or both, for action as the agencies deem possible.

§ 45.205. Appeals.

Appeals of an order issued by the citation officer shall be made to the Commission.

§ 45.206. Enforcement of orders/nonpayment of civil penalties/default judgment.

Requests for enforcement of nonpayment of civil penalties/default judgment shall be made to the Commission and filed with the appropriate court/agency when approved by the Commission.

sion and filed with the appropriate court/agency when approved by the Commission.

§ 45.207. Schedule of civil penalties.

(a) *Penalties.* The following penalties apply:

| | <i>Publisher</i> | <i>Advertiser</i> |
|-----------------|------------------|-------------------|
| First Citation | 250 | 250 |
| Second Citation | 500 | 500 |
| Third Citation | Formal Process | Formal Process |

(b) *Formal process.* When, in the Commission's judgment, the action of a party in the event of a third citation warrants, the Commission has the following options:

- (1) To impose a maximum penalty on a multiple basis.
- (2) To file a Commission initiated complaint.
- (3) To seek legal recourse, including those under section 11 of the act (43 P. S. § 961).

§ 45.208. Form.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION
101 SOUTH SECOND STREET, SUITE 300
HARRISBURG, PA 17105

CITATION

| | | |
|--|-----------------------|----------------|
| RESPONDENT FIRST NAME | MIDDLE NAME | LAST NAME |
| 1. | | |
| RESIDENCE ADDRESS | CITY-TWP-BORO-COUNTY | STATE ZIP CODE |
| 2. | | |
| BUSINESS ADDRESS | | |
| 3. | | |
| CHARGE | | |
| 4. | | |
| | | |
| DATES(S) OF PUBLICATION | MANNER OF PUBLICATION | COPY ATTACHED |
| 5. | 6. | YES ___ NO ___ |
| STATUTE OR REGULATIONS | CIVIL PENALTY | TOTAL DUE \$ |
| 7. | 8. \$ | 9. |
| I VERIFY THAT THE FACTS SET FORTH IN THIS CITATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE OR INFORMATION AND BELIEF. THIS VERIFICATION IS MADE SUBJECT TO THE PENALTIES OF SECTION 4804 OF THE CRIMES CODE (18 PA.C.S § 4904) RELATING TOO UNSWORN FALSIFICATION TO AUTHORITIES. | | |
| SIGNATURE | DATE _____ | |
| 10. | | |
| REMARKS | | |
| 11. | 12. CITATION NO. | |

READ THE ATTACHED PLEA AND THE EXPLANATION OF YOUR RIGHTS AND OBLIGATIONS FOR SETTLEMENT OF THIS MATTER. YOU MUST ELECT AN OPTION AND FOLLOW THE APPROPRIATE DIRECTIONS WITHIN FIFTEEN (15) DAYS TO AVOID FURTHER LEGAL ACTION AGAINST YOU.

SHOULD YOU ELECT TO DEMAND A HEARING ON THIS MATTER, FOLLOW THE INSTRUCTIONS ON THE ATTACHED PLEA. YOUR HEARING DATE WILL BE SET BY A HEARING OFFICER. ALL HEARINGS ARE HELD IN HARRISBURG IN THE PENNSYLVANIA HUMAN RELATIONS COMMISSION CONFERENCE ROOM.

NOTICE OF RIGHTS AND OBLIGATIONS

- 1. The original of this citation will be filed with the Housing Director of the Pennsylvania Human Relations Commission at Pennsylvania Human Relations Commission, Housing Division, 101 South Second Street—Suite 300, Harrisburg, PA 17105.

2. Within fifteen (15) days of the issuance or receipt of this citation, you must:
 - a. ADMIT TO THE VIOLATION(S) by signing the appropriate plea below and mailing the entire Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director, at the address listed above, or;
 - b. DENY THE VIOLATION(S)
 - i. in whole by signing the appropriate plea as specified in Section (b) of the Plea (attached) and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address listed specified above.
 - ii. in part by signing the appropriate plea as specified in Section "c" of the Plea (attached) below and mailing the Citation along with an amount equal to the Total Due as specified on the Citation (attached) to the Housing Director at the address specified above.

If you deny the violation(s), a formal hearing will be scheduled in Harrisburg at which you may present evidence on your behalf. Failure to appear at the formal hearing will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation.

3. All payments must be made by certified or cashier's check or money order and made payable to the "Commonwealth of Pennsylvania," and mailed to the Housing Director at the address specified above. Please place the Citation Number on certified or cashier's check or money order. Personal Checks WILL NOT be accepted.
4. FAILURE TO RESPOND WITHIN THE TIME SPECIFIED ABOVE will result in the entry of a default judgment against you for the full amount of the civil penalty ("Total Due") as specified on the Citation. Failure to pay a civil penalty could result in additional fines and the revocation, suspension or other disciplinary action against any license which you may hold.

- a. I ADMIT to the violation(s) on the reverse side of this Citation

| | |
|-----------|------|
| | |
| Signature | Date |
- b. I DENY the violation(s) on the reverse side of this Citation

| | |
|-----------|------|
| | |
| Signature | Date |
- c. I ADMIT to violations _____
 Enter Violation Number(s) here
 have enclosed the amount for these violations and DENY the remaining violation(s) on the reverse side of this Citation

| | |
|-----------|------|
| | |
| Signature | Date |

PLEASE PLACE THE CITATION NUMBER(S)
ON YOUR CERTIFIED OR CASHIER'S CHECK OR MONEY ORDER

Note: A copy of the Pennsylvania Human Relations Commission's guidelines and policy statement on advertising pursuant to Act 34 is attached and incorporated by reference here unto.

[Pa.B. Doc. No. 98-1655. Filed for public inspection October 9, 1998, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 29, 1998.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 9-23-98 | First Capitol Bank, York,
and Susquehanna Interim
Bank, York
Surviving Institution—
First Capitol Bank, York | York | Filed |
| | Subject merger will be effected to facilitate the acquisition of First Capitol Bank, York, by Susquehanna Bancshares, Inc., Lititz, a bank holding company. | | |
| 9-29-98 | Laurel Bank, Johnstown, and
The Peoples National Bank
of Rural Valley, Rural Valley
Surviving Institution—
Laurel Bank, Johnstown | Johnstown | Approved |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 4-13-98 | Keystone Savings Bank
Bethlehem
Northampton County | 3933 Freemansburg Rd.
Bethlehem
Northampton County | Opened |
| 9-24-98 | Somerset Trust Company
Somerset
Somerset County | 116 Market Street
Johnstown
Cambria County | Opened |
| 9-29-98 | Firsttrust Savings Bank
Flourtown
Montgomery County | 288 South Main St.
Doylestown
Bucks County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| 8-26-98 | First Commonwealth Bank
Indiana
Indiana County | 500 Hyde Park Road
Leechburg
Armstrong County | Effective |

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 98-1656. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Pennsylvania Community Development Bank Accreditation Standards

The Department of Community and Economic Development gives notice of the establishment of Pennsylvania Community Development Bank State Accreditation Standards. The Pennsylvania Community Development Bank Program offers access to capital for local community organizations in order to establish and support Community Development Financial Institutions. The ultimate beneficiaries of this program are low-income people and organizations that support comprehensive community revitalization. This program is administered through the Pennsylvania Economic Development Financing Authority.

Organizations who wish to apply for funds under the program must apply for accreditation based upon the standards. Copies of the standards are available upon request.

Further information can be obtained from the Pennsylvania Economic Development Financing Authority, Room 466, Forum Building, Harrisburg, PA 17120, (717) 783-1108.

SAMUEL A. MCCULLOUGH,
Secretary

[Pa.B. Doc. No. 98-1657. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council; Meeting Notice

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will meet on Monday, October 19, 1998. The meeting will be held at 10 a.m. in Training Room, 2nd Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Glenda Miller directly at (717) 772-9087 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

RANDY COOLEY,
Chairperson

[Pa.B. Doc. No. 98-1658. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

APPLICATIONS RECEIVED UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications for National Pollutant Discharge Elimination System (NPDES) permit to discharge to State waters.

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.

PA 0061085. Sewerage, **Glenburn Service Company, c/o Frank Colombo**, P. O. Box O, Clarks Summit, PA 18411.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Ackerly Creek in Glenburn Township, **Lackawanna County**.

The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Borough Water Authority on the Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of 0.032 mgd are:

| <i>Parameter</i> | <i>Monthly Average (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|---|-------------------------------------|
| CBOD ₅ | 25.0 | 50.0 |
| Total Suspended Solids | 30.0 | 60.0 |
| NH ₃ -N | | |
| (5-1 to 10-31) | 2.0 | 4.0 |
| (11-1 to 4-30) | 6.0 | 12.0 |
| Dissolved Oxygen | a minimum of 6.0 mg/l at all times | |
| Fecal Coliform | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | |
| pH | 6.0 to 9.0 standard units at all times. | |
| Total Residual Chlorine | | |
| (Months 1—24) | monitor and report | |
| (Months 25—60) | 1.2 | 2.8 |

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 327-3666.

PA 0208787. Industrial waste, SIC: 5171, **Sun Company Inc., (R & M)**, 301 West Hia Watha Blvd., Syracuse, NY 13204.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater to West Branch Susquehanna River in Armstrong Township, **Lycoming County**.

The receiving stream is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃ fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton.

The proposed effluent limits for Outfall 001, based on a design flow of 0.2 mgd, are:

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | <i>Mass (lbs/day)</i> | |
|------------------|-----------------------------|----------------------|------------------------------|------------------------|----------------------|
| | <i>Average Monthly</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> | <i>Average Monthly</i> | <i>Daily Maximum</i> |
| Benzene | 0.001 | 0.002 | 0.0025 | | |
| Total BTEX | 0.1 | 0.2 | 0.25 | | |
| Oil and Grease | 15 | | 30 | | |
| Ethylbenzene | report | | | | |
| Toluene | report | | | | |
| Total Xylenes | report | | | | |
| pH | 6.0—9.0 at all times. | | | | |

The EPA waiver is in effect.

PA 0024538. SIC: 4952, **Beech Creek Borough Authority**, P. O. Box 216, Beech Creek, PA 16822.

This proposed action is to amend the NPDES permit for an STP expansion. The discharge of treated sewage is at the existing location on Beech Creek in Beech Creek Borough, **Clinton County**.

The receiving stream is classified for the following uses: cold water fishery and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton, PA.

The proposed effluent limits for Outfall 001, based on the existing design flow of 0.12 mgd and future design flow of 0.16 mgd, are:

| Discharge Parameter | Concentrations (mg/l) | | Instantaneous Maximum ² |
|--------------------------------|-------------------------------------|----------------|------------------------------------|
| | Average Monthly | Average Weekly | |
| pH (std units) | within the range 6.0 to 9.0 | | |
| Total Cl ₂ Residual | monitor | | monitor |
| CBOD ₅ | 25 | 40 | 50 |
| TSS | 30 | 45 | 60 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric average | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric average | | |

Other Conditions: None.

The EPA waiver is in effect.

PA 0009083. American Color & Chemical, L.L.C., P. O. Box 88, Lock Haven, PA 17745.

This proposed action is for renewal of an NPDES permit for an existing discharge of stormwater to Bald Eagle Creek in Castanea Township, **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, NO₂-NO₃, fluoride and phenolics, the assumed downstream potable water supply (PWS) considered during the evaluation is Lock Haven located 1.7 miles downstream on the Bald Eagle Creek.

The proposed effluent limits for Outfall 001, based on a design flow of 0.070 mgd, are:

| Discharge Parameter | Average Monthly | Maximum Daily | Minimum | Average Monthly | Maximum Daily | Instantaneous Maximum ² |
|---------------------|-----------------|---------------|-----------------------------|-----------------|---------------|------------------------------------|
| Flow (mgd) | report | report | | | | |
| pH (std units) | | | within the range 6.0 to 9.0 | | | monitor |
| Aniline | | | | | | monitor |
| Benzene | | | | | | monitor |
| Nitrobenzene | | | | | | monitor |
| 2,4-Dinitrophenol | | | | | | monitor |
| Phenol | | | | | | monitor |

Other Conditions:

1. Certification once per year that only stormwater is being discharged through this outfall.

The EPA waiver is in effect.

Southwest Regional Office: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA 0033723. Sewage, Davis & Sons General Contracting, Inc., R. R. 1, Box 79, Spraggs, PA 15362.

This application is for renewal of an NPDES permit to discharge treated sewage from Davis and Sons General Contracting Sewage Treatment Plant in Wayne Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Roberts Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the East Dunkard Water Association.

Outfall 001: existing discharge, design flow of 0.001 mgd.

| Parameter | Concentration (mg/l) | | | Instantaneous Maximum |
|---------------------------------|----------------------------------|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 8.0 | | | 16.0 |
| (11-1 to 4-30) | 24.0 | | | 48.0 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 8,000/100 ml as a geometric mean | | | |

| | <i>Average</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous</i> |
|--|--|-----------------------------|----------------|----------------------|
| | | <i>Average</i> | <i>Maximum</i> | |
| Total Residual Chlorine
(1st month—36th month)
(37th month—expiration) | monitor and report
1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA 0038229. Sewage, **Hempfield Township Municipal Authority**, R. D. 6, Box 501, Greensburg, PA 15601.

This application is for renewal of an NPDES permit to discharge treated sewage from the Earl Lohr Sewage Treatment Plant located in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Township Line Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of .347 mgd.

| <i>Parameter</i> | <i>Average Monthly</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum</i> |
|--|--|-----------------------------|----------------------|------------------------------|
| | | <i>Average Weekly</i> | <i>Maximum Daily</i> | |
| CBOD ₅ | 25 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen
(5-1 to 10-31) | 2.0 | 3.0 | | 4.0 |
| (11-1 to 4-30) | 3.5 | 5.0 | | 7.0 |
| Fecal Coliform
(5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine
(1st month—36th month)
(37th month—expiration) | monitor and report
.035 | | | .115 |
| Dissolved Oxygen | not less than 5.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA 0092509. Sewage, **Gerry & Associates**, 1136 Club Drive, Johnstown, PA 15905.

This application is for renewal of an NPDES permit to discharge treated sewage from the Roadway Plaza Sewage Treatment Plant in St. Clair Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Big Spring Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Waterworks.

Outfall 001: existing discharge, design flow of .0061 mgd.

| <i>Parameter</i> | <i>Average Monthly</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum</i> |
|--|--|-----------------------------|----------------------|------------------------------|
| | | <i>Average Weekly</i> | <i>Maximum Daily</i> | |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen
(5-1 to 10-31) | 9.5 | | | 19 |
| (11-1 to 4-30) | 28 | | | 56 |
| 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)
(37th month—expiration) | monitor and report
1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA 0218006. Sewage, **Conemaugh Township Municipal Water and Sewer Authority**, R. D. 1, Box 206, Saltsburg, PA 15681.

This application is for issuance of an NPDES permit to discharge treated sewage from the Blacklegs Sewage Treatment Plant in Conemaugh Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Blacklegs Creek, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority—Freeport.

Outfall 001: new discharge, design flow of 0.08755 mgd.

| Parameter | Concentration (mg/l) | | | Instantaneous Maximum |
|---|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | |
| CBOD ₅ | 25 | 37.5 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen
(5-1 to 10-31) | 15 | 22.5 | | 30 |
| Fecal Coliform
(5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 10,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine
(1st month—36th month) | monitor and report | | | |
| (37th month—expiration) | 1 | | | 2.5 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

Other Conditions:

The EPA waiver is in effect.

Northwest Regional Office: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

PA 0103772. Sewage, **Patrick and Joseph Hodapp**, 9275 Kuhl Road, Erie, PA 16510.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary to Four Mile Creek in Greene Township, **Erie County**. This is an existing discharge.

The receiving water is classified for warm water and migratory fishery, water supply and recreation. For this stream Chapter 93 states, "Delete DO₂ and Temp₂ and insert DO₁ and Temp₁" which then revises the classification to that of cold water, with the balance of classification remaining as listed. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply to consider during the evaluation.

The proposed effluent limits for Outfall 001, based on average design flow of 0.00126 mgd, are:

| Parameter | Effluent Concentration (mg/l) | |
|---------------------------------|---|-----------------------|
| | Average Monthly | Instantaneous Maximum |
| CBOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| Phosphorus as P | 1.0 | |
| Dissolved Oxygen | minimum of 3.0 mg/l at all times | |
| Total Residual Chlorine | 1.4 | 4.3 |
| Fecal Coliform
(5-1 to 9-30) | 200/100 ml as a geometric average | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric average | |
| pH | 6.0 to 9.0 standard units at all times. | |

The EPA waiver is in effect.

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department). Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest. Each writer will be notified in writing

of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received for industrial waste and sewage under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review these applications should contact Mary DiSanto at (717) 705-4732.

A. 2198410. Sewage, submitted by **Herbert and Charlotte Roth**, 8 West Hatchery Road, Newville, PA 17241 in North Newton Township, **Cumberland County** to construct and install a small flow treatment facility was received in the Southcentral Region on September 17, 1998.

Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

WQM Permit No. 6298412. Sewage, **Charles and Amy Burton, SRSTP**, 27 Wilderness Trailer Court, Clarendon, PA 16313. This project is for the construction of a single residence sewage treatment plant in Sugar Grove Township, **Warren County**.

WQM Permit No. 2098412. Sewage, **Robert K. and Nancy J. Maxwell, SRSTP**, 12942 Route 98, Meadville, PA 16335. This project is for the construction of a single residence sewage treatment plant in Vernon Township, **Crawford County**.

WQM Permit No. 2098413. Sewage, **Terry Rager, SRSTP**, 1312 Louise St., Homestead, PA 15120. This project is for the construction of a single residence sewage treatment plant in North Shenango Township, **Crawford County**.

WQM Permit No. 6298413. Sewage, **Roger E. Chelton, SRSTP**, R. R. 1, Box 17, Bear Lake, PA 16402-9609. This project is for the construction of a single residence sewage treatment plant in Freehold Township, **Warren County**.

WQM Permit No. 6198405. Sewage. **Sugarcreek Borough**, 212 Fox Street, Franklin, PA 16323. This project is for the replacement and expansion of a sewer along State Routes 8/62 in the Borough of Sugarcreek between Front Street and the OMG Industrial Building in Sugarcreek Borough, **Venango County**.

INDIVIDUAL PERMITS

(PAS)

NPDES INDIVIDUAL

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be

sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 30-day comment period, the Water Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department's Regional Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (717) 629-3060.

NPDES Permit PAS10S072. Stormwater. **Pa. American Water Co.**, A Pocono Country Place Wastewater Treatment Plant Upgrade, 800 West Hershey Park Drive, Hershey, PA 17033, has applied to discharge stormwater from a construction activity located in Coolbaugh Township, **Monroe County**, to East Branch Dresser Run.

Pike County Conservation District, District Manager, HC 6, Box 6770, Hawley, PA 18428, (717) 226-8220.

NPDES Permit PAS10V024. Stormwater. **Milford Bible Church of Deacons**, Robert C. DeGroat, President/Chairperson, Milford Bible Church, 303 Ann Street, Milford, PA 18337, has applied to discharge stormwater from a construction activity located in Dingman Township, **Pike County**, to Raymondskill Creek.

Northcentral Regional Office: Regional Water Management Program Manager, 208 W. 3rd St., Suite 101, Williamsport, PA 17701, (717) 327-3574.

Clinton County Conservation District, 36 Spring Run Rd., Mill Hall, PA 17751, (717) 726-3798.

NPDES Permit PAS10I909-2. Stormwater. **Thomas McGeoy, North Lands Inc.**, 415 River Ave., Box 233, Williamsport, PA 17701 has applied to discharge stormwater from a construction activity located in Gallagher Township, **Clinton County** to Rattlesnake Run by way of Twin Dam Hollow and Wildcat Hollow and Hunter Hollow.

Southwest Regional Office: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

NPDES Permit PAS10W070. Stormwater. **Washington Woods Development Co.**, 4215 Washington Road, McMurray, PA 15317 has applied to discharge from a

construction activity located in South Strabane Township to an unnamed tributary to Little Chartiers Creek.

SAFE DRINKING WATER

Applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.

A. 1598514. Public water supply. **Philadelphia Suburban Water Company**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010. This proposal involves the construction of a new water booster pump station to serve the Whiteland Ridge development in Uwchlan Township, **Chester County**.

Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

A. 0198501. Public water supply. **Gettysburg Municipal Authority**, Gettysburg Borough, **Adams County**. *Responsible Official:* James D. Watson, Manager, 601 East Middle Street, P. O. Box 3307, Gettysburg, PA 17325. *Type of Facility:* Well No. 9 at a rate of 190 gpm. Treatment will be limited to disinfection with sodium hypochlorite solution. *Consulting Engineer:* William K. Corliss, Jr., P.E., Gannett Fleming, Inc., P. O. Box 67100, Harrisburg, PA 17106-7100.

A. 0698508. Public water supply. **Eagle Springs, Inc.**, Bethel Township, **Berks County**. *Responsible Official:* Richard J. Withelder, Owner/Operator, 88 West Donaldson Street, Tremont/Zerbe, PA 17981-1604. *Type of Facility:* New well 4A with ozone disinfection, 40,000 gallon storage tank; 29,000 ft. gravity transmission line and tanker truck loading station. *Consulting Engineer:* Joseph J. Matalavage, P.E., Alfred Benesch and Company, 400 One Norwegian Plaza, Pottsville, PA 17901.

Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

A. 5798501. The Department has received a construction permit application from **Red Rock Job Corps Center** (P. O. Box 218, Lopez, PA 18628-0218; Colley Township, **Sullivan County**) for rehabilitation of well no. 4 by drilling 100' deeper; conduct 48 hour pump test and new source sampling; replace 75 g.p.m. iron/manganese removal system with 95 g.p.m. system.

A. 5998501. The Department has received a construction permit application from **Wellsboro Municipal Authority** (28 Crafton Street, Wellsboro, PA 16901; Duncan Township, **Tioga County**) for the permitting of three additional water supply sources.

Southwest Regional Office: Regional Manager, Water Supply Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

6598502. **New Kensington Municipal Authority**, P. O. Box 577, New Kensington, PA 15068. Installation of a booster station and water distribution lines to serve Upper Burrell, Lower Burrell, Washington and Allegheny Townships, **Westmoreland County**.

6598503. **Highridge Water Authority**, 28 North Walnut Street, Blairsville, PA 15717. Installation of a booster station, water storage tank and water distribution lines to serve Derry Township, **Westmoreland County**.

5695501-A1. **Central City Water Authority**, 241 Sunshine Avenue, Central City, PA 15926. Existing well control tank serving Shade Township, **Somerset County**.

6375501-A1. **Authority of the Borough of Charleroi**, 325—327 McKean Avenue, P. O. Box 211, Charleroi, PA 15022-0211. Change in chlorination at the water treatment plant, Fallowfield, Oakland and Maple Avenue pump stations serving the Borough of Charleroi, **Washington County**.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Notice of Prompt Interim Response Under the Hazardous Sites Cleanup Act

Mangan Property Site

Moore Township, Northampton County

The Department of Environmental Protection (Department) under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA), has initiated a prompt interim response at the Mangan Property Site (Site). This response has been taken under section 505(b) of HSCA (35 P. S. § 6020.505(b)). The Mangan Property Site is located off East Beersville Road in Moore Township, Northampton County, PA.

The Mangan Property Site consists of a storage shed attached to a barn where hazardous substances including pesticides and herbicides were stored. The structure, approximately 10 feet by 15 feet in size, contains residue from the storage of these materials and the wood flooring and side walls are contaminated. The Site also consists of two parcels of property off East Beersville Road where hazardous substances that were stored in the structure attached to the barn were dumped onto the ground. The Department has identified the following hazardous substances at the Site: fonofos (dyfonate), hexachlorocyclohexane (lindane) and toxaphene. These chemical compounds are insecticides and are toxic. The Department is currently analyzing samples to further identify and quantify the hazardous substances present at the Site.

The objective of the prompt interim response is to remove the hazardous substances from the Site and to safely dispose of them at off-site facilities that have regulatory approvals for the treatment and disposal.

Given the specific circumstances at the Site, the Department determined that excavation of the hazardous substances and contaminated soils and off-site removal is the only viable alternative to implement at this Site. In addition, after inspection of the storage shed attached to the barn and receipt of analytical results of material collected from the floor indicating relatively high concentration of fonofos and toxaphene, the Department has decided to remove and dispose of the contaminated residue, wood and contaminated soils associated with this structure. This response action is needed in a prompt manner to protect human health and the environment.

On September 3, 1998, the Department mobilized to the Mangan Property to conduct a prompt interim response. The Department issued an Administrative Order under HSCA for access and right of entry for the Site. Concurrently with this action, the Department conducted a search, under a search warrant, at the Site. During September 3 and September 4, 1998, the Department and its contractor identified the areas on the two parcels where hazardous substances had been dumped, collected samples for analysis and excavated and removed from the

Site the wastes and contaminated soils. The Department removed for proper disposal five rolloff containers of contaminated materials and one 55 gallon drum containing smaller containers of chemicals.

The Department is currently receiving and evaluating analyses of soil samples to determine whether the soils excavations were sufficient to ensure safety to human health and the environment.

On September 22, 1998, the Department met with its contractor to plan the removal and safe disposal of the materials contaminated with hazardous substances in and below the storage shed attached to the barn. This work will begin promptly and may be initiated prior to publication of this notice.

This notice is being provided under sections 505(b) and 506(b) of HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the DEP Bethlehem District Office at 4530 Bath Pike (Route 512) in Hanover Township, Northampton County and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment from October 10, 1998, until January 8, 1999. Persons may submit written comments into the record during this time only, by sending them to James Kunkle, DEP Project Officer, at the DEP Bethlehem Office at 4530 Bath Pike (Route 512) in Hanover Township, Northampton County or by delivering them to this office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing on November 24, 1998, at 7 p.m. at the Moore Township Municipal Building at 2941 Community Drive. Persons wishing to present comments must register with James Kunkle before November 13, 1998, by telephone at (610) 861-2070 or in writing at the DEP Bethlehem District Office.

If no person registers to present oral comments by November 13, 1998, the hearing will not be held. Persons interested in finding out if anyone has registered, and if the hearing will be held, should contact James Kunkle.

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 James Kunkle or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice

of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.

Scholler, Inc., City of Philadelphia, **Philadelphia County**. Michael Gonshor, P.G., RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard.

Philadelphia Redevelopment Authority/Stenton Ave. and Haines St., City of Philadelphia, **Philadelphia County**. Sonya Y. Ward, P.G., Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380, has submitted a Notice of Intent to Remediate site soil contaminated with lead, BTEX and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard.

National Brands Distribution, City of Philadelphia, **Philadelphia County**. Sandra L. Long, Environmental Engineer, Technicon Enterprises Inc., Green Hills Corporate Center, 2675 Morgantown Road, Suite 4100, Reading, PA 19607, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide health standard.

One Montgomery Associates, Norristown Borough, **Montgomery County**. Darryl D. Borrelli, Manko Gold & Katcher, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with PCBs. The applicant proposes to remediate the site to meet Statewide health standards. A final report was simultaneously submitted.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Pennsylvania Power & Light Company (PP&L)—Distribution pole #61579N52067, Carbondale Borough,

Lackawanna County. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The applicant proposes to remediate the site to meet the Statewide human health standard.

Plainwell Tissue, Ransom Township, Lackawanna County. Annette Grano, Environmental Engineer, Plainwell Tissue, P. O. Box 6000, Pittston, PA 18640 has submitted a Notice of Intent to Remediate concerning the remediation of site soils contaminated with petroleum hydrocarbons. The applicant proposes to meet the Statewide human health standard. A Final Report was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

Edward Hill Property (Creekside Market Place), Lower Saucon Township, Northampton County. Ann Logue, Project Manager, Del Val Soil & Environmental Consultants, Inc., Sky Run II, Suite A1, 4050 Skyron Drive, Doylestown, PA 18901 has submitted a Notice of Intent to Remediate (on behalf of her client, Edward Hill, 2025 Mountain Hill Lane, Hellertown, PA 18055) concerning the remediation of site soils contaminated with pesticides and arsenic. The applicant proposes to meet the Statewide human health standard.

Bruner Residence & Haas Property, South Canaan Township, Wayne County. Kevin Van Kuren, President, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Notice of Intent to Remediate (on behalf of his clients, Dale and Diane Bruner, Route 296, South Canaan, PA 18459 and Herbert Haas, P. O. Box 132, Waymart, PA 18472) concerning the remediation of site soils contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds and polycyclic aromatic hydrocarbons. The applicant proposes to meet the Statewide human health standard. A Final Report was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

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, 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. During this comment period a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.

East Norriton Crossing, East Norriton Township, Montgomery County. Darryl D. Borrelli, Manko, Gold & Katcher, Suite 500, 401 City Ave., Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Times Herald* on September 7, 1998.

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), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2516.

Permit I. D. No. 101626. Hillside Composting, Hillside Composting Corporation, P. O. Box 232, Tremont, PA 17981. An applicant for a new leaf and yard waste composting facility, located in Reilly Township, **Schuylkill County.** The application was received in the Regional Office on September 16, 1998, and was found to be administratively complete as of September 23, 1998.

Permit I. D. No. 100022. Chrin Brothers Sanitary Landfill, Chrin Brothers, Inc., 635 Industrial Drive, Easton, PA 18042. A major permit modification for the addition of 26.4 acres adjacent to this municipal waste landfill, located in Williams Township, **Northampton County**, for use as a soil borrow area and other support facilities. The application was received in the Regional Office on September 14, 1998, and was found to be administratively complete as of September 23, 1998.

Southwest Regional Office: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

A. 301326. LubriClear of Pittsburgh, L.P., 1155 William Pitt Way, Pittsburgh, PA 15238-1368. LubriClear Schenley, Aladdin Road, Schenley, PA 15682. An application for a residual waste processing facility in **Armstrong County**, Gilpin Township was received in the Regional Office on September 18, 1998.

A. 301324. Superior Used Tire Inc., 450 Industrial Blvd., New Kensington, PA 15068. Superior Used Tire Inc., 450 Industrial Blvd., New Kensington, PA 15068. An application for a residual waste processing facility in **Westmoreland County**, New Kensington was received in the Regional Office on September 22, 1998.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

Permit No. 101487. Application received from **Sanitation Disposal, Inc.**, 1626 Raspberry Street, Erie, PA 16502, located in the City of Erie, **Erie County**, for a municipal waste transfer station known as Sanitation Disposal, Inc. This application was determined to be administratively complete in the Regional Office on September 21, 1998.

AIR QUALITY

Plan Approval and Operating Permit Applications Nonmajor Sources and Modifications

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan

approval and operating permit. Any comments or protests filed with the Department's Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act and regulations adopted under the act.

OPERATING PERMITS

Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015).

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

06-5083A: Williams Metal Finishing, Inc. (870 Commerce Street, Sinking Spring, PA 19608-2029) for an open top vapor degreaser controlled by work practices and refrigerated condensing coils in Sinking Spring, **Berks County**. This source is subject to 40 CFR 63, Subpart T, National Emission Standards for Hazardous Air Pollutants for Source Categories.

22-307-034B: Bethlehem Steel Corp. (215 South Front Street, Steelton, PA 17113) for steel production facility operation controlled by fabric filters and scrubber in Steelton Borough, **Dauphin County**.

67-317-033A: Starbucks Coffee Co. (P. O. Box 34067, Seattle, WA 98124) for coffee roasting operation at their York Roasting Plant in East Manchester Township, **York County**.

67-318-122: Pennsylvania Heirlooms (100-110 Carlisle Avenue, York, PA 17404) for wood furniture surface coating line located in York City, **York County**.

67-318-123: Tate Access Floors, Inc. (P. O. Box 398, South Main Street Extension, Red Lion, PA 17356) for an uncontrolled electro-deposition paint system located in Windsor Township, **York County**.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management at the regional office telephone number noted. For additional information, contact the regional office.

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 refer-

ence number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Southeast Regional Office: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, Attn: Edward Brown, (610) 832-6242.

23-00041: Bayway Refining Co. (510 Cherrytree Road, Aston, PA 19014) located in Upper Chichester Township, **Delaware County**. The facility's major emission points include petroleum storage tanks which emit major levels of VOCs and HAPs.

PLAN APPROVALS

Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

36-03071: Humane League of Lancaster Co. (2195 Lincoln Highway East, Lancaster, PA 17602) for installation of two new animal crematories controlled with afterburners located in East Lampeter Township, **Lancaster County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

| <i>Source</i> | <i>NOx RACT Limit</i> |
|-------------------------|--|
| Kilns 1 and 3 | 492.0 #/hr
(30-day rolling average) |
| Two HB Smith Boilers | Presumptive
Ch. 129.93(c)(1) |
| Three Raw Mill Furnaces | Presumptive
Ch. 129.93(c)(1) |

This facility is not subject to VOC RACT requirements.

A public hearing will be held for the purpose of receiving comments on the proposed Plan Approval/Operating Permit and the proposed SIP revisions. The hearings will be held on November 17, 1998, at 10 a.m. at the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Mark Carmon, Community Relations Coordinator, at (717) 826-2511 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

10-220A: ESM II, Inc., Myoma Plant (130 Myoma Road, Mars, PA 16046) for installation of a baghouse (12,000 cfm) on an existing lime blending process in Mars, **Butler County**.

REASONABLY AVAILABLE CONTROL TECHNOLOGY

(RACT)

Proposed Revision of the State Implementation Plan for Oxides of Nitrogen and Volatile Organic Compounds and Public Hearing

Approval of Reasonable Available Control Technology (RACT) Plans for Hercules Cement Co., Center Street, Stockertown Borough, Northampton County.

The Department of Environmental Protection (Department) has made a preliminary determination to approve the RACT plans and proposes to revise the State Implementation Plan (SIP) for Hercules Cement Co., 501 Center Street, P. O. Box 69, Stockertown, PA 18083.

The proposed SIP revisions do not adopt new regulations. They incorporate the provisions and requirements contained in the RACT approvals for this facility to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Plan Approval/Operating Permit for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's SIP.

The main sources at the Hercules facility are two cement kilns (no. 1 and no. 3). The following is the summary of the preliminary RACT determination for this facility:

| <i>Control Device</i> | <i>Implementation Source</i> |
|--------------------------------------|------------------------------|
| Low NOx Burners/
Process Controls | 5/31/95 |
| Proper Maintenance | Installed |
| Proper Maintenance | Installed |

Persons with disabilities who wish to attend the hearing and who require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Richard Shudak of DEP at (717) 826-2060 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wish to comment, should provide written comment to Thomas A. DiLazaro, Air Quality Program Manager, Pennsylvania DEP, 2 Public Square, Wilkes-Barre, PA 18711. Comments should be submitted within 30 days of this publication in the *Pennsylvania Bulletin*.

All the pertinent documents are available for review from 8 a.m. to 4 p.m. in the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711. Appointments for scheduling a review may be made by calling (717) 826-2511.

Proposed Revision of the State Implementation Plan for Oxides of Nitrogen and Volatile Organic Compounds and Public Hearing

Approval of Reasonable Available Control Technology (RACT) Plans for Techneglas, Inc., Old Boston Road, Jenkins Township, Luzerne County.

The Department of Environmental Protection (Department) has made a preliminary determination to approve the RACT plans and proposes to revise the State Implementation Plan (SIP) for Techneglas, Inc., R. R. 4, P. O. Box 60, Pittston, PA 18640.

The proposed SIP revisions do not adopt new regulations. They incorporate the provisions and requirements

contained in the RACT approvals for this facility to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Plan Approval/Operating Permit for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's SIP.

The main sources at the Techneglas facility are three melting furnaces (A, B and C). The following is the summary of the preliminary RACT determination for this facility:

| <i>Source</i> | <i>NOx RACT Limit</i> | <i>Control Device</i> | <i>Implementation Source</i> |
|------------------------------|---------------------------------|---------------------------------|------------------------------|
| Glass Furnaces
A, B and C | 390.1 #/hr
total | Electric Boost
or equivalent | 5/31/95 |
| 97 Small Sources | Presumptive
Ch. 129.93(c)(1) | Proper Maintenance | 5/31/95 |

This facility is not subject to VOC RACT requirements.

A public hearing will be held for the purpose of receiving comments on the proposed Plan Approval/Operating Permit and the proposed SIP revisions. The hearings will be held on November 17, 1998, at 10 a.m. at the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711. The public is invited to comment on the proposal. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Mark Carmon, Community Relations Coordinator, at (717) 826-2511 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with disabilities who wish to attend the hearing and who require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Richard Shudak of DEP at (717) 826-2060 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing, but wish to comment, should provide written comment to Thomas A. DiLazaro, Air Quality Program Manager, Pennsylvania DEP, 2 Public Square, Wilkes-Barre, PA 18711. Comments should be submitted within 30 days of this publication in the *Pennsylvania Bulletin*.

All the pertinent documents are available for review from 8 a.m. to 4 p.m. in the Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711. Appointments for scheduling a review may be made by calling (717) 826-2511.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation

Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or

agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

Coal Applications Received

32980109. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001), commencement, operation and restoration of bituminous strip mine with fly ash disposal in Center Township, **Indiana County**, affecting 300.0 acres, receiving stream unnamed tributaries—Two Lick Creek—Blacklick Creek. Application received September 18, 1998.

56803020. Permit Renewal, **Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), commencement, operation and restoration of bituminous strip-coal refuse disposal mine in Summit Township, **Somerset County**, affecting 79.5 acres, receiving stream Blue Lick Creek, an unnamed tributary to Blue Lick Creek and an unnamed tributary to the Casselman River. Application received September 21, 1998.

11830102. Permit Renewal, **M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319), commencement, operation and restoration of bituminous strip mine, reclamation only, in Lower Yoder Township, **Cambria County**, affecting 166.3 acres, receiving stream unnamed tributary to St. Clair Run. Application received September 22, 1998.

32880106. Permit Renewal, **M. B. Energy, Inc.** (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319), commencement, operation and restoration of bituminous strip mine, reclamation only, in Brushvalley Township, **Indiana County**, affecting 200.3 acres, receiving stream unnamed tributaries to Blacklick Creek and Blacklick Creek. Application received September 22, 1998.

32980110. Opal Industries, Inc. (P. O. Box 980, Latrobe, PA 15650), commencement, operation and restoration of bituminous strip mine in Conemaugh Township, **Indiana County**, affecting 293.0 acres, receiving stream Sulphur Run, Unnamed Tributary to Sulphur Run. Application received September 17, 1998.

11950103. R. J. C. Kohl, Inc. (P. O. Box 299, Nicktown, PA 15762), permit revision to permit additional Lower Freeport coal mining within the existing permit boundary and to add Upper Kittanning coal mining area within a portion of the existing permit boundary, in Susquehanna Township, **Cambria County**, affecting 75.0 acres, receiving stream unnamed tributaries to Fox Run. Application received September 23, 1998.

32980108. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001), commencement, operation and restoration of bituminous strip mine with coal refuse ash

under the general permit and a beneficial use approval in Young Township, **Indiana County**, affecting 149.8 acres, receiving stream unnamed tributaries to Reeds Run and Coal Run to Aultmans Run to Conemaugh River. Application received August 5, 1998.

Greensburg District Office, R. D. 2, Box 603-C, Greensburg, PA 15601.

26940102R. Bridgeview Coal Co. (P. O. Box 257, 3735 National Pike, Farmington, PA 15437). Renewal application received for continued reclamation of a bituminous surface mine located in German Township, **Fayette County**, affecting 99.0 acres. Receiving streams: unnamed tributaries to Dunlap Creek. Renewal application received: September 17, 1998.

26830110R. William Piccolomini (213 West Washington Avenue, Connellsville, PA 15425). Renewal application received for continued operation and reclamation of a bituminous surface mine located in German Township, **Fayette County**, affecting 40.54 acres. Receiving streams: unnamed tributaries to Brown's Run to the Monongahela River. Renewal application received: September 17, 1998.

03980106. Thomas J. Smith, Inc. (R. R. 1, Box 260D, Shelocta, PA 15774). Application received for commencement, operation and reclamation of a bituminous surface auger mine located in South Bend Township, **Armstrong County**, proposed to affect 94.1 acres. Receiving streams: Lindsay Run to Crooked Creek. Application received: September 16, 1998.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

17930128. Moravian Run Reclamation Company, Inc. (605 Sheridan Drive, Clearfield, PA 16830), renewal of an existing bituminous surface mine permit in Penn Township, **Clearfield County** affecting 106.2 acres, receiving streams unnamed tributaries to Bell Run to West Branch Susquehanna River. Application received September 14, 1998.

14663003. Power Operating Co., Inc. (P. O. Box 25, Osceola Mills, PA 16666), major permit modification to apply biosolids (stabilized sewage sludge) to enhance vegetation on a surface mine permit in Rush Township, **Centre County** affecting 920 acres. Application received September 10, 1998.

17860123. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838), major permit modification to apply biosolids (stabilized sewage sludge) to enhance vegetation on a surface mine permit in Ferguson, Knox and Jordan Townships, **Clearfield County** affecting 286 acres. Application received September 21, 1998.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

11941301. L & J Energy Company, Inc. (P. O. Box I, Grampian, PA 16838), to revise the permit for the Garmantown Mine in Susquehanna Township, **Cambria County** to revise surface area and add surface and auger mining, no additional discharges. Application received July 27, 1998.

63841302. Maple Creek Mining, Inc. (981 Route 917, Bentleyville, PA 15314), to revise the permit for the Maple Creek Mine in New Eagle Borough, **Washington County** to add 28 subsidence control plan acres, no additional discharges. Application received August 11, 1998.

30841320. Target Industries, Inc. (P. O. Box 479, Mt. Morris, PA), to revise the permit for the Target No. 1 Mine in Dunkard Township, **Greene County** to add permit and subsidence control plan acres, no additional discharges. Application received August 12, 1998.

56900701. PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541), to revise the permit for the Job 12 Expansion CRDA in Shade Township, **Somerset County**, revision to add 47.9 acres, a sludge borehole and a new NPDES discharge point, unnamed tributary to Coal Run. Application received August 14, 1998.

11841301. BethEnergy Mines, Inc. (P. O. Box 29, Ebensburg, PA 15931), to renew the permit for the Mine No. 33—Cambria Slope in Cambria Township, **Cambria County** to renew existing permit and the related NPDES permit, no additional discharges. Application received August 31, 1998.

17881601. E. M. Brown, Inc. (P. O. Box 767, Clearfield, PA 16830), to renew and revise the permit for the Winburne Coal Preparation Facility in Cooper Township, **Clearfield County**, renewal and revision to delete 15.0 acres from permit area and to request bond release for same area, no additional discharges. Application received September 9, 1998.

| <i>Project</i> | <i>Municipality</i> |
|----------------|---------------------|
| BF 433-101.1 | Schuylkill Township |
| BF 434-101.1 | Madison Township |
| BF 435-101.1 | Plum Borough |

Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., November 9, 1998, to be considered.

Telephone inquiries shall be directed to B. P. Rao, Chief, Division of Acid Mine Drainage Abatement, at (717) 783-1311.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department). Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

40763208T. Popple Brothers Coal Company (P. O. Box 126, Dureya, PA 18642), transfer of an existing coal refuse reprocessing operation from Popple Brothers in Duryea and Old Forge Boroughs, **Lackawanna County** affecting 130.0 acres, receiving stream—none. Application received September 16, 1998.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Applications Received

4874SM1A1C3. County Line Quarry, Inc. (P. O. Box 99, Wrightsville, PA 17368), renewal of NPDES Permit No. PA0119628 in Hellam Township, **York County**, receiving stream Kreutz Creek. Application received September 16, 1998.

ABANDONED MINE RECLAMATION

Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of the following abandoned strip mine projects:

| <i>County</i> | <i>Acre</i> |
|---------------|-------------|
| Schuylkill | 31.4 |
| Clarion | 51 |
| Allegheny | 6 |

contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the Federal Water Pollution Control Act.

Northeast Regional Office: Regional Soils and Watersheds Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E39-357. Encroachment. Whitehall Township, 3219 MacArthur Road, Municipal Building, Whitehall, PA 18052-2900. To remove the existing structure and to construct and maintain dual 18-foot by 6-foot, 3-sided concrete box culverts in Coplay Creek (CWF). The project, associated with the Columbia Street bridge project, is located at the intersection of Columbia Street and Coplay Creek (Cementon, PA Quadrangle N: 7.7 inches; W: 1.5 inches), in Whitehall Township, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

E40-507. Encroachment. Caradon Mid-East Aluminum, Inc., Crestwood Industrial Park, P. O. Box 93, 330 Elmwood Road, Mountaintop, PA 18707-0098. To excavate in 0.31 acre of wetlands, within the drainage basin of Big Wapwallopen Creek (CWF), for the purpose of expanding the Caradon Mid-East Aluminum Manufacturing facility. The applicant proposes to contribute to the Pennsylvania Wetland Replacement Project in lieu of replacing wetlands onsite. The project is located to the south of the existing facility (Wilkes-Barre West, PA Quadrangle N:

2.2 inches; W: 3.2 inches), in Wright Township, **Luzerne County** (Philadelphia District, U. S. Army Corps of Engineers).

E48-275. Encroachment. **Wind-Drift Real Estate Associates**, 179 Mikron Road, Bethlehem, PA 18020. To excavate approximately 2.1 acres of PEM wetlands for the purpose of constructing a pond to be used for crop irrigation, fire protection and recreation. The project is located to the east side of Township Road T626 (Clearfield Road), just north of Township Road T601 (Wind Gap, PA Quadrangle N: 4.8 inches; W: 12.4 inches), in Bushkill Township, **Northampton County** (Philadelphia District, U. S. Army Corps of Engineers).

Southeast Regional Office: Program Manager; Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E51-170. Encroachment. **Delaware River Port Authority**, One Port Center, 2 Riverside Drive, Suite 1101, Camden, NJ 08103-1003. To construct, operate and maintain an aerial tram bridge across the Delaware River (WWF-MF) consisting of one tower and a 40-foot diameter cellular sheet pile fender system within Pennsylvania. The total length of the aerial tram will be approximately 2,000 feet and the tower will be placed at least 50 feet outward from the edge of navigation channel. The tram will extend from Camden, NJ to the proposed Family Entertainment Center located at Penn's Landing located approximately 2,000 feet downstream of the Benjamin Franklin Bridge (Philadelphia, PA-NJ USGS Quadrangle N: 13.5 inches; W: 2.1 inches) in the City and **County of Philadelphia**.

Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

E06-519. Encroachment. **Exeter Township**, John Theisen, 4975 DeMoss Road, Reading, PA 19606. To place fill in 0.02 acre of wetlands adjacent to a tributary to Molasses Creek at a point along Pineland Road (Birdsboro, PA Quadrangle N: 7.7 inches; W: 9.0 inches) for the purpose of constructing a park in Exeter Township, **Berks County**.

E22-391. Encroachment. **PA Department of Transportation, Engineering District 8-0**, John Rautzahn, 1240 Herr Street, Harrisburg, PA 17103. To remove an existing structure and to construct and maintain a bridge having 2 spans of 50 feet each and an underclearance of 6.42 feet across the channel of Spring Creek at a point at SR 0441, Section 005 (Harrisburg, PA Quadrangle N: 0.5 inch; W: 12.0 inches) in Swatara Township, **Dauphin County**.

Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.

E60-135. Encroachment. **Union County Industrial Dev. Corp.**, 219D Hafer Rd., Lewisburg, PA 17837. To construct and maintain a new 4 foot x 10 foot x 72 foot box culvert and a 24 inch reinforced concrete pipe road crossings, widening of one existing culvert, three new stone pedestrian stream crossings, three new 8 inch sanitary sewer main crossings on an unnamed tributary to the Susquehanna River and to realign an intermittent unnamed tributary to Susquehanna River located .25 mile north of the intersection of SR 15 and SR 44 in Allenwood extending 1.89 miles north along SR 15 (Allenwood, PA Quadrangle N: 21.5 inches; W: 3.5 inches and Montoursville, PA South Quadrangle N: 1.0 inch; W: 4 inches) in Gregg Township, **Union County**. The project

proposes to impact .50 acre of wetlands and has designated an onsite area of existing wetlands to mitigate the impact and will temporarily impact 100 linear feet of two unnamed tributaries to the Susquehanna River which are designated as warm water fisheries.

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E32-394. Encroachment. **Fairman Drilling Company**, P. O. Box 288, DuBois, PA 15801. To construct and maintain a single span bridge having a normal span of 34.0 feet and an underclearance of 5.9 feet across Bear Run (CWF-Wild Trout) for the purpose of accessing gas wells. The project is located in State Gamelands #174 (McGee Mill, PA Quadrangle N: 2.9 inches; W: 11.1 inches) in Banks Township, **Indiana County**.

E65-710. Encroachment. **Pennsylvania Department of General Services, Bureau of Engineering and Architecture**, 18th and Herr Streets, Harrisburg, PA 17125. To construct and maintain a flood protection project consisting of construction of 2,000 lf concrete box culvert and twin 60-inch steel pipes; 451 lf, 54-inch steel pipe and concrete box culvert; 766 lf, 54-inch steel and reinforced concrete pipe and inlet and outlet structures in three unnamed tributaries to Brush Creek (CWF). Also to place and maintain fill in 0.19 acre of wetlands. The project is located at various locations (Irwin, PA Quadrangle N: 14.7 inches; W: 1.1 inches) in the City of Jeannette and Penn Borough, **Westmoreland County**. The permit applicant proposes to make a monetary contribution to the PA Wetland Replacement Project in lieu of constructing replacement wetlands.

E63-461. Encroachment. **Richard Phelan**, 1000 Banetown Road, Washington, PA 15301. To operate and maintain the existing bridge (Richard Phelan Bridge) across the Tenmile Creek (TSF) to provide access to applicant property. The bridge is located on the south side of S. R. 2020 (Tenmile Road), just south from the intersection of S. R. 2020 and T-688 (Amity, PA Quadrangle N: 3.1 inches; W: 6.85 inches) in Amwell Township, **Washington County**.

E63-462. Encroachment. **Washington Woods Development Company, Inc.**, 13 West Mall Plaza, Carnegie, PA 15106. To place and maintain fill in 0.39 acre of wetlands (PEM) for the purpose of developing 42 residential lots as part of the Washington Lake Plan No. 1. The project is located on the southwest side of Quarry Road between SR 136 and Floral Hill Road (Washington East, PA Quadrangle N: 102 inches; W: 10.3 inches) in South Strabane Township, **Washington County**. For the wetland replacement the applicant proposes to pay into the wetland replacement fund.

E02-1251. Encroachment. **Trammell Crow Company**, 707 Grant Street, Suite 3000, Pittsburgh, PA 15219. To place and maintain fill in approximately 0.039 acre of de minimis wetlands for the purpose of constructing the Scott Station Metro Office Park located just north of the intersection of Montour Run Road and Market Fair Boulevard (Oakdale, PA Quadrangle N: 15.2 inches; W: 7.0 inches) in Moon Township, **Allegheny County**.

E65-711. Encroachment. **Nese Construction Company, Inc.**, One Monroeville Center, Suite 1050, Monroeville, PA 15146. To operate and maintain an existing 10-foot x 4-foot corrugated aluminum pipe arch culvert in an unnamed tributary to Turtle Creek (TSF), to place and maintain fill along approximately 550 feet of an unnamed tributary to Turtle Creek (TSF), to place and maintain fill in 0.16 acre of wetlands (PEM/PSS) and to

restore 0.3 acre of wetlands (PEM) which have been impacted for the purpose of lot development, 0.38 acre of wetland (PEM) replacement is proposed. The project is located at the end of Hones Road, approximately 450 feet northeast of Pheasant Run Drive (Slickville, PA Quadrangle N: 5.5 inches; W: 16.5 inches) in the Municipality of Murrysville, **Westmoreland County**.

Northwest Regional Office: Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

E37-123. Encroachment. **Plain Grove Township**, R. D. 3, Slippery Rock, PA 16057. To remove the existing structure and to place and maintain a steel box culvert having a span of 13 feet, 6 inches and a rise of 7 feet on T-585 (McConahy Road) across a tributary to Taylor Run (CWF). The project is located on T-585 (McConahy Road) across a tributary to Taylor Run approximately 1,500 feet north of the intersection of S. R. 1016 and T-585 (McConahy Run) (Harlansburg, PA Quadrangle N: 15.4 inches; W: 7.6 inches) located in Plain Grove Township, **Lawrence County**.

E61-219. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323-1289. To remove the existing Kennerdell Bridge superstructure, pier and pier bent, modify the two existing piers in the river channel, replace the abutments and to construct and maintain a three span multiple plate-girder having two spans of 260 feet and one span of 220 feet (centerline of bearing to centerline of bearing) and a minimum underclearance of 28 feet across the Allegheny River on S. R. 3008, Section B00 at the village of Kennerdell (Kennerdell, PA Quadrangle N: 2.5 inches; W: 12.5 inches) located in Clinton and Rockland Townships, **Venango County**.

This project includes temporary construction access and road crossing in the Allegheny River consisting of rock five causeways and four bridges.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631-641) relating to the acquisition of rights to divert waters of this Commonwealth.

Southwest Regional Office: Regional Manager, Water Supply Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

WA4-315D. Water Allocation. **Ambridge Borough Water Authority, Beaver County**. The applicant is requesting the right to increase their current water allocation from the Service Creek Reservoir from 3.8 mgd to 4.0257 mgd, Beaver County.

ACTIONS

FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER (Part I Permits)

The Department of Environmental Protection (Department) has taken the following actions on previously

received permit applications and requests for plan approval and has issued the following significant orders.

Any persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501-508 and 701-704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. 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.

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.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Permit No. 3998403. Sewerage. **Glencrest Realty Co.**, 6000 Glencrest Road, Slatington, PA 18080. Permit for modification to sewage treatment plant to serve Glencrest Mobile Home Park, located in Washington Township, **Lehigh County**.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

NPDES Permit No. PA0083186. Sewerage. **Sideling Hill Service Plaza, Sun Company, Inc. (R & M)**, Ten Penn Center, 1801 Market Street, Philadelphia, PA 19103, is authorized to discharge from a facility located in Taylor Township, **Fulton County** to the receiving waters named Dry Ditch of Lick Branch.

NPDES Permit No. PA0021709. Sewage. **Borough of Birdsboro**, 113 East Main Street, Birdsboro, PA 19508-2024, is authorized to discharge from a facility located in Birdsboro Borough, **Berks County** to the receiving waters named Hay Creek.

NPDES Permit No. PAG053523. General Permit. **Bedford Farm Bureau Cooperative Association**, 102 Industrial Avenue, Bedford, PA 15522-0333, is authorized to discharge from a facility located in Bedford Borough, **Bedford County** to the receiving waters named Raystown Branch/Juniata River.

NPDES Permit No. PA0087769. Industrial waste. **Texas Eastern Transmission Corporation**, 5444 Westheimer, P. O. Box 1642, Houston, TX 77251-1642, is authorized to discharge from a facility located in Carroll Township, **Perry County** to the receiving waters named Sherman Creek.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0209643. Sewerage. **Gary A. Mosher, Laurel Health System**, 15 Meade Street, Wellsboro, PA 16901. Applicant granted permission to discharge treated sewage from a proposed sewage treat-

ment plant to serve Morris Run Personal Care Home. Facility located at Hamilton Township, **Tioga County**.

NPDES Permit No. PA0113883. Sewerage. **George E. Bittner**, R. R. 1, Box 4, Trout Run, PA 17771. Applicant granted permission to discharge treated wastewater to Lycoming Creek. Facility located at Lewis Township, **Lycoming County**.

NPDES Permit No. PA0110485. Sewerage Transfer. The applicant granted transfer from **Columbia County Industrial Development Authority** to **United Water Pennsylvania**. Facility is located at South Centre Township, **Columbia County**.

NPDES Permit No. PA0110213. Sewerage. **Michael Klemick**, R. R. 1, Box 585, Elysburg, PA 17824. Applicant granted permission to renew permit to discharge treated domestic wastewater from single family residence to unnamed tributary to South Branch Roaring Creek in Cleveland Township, **Columbia County**. Since this discharge is to a high quality watershed a general NPDES permit cannot be used.

WQM Permit No. 1979402-T1. Transfer. **United Water Pennsylvania**, P. O. Box 4151, Harrisburg, PA 17111. Applicant granted request for transfer from Columbia County Industrial Development Authority to United Water Pennsylvania. Facility located at South Centre Township, **Columbia County**.

NPDES Permit No. PA0113959. Industrial waste. **Econ Eye Protection**, P. O. Box 272, Coudersport, PA 16915. Applicant granted permission to discharge noncontact cooling water to the Allegheny River. Facility located at Coudersport Borough, **Potter County**.

Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6942.

NPDES Permit No. PA0222640. Sewage, **Helen R. Lauer**, P. O. Box 13, Endeavor, PA 16322 is authorized to

discharge from a facility located in Hickory Township, **Forest County** to an Unnamed Tributary to East Hickory Creek.

WQM Permit No. 2798401. Sewerage, **Helen R. Lauer, SRSTP**, P. O. Box 13, Endeavor, PA 16322. Construction of Helen R. Lauer SRSTP located in Hickory Township, **Forest County**.

INDIVIDUAL PERMITS

(PAR)

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or other General Permit Type

| | |
|-------|---|
| PAG-1 | General Permit For Discharges From Stripper Oil Well Facilities |
| PAG-2 | General Permit For Discharges of Stormwater From Construction Activities |
| PAG-3 | General Permit For Discharges of Stormwater From Industrial Activities |
| PAG-4 | General Permit For Discharges From Single Residence Sewage Treatment Plant |
| PAG-5 | General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems |
| PAG-6 | General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems |
| PAG-7 | General Permit For Beneficial Use of Exceptional Quality Sewage Sludge by Land Application |
| PAG-8 | General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site |
| PAG-9 | General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site |

General Permit Type—PAG-2

| <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> |
|--|-------------------|---|--|---|
| East Nottingham Township
Chester County | PAR10-G274 | Glenn Freese
810 Forge Road
Oxford, PA 19363 | Tweed Creek | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| Franklin Township | PAR10-G282 | RML Enterprises
P. O. Box 1180
Hockessin, DE 19707 | Tributary of
White Clay Creek | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| East and West
Marlborough Township | PAR10-G279 | Louis deAntonio
1041 Andrew Drive
West Chester, PA 19380 | Unnamed
Tributary to
Buck Run | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| West Caln Township | PAR10-G267 | Jeff Lipton
153 Furnace Road
Morgantown, PA 19543 | Brandywine
Creek | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| Pennsbury Township and
Pocopson Township | PAR10-G238 | William E. and Thelda
Darlington
P. O. Box 37
Pocopson, PA 19366 | Pocopson Creek
TSF, MF | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| West Nottingham Township | PAR10-G284 | Robert Reese
1120 Valley Road
Coatesville, PA 19320 | Blackburn Creek | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| West Grove Borough | PAR10-G292 | West Grove Borough
117 Rosehill Avenue
West Grove, PA 19390 | White Clay Creek | Chester County
Conservation District
Government Svs. Center
Suite 395
601 Westtown Road
West Chester, PA
19382-4519
(610) 696-5126 |
| Luzerne County
Rice Township | PAR10R154 | Piast Home Builders Co.
559 Spotswood—
Englishtown Rd.
Jamesburg, NJ 08831 | Big Wapwallopen
Creek | Luzerne CD
(717) 674-7991 |

| <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> |
|--|-------------------|---|--|---|
| Luzerne County
Nanticoke City | PAR10R158 | Earth Conservancy
101 Main St.
Ashley, PA 18706-1506 | Nanticoke Creek | Luzerne CD
(717) 674-7991 |
| Luzerne County
Plains Township | PAR10R159 | Ross Spengler
667 N. River St.
Plains, PA 18705 | Susquehanna
River | Luzerne CD
(717) 674-7991 |
| Allegheny County
Carnegie Borough | PAR10A244 | The Highlands of Carnegie
550 Washington Avenue
Carnegie, PA 15106 | Campbells Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Jefferson Borough | PAR10A254 | PA Turnpike Commission
P. O. Box 67676
Harrisburg, PA 17106-7676 | Lewis Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Shaler Township | PAR10A269 | Kress Brothers Builders, Inc.
4930 South Pioneer Road
Gibsonia, PA 15044 | Girty's Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Shaler Township | PAR10A271 | Havenhurst Corp. G.P.
One Bigelow Square—
Suite 630
Pittsburgh, PA 15219 | Pine Creek | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Plum Borough | PAR10A273 | William G. Bell
One Commerce Drive
Pittsburgh, PA 15239 | Thompson Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Moon Township | PAR10A276 | RCJ Corporation
1150 Brodhead Road
Coraopolis, PA 15108 | Montour Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Harmar Township | PAR10A277 | Pittsburgh Indoor Sports LP
5180 Mamont Road
Murrysville, PA 15668 | Big Deer Creek | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Findlay Township | PAR10A279 | Findlay Township
P. O. Box Drawer W
Clinton, PA 15026 | Potato Garden
Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Town of McCandless | PAR10A280 | UPMC Passavant Hospital
9100 Babcock Boulevard
Pittsburgh, PA 15237 | UNT Little Pine
Creek | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Moon Township | PAR10A283 | U. S. Air Force
Air Force Command
Pittsburgh International
Airport
1100 Herman Avenue
Coraopolis, PA 15108 | McClaren's Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Wilkins Township | PAR10A285 | Wilkins GP
100 Chapel Hill Drive
Pittsburgh, PA 15238 | Turtle Creek | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Ohio Township | PAR10A288 | Spagnolo Builders, Inc.
109 Gateway Avenue
Wexford, PA 15090 | Lowries Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Indiana Township | PAR10A289 | Pittsburgh Harlequins, RFA
208 Braddock Road
Pittsburgh, PA 15221 | Deer Creek | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Upper St. Clair Township | PAR10292 | Williamson & Jefferson
103 Worlington Circle
McMurray, PA 15317 | UNT McLaughlin
Run | Allegheny County
Conservation District
(412) 241-7645 |
| Allegheny County
Jefferson Borough | PAR10300 | PA Turnpike Commission
P. O. Box 67676
Harrisburg, PA 17106-7676 | Peters Creek | Allegheny County
Conservation District
(412) 241-7645 |

| <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> |
|--|-------------------|---|--|---|
| Allegheny County
Findlay Township | PAR10305 | Regional Industrial
Development
of Southwest PA
907 Penn Avenue—
7th Floor
Pittsburgh, PA 15222-3805 | McClarens Run | Allegheny County
Conservation District
(412) 241-7645 |
| Beaver County
Economy Borough | PAR100246 | Bradford Park Associates,
Inc.
10521 Perry Highway
Wexford, PA 15090 | North Fork
Big Sewickley
Creek | Beaver County
Conservation District
(724) 774-7090 |
| Beaver County
Center Township | PAR100248-1 | Jeb Hughes
JDN Development Company,
Inc.
359 E. Paces Ferry Road
Suite 450
Atlanta, GA 30305 | UNT to Ohio
River | Beaver County
Conservation District
(724) 774-7090 |
| Beaver County
Independence Township | PAR100251 | Dr. Mark Konrad
437 Maple Lane
Sewickley, PA 15143 | Raccoon Creek | Beaver County
Conservation District
(724) 774-7090 |
| Indiana County
White Township | PAR103142 | Robert Strong
5155 Ferguson Drive
Indiana, PA 15701 | Yellow Creek
Watershed | Indiana County
Conservation District
(724) 463-8547 |
| Fayette County
Jefferson Township | PAR10L042 | Bureau of Abandoned Mine
P. O. Box 8476
Harrisburg, PA 17105 | Redstone Creek | SW Regional Office
(412) 442-4315 |
| Fayette County
Washington Township | PAR10L043 | C & C Real Estate
19 Euclid Drive
Monessen, PA 15062 | Monongahela
River | SW Regional Office
(412) 442-4315 |
| Fayette County
Henry Clay Township | PAR10L044 | James Merchat
R. D. 1, Box 18
Markleysburg, PA 15459 | UNT to
Youghiogeny
River | SW Regional Office
(412) 442-4315 |
| Washington County
Canonsburg Borough | PAR10W120 | Metz Corporation
786 Carlton Drive
Bentleyville, PA 15314 | Brush Run | Washington County
Conservation District
(724) 228-6774 |
| Luzerne County
Hanover Township | PAR10R156 | Mericle Properties
600 Baltimore Drive
Wilkes-Barre, PA 18702 | Solomon Creek | Luzerne CD
(717) 674-7991 |
| Luzerne County
Wright Township | PAR10R157 | Mericle Properties
600 Baltimore Drive
Wilkes-Barre, PA 18702 | Big Wapwallopen
Creek | Luzerne CD
(717) 674-7991 |
| Tioga County
Covington Township | PAR106627 | IA Construction Corp.
Coving HMA Plant
P. O. Box 90
Muncy, PA 17756 | Tioga River | Tioga County CD
29 East Avenue
Wellsboro, PA 16901
(717) 724-1801 |
| Elk County
St. Marys | PAR102517 | St. Marys Municipal Airport
119 Airport Rd.
St. Marys, PA 15857 | Hellfire Run
Liquor Run | Elk Conservation
District
Elk County Courthouse
P. O. Box 448
Ridgway, PA 15853
(814) 776-5373 |
| <i>General Permit Type—PAG-3</i> | | | | |
| <i>Facility Location
County and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name
and Address</i> | <i>Receiving Stream
or Body of Water</i> | <i>Contact Office and
Telephone No.</i> |
| Tioga County
Wellsboro Borough | PAR414948 | PA Dot District 3-0
715 Jordan Avenue
P. O. Box 218
Montoursville, PA 17754 | Kelsey Creek | Northcentral Region
208 W. Third St.
Williamsport, PA 17701
(717) 327-3664 |

| <i>Facility Location
County and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name
and Address</i> | <i>Receiving Stream
or Body of Water</i> | <i>Contact Office and
Telephone No.</i> |
|--|-------------------|--|--|--|
| Washington County
Cecil Township | PAR206103 | Clad Metals, Inc.
All-Clad Metalcrafters, Inc.
424 Morganza Road
Canonsburg, PA 15317 | Chartiers Run | Southwest Regional
Office:
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000 |

General Permit Type—PAG-4

| <i>Facility Location
County and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name
and Address</i> | <i>Receiving Stream
or Body of Water</i> | <i>Contact Office and
Telephone No.</i> |
|--|-------------------|---|--|--|
| Washington County
Peters Township | PAG046156 | Angelo Quarture
P. O. Box 36
Lawrence, PA 15055 | Brush Run | Southwest Regional
Office:
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000 |

General Permit Type—PAG-9

| <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> |
|--|-------------------|--|--|---|
| Tioga County
Farmington Township | PAR094808 | Larry L. Gee
B & L Portable Toilet Rental
Inc.
P. O. Box 112
Tioga, PA 16946 | | Northcentral Region
208 W. Third St.
Williamsport, PA 17701
(717) 327-3664 |

**SEWAGE FACILITIES ACT
PLAN APPROVAL**

**Plan Approval granted under the Pennsylvania
Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

*Northeast Regional Office: Water Management Program
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790,
(717) 826-2553.*

Location: Rush Township, Schuylkill County.

Project Description: The Department has completed its review of the Act 537 Plan Supplement for Rush Township/Special Study of the Hometown Area and the Taggartsville Interceptor (Study). The Department has found that the Study is now acceptable and hereby grants planning approval.

The chosen alternatives consist of the installation of about 2,000 linear feet of at least 18 inch in diameter sewer line to replace the Taggartsville Interceptor; the examination of about 8,000 linear feet of sewer line, and the associated repair/replacement of problem sewer system sections; and the installation of about 14,000 linear feet of 8 inch diameter sewer line to serve five areas, consisting of 131 Equivalent Dwelling Units, in the Village of Hometown.

The Department's review of the Study has not identified any significant environmental impacts resulting from the proposals. In accordance with the provisions of the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.2(a)) (Act 537), and Chapter 71 of the Department's regulations (25 Pa. Code Chapter 71), the Department will hold the Township responsible for the complete and timely implementation of the chosen alternatives, as stated in section 6—Description and Evaluation of Alter-

natives (Pages 28—36 of the Study) and in section 8—Implementation Schedule (Pages 38—40 of the Study).

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Southeast Regional Office: Sanitarian Regional
Manager, Lee Park, Suite 6010, 555 North Lane,
Conshohocken, PA 19428-2233, (610) 832-6130.*

Permit No. 1598508. Public water supply. **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. A permit has been issued to the Philadelphia Suburban Water Company granting permission to install a corrosion control treatment system at the Locust Knoll Well Station in East Brandywine Township, **Chester County**. *Type of Facility:* Public Water Supply System. *Consulting Engineer:* Philadelphia Suburban Water Company, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. *Permit to Construct Issued:* September 22, 1998.

Permit No. 0998506. Public water supply. **Newtown Artesian Water Company**, P. O. Box 217, Newtown, PA 18940-0217. A permit has been issued to Artesian Water Company for the construction of a booster pumping station in Newtown Township, **Bucks County**. *Type of Facility:* Public Water Supply System. *Consulting Engineer:* Gannett Fleming, Inc., P. O. Box 67100, Harrisburg, PA 17106-7100. *Permit to Construct Issued:* September 22, 1998.

*Regional Office; Sanitarian Regional Manager, 909
Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-
4708.*

Permit No. 3698503. Public water supply. **New Holland Borough Authority**, Borough of New Holland, **Lancaster County**. *Responsible Official:* Richard Fulcher, Borough Manager, New Holland Borough, 436 East Main Street, New Holland, PA 17557. *Type of Facility:* Construction of a 1.2 mg elevated steel fluted pedestal-type water storage tank and all related appurtenances.

Permit No. 3698502. Public water supply. **Leola Sewer Authority**, Upper Leacock Township, **Lancaster County**. *Responsible Official:* Jimmy Dennis, Supervisor, Upper Leacock Township Water Dept., 115 Newport Road, Leola, PA 17540. *Type of Facility:* Replacement of existing softening system with new softening equipment. Project will involve construction of a new building.

Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Application No. M. A. The Department issued a construction permit to **Clearfield Municipal Authority** (107 East Market Street, Clearfield, PA 16830; Clearfield Borough, **Clearfield County**) for construction of a 20 inch diameter PVC transmission line from the reservoir to the Montgomery Run Water Treatment Plant.

Southwest Regional Office: Regional Manager, Water Supply Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit No. 4560037-A1. Public water supply. **Borough of Hooversville**, Box 176, Hooversville, PA 15936. *Type of Facility:* New chlorination point between flocculation and sedimentation. *Permit to Operate Issued:* August 28, 1998.

Permit No. 6593501-A1. Public water supply. **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601-0730. *Type of Facility:* Naser No. 2 standpipes; new high service pumps. *Permit to Operate Issued:* August 27, 1998.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of

receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Regional Office: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.

One Montgomery Associates, Norristown Borough, **Montgomery County**. Darryl D. Borrelli, Manko, Gold & Katcher, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site soil contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

Southcentral Regional Office: Environmental Cleanup Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

Conewago Contractors, Inc., Warehouse Facility, Borough of Lemoyne, **Cumberland County**. Conewago Contractors, Inc., 660 Edgegrove Road, P. O. Box 688, Hanover, PA 17331 has submitted a Final Report concerning remediation of site soils contaminated with solvents, BTEX and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

Plainwell Tissue, Ransom Township, **Lackawanna County**. Annette Grano, Environmental Engineer, Plainwell Tissue, P. O. Box 6000, Pittston, PA 18640 has submitted a Final Report concerning the remediation of site soils contaminated with petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Statewide human health standard. A Notice of Intent to Remediate was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

Bruner Residence and Haas Property, South Canaan Township, **Wayne County**. Kevin Van Kuren, President, Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 has submitted a Final Report (on behalf of his clients, Dale and Diane Bruner, Route 296, South Canaan, PA 18459 and Herbert Haas, P. O. Box 132, Waymart, PA 18472) concerning the remediation of site soils contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide human health standard. A Notice of Intent to Remediate was simultaneously submitted. See additional *Pennsylvania Bulletin* notice.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 4

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediations Act (35 §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program

Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the Act 2 (Land Recycling and Environmental Remediations Standards Act) remediation standards. Plans and reports required by provisions of Act 2 for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has acted upon the following plans and reports:

Northcentral Regional Office: Michael C. Welch, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

Distribution Pole #17026N38879, Woodward Township, **Lycoming County**. PP&L, Inc., Two North Ninth Street, Allentown, PA 18101 has submitted a final report concerning the remediation of site soil. The final report intended to demonstrate attainment of the Statewide health standard and was approved by the Department on September 17, 1998.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

ICI Explosives USA, Inc.—Energetic Materials Facility, Walker Township, **Schuylkill County**. Daria L. Killinger, Counsel, ICI Explosives USA, Inc., P. O. Box 271, Tamaqua, PA 18252 submitted a final report concerning the remediation of site soils and groundwater contaminated with petroleum hydrocarbons, lead and other metals. The final report demonstrated attainment of the site-specific standard, and was approved by the Department on September 9, 1998.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Regional Office: Regional Solid Waste Manager, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428.

Permit No. 400593. American Ref—Fuel Company of Delaware County, L.P. (Ref-Fuel), 10 Highland Avenue, Chester, PA 19013. A permit re-issued to Ref-Fuel on April 16, 1997, was scheduled to expire on September 23, 1998. Although Ref-Fuel filed a timely application for a 10-year renewal and modification, because of the complexity of the review of the application, the Department was unable to act on that application prior to the September 23, 1998 expiration date. The permit is being renewed for 1 year to provide sufficient time for the Department to consider all relevant issues related to the 10-year renewal and modification request, and to provide for greater public participation in the review process. The 1 year renewal action was taken by the Southeast Regional Office on September 23, 1998.

Southcentral Regional Office: Regional Solid Waste Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.

Permit No. 101100. Mountain View Reclamation, Community Refuse, Ltd. (9760 Letzburg Road, Greencastle, PA 17225-9317). Application for modification to gas management system for a "site" in Antrim and Montgomery Township, **Franklin County**. Permit issued in the Regional Office September 22, 1998.

Permit No. 101389. Frey Farm Landfill, Lancaster County Solid Waste Management Authority, (P. O. Box 4425, Lancaster, PA 17604). Application for construction of a leachate pipeline and pump station in Manor Township, **Lancaster County**. Permit issued in the Regional Office September 22, 1998.

Permits revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

Southcentral Regional Office: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706.

Permit No. 601828. Kleinfelter Farm, Field No. 6 (Wimpy Minerals Site), Borough of Palmyra, (Suite 3, 325 South Railroad Street, Palmyra, PA 17078-2400). This permit has been revoked at the applicant's request for a site in North Londonderry Township, **Lebanon County**. Permit revoked in the Regional Office September 17, 1998.

Permit No. 603176. Barley Farm No. 16, Lancaster Area Sewer Authority, (130 Centerville Road, Lancaster, PA 17603-4087). Application for revocation of a permit at the request of the landowner for a site in Windsor Township, **York County**. Permit revoked in the Regional Office September 17, 1998.

AIR QUALITY OPERATING PERMITS

General Plan Approval and Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

GP-33-162: MSM Coal Co., Sand & Gravel #1 Mine (P. O. Box 243, DuBois, PA 15801) issued September 30, 1998, for a portable nonmetallic mineral processing plant (GP3) consisting of one crusher, one screen and one conveyor in Oliver Township, **Jefferson County**.

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

46-323-018: Superior Tube Co. (3900 Germantown Pike, Evansburg, PA 19426) issued for operation of a Radiac cut off saw in Lower Providence Township, **Montgomery County**.

46-0119: Vexco, Inc. (24 West Fourth Avenue, Collegeville, PA 19426) issued for operation of a synthetic minor VOC emitting facility in Collegeville Borough, **Montgomery County**.

46-0014A: Knoll, Inc. (1235 Water Street, East Greenville, PA 18041) issued for operation of a cyclonic baghouse in Upper Hanover Township, **Montgomery County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

65-051A: Elliott Turbomachinery Co., Inc. (800 North Fourth St., Jeannette, PA 15644) for operation of B & W tube steam boiler at Jeannette Facility in Penn Township, **Westmoreland County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

10-281A: II—VI, Inc. (375 Saxonburg Boulevard, Saxonburg, PA 16056) issued May 30, 1998, for operation of a batch vapor degreaser in Clinton Township, **Butler County**.

42-184B: Keystone Powdered Metal Co. (1935 State Street, St. Marys, PA 15857) issued September 30, 1998, for operation of a heat treat furnace in Lewis Run, **McKean County**.

42-184C: Keystone Powdered Metal Co. (1935 State Street, St. Marys, PA 15857) issued September 30, 1998, for operation of a tempering furnace in Lewis Run, **McKean County**.

Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

46-320-027: Gemplus Corp. (101 Park Drive, Montgomeryville, PA 18936) issued September 23, 1998, for a printing facility in Montgomery Township, **Montgomery County**.

PLAN APPROVALS

Administrative Amendment of Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

09-0046A: RJM Manufacturing, Inc. (250 Canal Road, Fairless Hills, PA 19030) issued September 18, 1998, for surface coater, Line No. 3 in Falls Township, **Bucks County**.

15-0015: Sartomer Co., Inc. (610 South Bolmar Street, West Chester, PA 19382) issued September 24, 1998, for Stripper S-153 in West Chester Borough, **Chester County**.

Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

09-0087: Solkatronic Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) issued September 15, 1998, for operation of a surface coating operation in Falls Township, **Bucks County**.

15-0074: R. A. Ferris & Co., Inc. (899 Fern Hill Road, West Chester, PA 19380) issued September 15, 1998, for operation of a crematory incinerator in West Goshen Township, **Chester County**.

09-0095: Puralube, Inc. (USX Property, Fairless Hills, PA 19030) issued September 15, 1998, for operation of two process heater units in Falls Township, **Bucks County**.

46-0158: Colorcon (415 Moyer Boulevard, West Point, PA 19486) issued September 18, 1998, for operation of a NO-TOx Area in Upper Gwynedd Township, **Montgomery County**.

46-313-057E: Republic Environmental Systems, Inc. (2869 Sandstone Drive, Hatfield, PA 19440) issued September 18, 1998, for operation of a hazardous waste TSD in Hatfield Township, **Montgomery County**.

09-320-052: Pyramid Graphics, Inc. (1021 Washington Avenue, Croydon, PA 19021) issued September 18, 1998, for operation of an afterburner for Harris M-10 Press in Bristol Township, **Bucks County**.

46-0020A: Superior Tube Co. (3900 Germantown Pike, Collegeville, PA 19426) issued September 23, 1998, for operation of a Radiac cut off saw in Lower Providence Township, **Montgomery County**.

09-0013: Wheelabrator Falls, Inc. (1201 New Ford Mill Road, Morrisville, PA 19067) issued September 25, 1998, for operation of a municipal waste incinerator in Falls Township, **Bucks County**.

09-0046: RJM Manufacturing, Inc. (250 Canal Road, Fairless Hills, PA 19030) issued September 28, 1998, for operation of a rotogravure and flexographic operations in Falls Township, **Bucks County**.

09-0003: Superpac, Inc. (1220 Industrial Boulevard, Southampton, PA 18966) issued September 28, 1998, for operation of a flexographic printing press in Upper Southampton Township, **Bucks County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

06-5078A: FR & S, Inc. (727 Red Lane Road, Birdsboro, PA 19508) issued September 25 1998, for installation of an air cleaning device for the municipal waste landfill gas collection system controlled by temporary flares and a permanent flare at the Pioneer Crossing Landfill in Exeter Township, **Berks County**. This source is subject to 40 CFR 60, Subpart WWW, Standards of Performance for New Stationary Sources.

28-322-001B: Community Refuse Limited, d/b/a Mountain View Reclamation (9716 Letzburg Road, Greencastle, PA 17225) issued September 22, 1998, for construction of a landfill gas extraction system controlled by an enclosed ground flare in Antrim and Montgomery Townships, **Franklin County**. This source is subject to 40 CFR 60, Subpart WWW, Standards of Performance for New Stationary Sources and Municipal Solid Waste Landfills.

36-05014C: Alumax Mill Products, Inc. (1480 Manheim Pike, Lancaster, PA 17604) issued September 25, 1998, for installation of a process line controlled by a baghouse in Manheim Township, **Lancaster County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

65-016C: Latrobe Steel Co. (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) issued September 18, 1998, for construction of slag storage building at Latrobe Plant in Latrobe Borough, **Westmoreland County**.

Plan Approvals extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

09-330-011B: R3 Technologies, Inc. (7 Steel Road East, Morrisville, PA 19067) issued September 15, 1998, for operation of an asphalt plant/soil remediation in Falls Township, **Bucks County**.

46-0005D: Merck & Company, Inc. (770 Sumneytown Pike, West Point, PA 19486) issued September 18, 1998, for operation of three laser drills in Upper Gwynedd Township, **Montgomery County**.

46-302-207: Occidental Chemical (Armand Hammer Boulevard, Pottstown, PA 19464) issued September 21, 1998, for operation of three 3-98 MMBtu/hr boilers in Lower Pottsgrove Township, **Montgomery County**.

09-320-046: Fibermark, Inc. (45 North Fourth Street, Quakertown, PA 18951) issued September 22, 1998, for operation of graphic art Line No. 1 in Quakertown Borough, **Bucks County**.

09-320-047: Fibermark, Inc. (45 North Fourth Street, Quakertown, PA 18951) issued September 22, 1998, for operation of graphic art Line No. 2 in Quakertown Borough, **Bucks County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

01-329-001A: Dept. of the Army, Commander, USAG Fort Ritchie (1500 Porter Street, Fort Detrick, MD 21701) issued September 28, 1998, to authorize temporary operation of the six no. 2 oil fired diesel engine-generator sets, covered under this Plan Approval until January 25, 1999, located at Site R, Liberty Township, **Adams County**.

38-301-022: Dept. of Veterans Affairs, Lebanon V. A. Medical Center (1700 South Lincoln Avenue, Lebanon, PA 17042) issued July 21, 1998, to authorize temporary operation of the anthracite coal fired atmospheric fluidized bed combustion system for hospital waste, covered under this Plan Approval until November 17, 1998, in South Lebanon Township, **Lebanon County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

11-289A: OMG Americas (101 Bridge Street, Johnstown, PA 15902) for operation of three high-speed grinding mills at Johnstown Plant in Johnstown, **Cambria County**.

04-033A: Nova Chemicals, Inc. (400 Frankfort Road, Monaca, PA 15061) for operation of D2 liquid lube dylite process at Beaver Valley Plant in Potter Township, **Beaver County**.

04-000-033: Nova Chemicals, Inc. (400 Frankfort Road, Monaca, PA 15061) for operation of thermoplastic resin manufacturing at Beaver Valley Plant in Potter Township, **Beaver County**.

04-313-065A: Nova Chemicals, Inc. (400 Frankfort Road, Monaca, PA 15061) for operation of dylite unit at Beaver Valley Plant in Potter Township, **Beaver County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

25-313-056: Engelhard Corp. (1729 East Avenue, Erie, PA 16503) issued August 30, 1998, for a maleic plant blender in Erie, **Erie County**.

42-182A: Allegheny Store Fixtures, Inc. (P. O. Box 61, Bradford, PA 16701) issued September 30, 1998, for surface coating in Bradford Township, **McKean County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

Coal Applications Issued

11960104. Permit Revision, **L & J Energy Company, Inc.** (P. O. Box I, Grampian, PA 16838), stream variance to conduct mining operations within 100 feet, but no closer than 50 feet of an unnamed tributary to West Branch of Susquehanna River in Susquehanna Township, **Cambria County**, affecting 108.2 acres, receiving stream West Branch Susquehanna River; unnamed tributaries to West Branch Susquehanna River. Application received August 7, 1998. Permit issued September 18, 1998.

56930104. Permit Renewal, **Future Industries, Inc.** (P. O. Box 157, Meyersdale, PA 15552), commencement, operation and restoration of a bituminous strip mine in Brothersvalley Township, **Somerset County**, affecting 129.0 acres, receiving stream unnamed tributaries to Buffalo Creek and Buffalo Creek. Application received July 28, 1998. Permit issued September 21, 1998.

56920107. Permit Revision, **Laura D Coal, Inc.** (P. O. Box 188, Jennerstown, PA 15547), to change the land use of forestland and wildlife habitat to cropland in Jenner Township, **Somerset County**, affecting 36.6 acres, receiving stream unnamed tributaries to Quemahoning Creek. Application received July 10, 1998. Permit issued September 23, 1998.

Greensburg District Office, R. D. 2, Box 603-C, Greensburg, PA 15601.

03960103. **TDK Coal Sales, Inc.** (P. O. Box 627, Clarion, PA 16214). Revision issued to add Allegheny Power as a coal ash generator at a bituminous surface/ auger mine located in East Franklin Township, **Armstrong County**, affecting 155 acres. Receiving streams: unnamed tributary to Glade Run. Application received: August 13, 1997. Revision issued: September 24, 1998.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

17960117. **Thunder Coal Company** (R. D. 1, Box 477, Grampian, PA 16838), revision to an existing bituminous surface mine permit for a change in permit acreage from 125.3 to 133.1 acres, Pike Township, **Clearfield County**, receiving streams: Hartshorn Run and Welch Run. Application received June 9, 1998. Permit issued September 18, 1998.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

32921301. **Keystone Coal Mining Corp.** (P. O. Box 729, Indiana, PA 15701), to renew the permit for the Plumcreek No. 1 in Washington Township, **Indiana County**, no additional discharges. Permit issued September 3, 1998.

32961302. **Senate Coal Mines, Inc.** (#1 Energy Place, Suite 5100, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley Township, **Indiana County** to add 7.0 surface acres for haul road, no additional discharges. Permit issued September 3, 1998.

30810703. **Consol Pennsylvania Coal Co.** (P. O. Box 174, Graysville, PA 15337), to revise the permit for the Bailey Mine, Refuse Area No. 2 in Richhill Township, **Greene County**, modification to Refuse Area No. 2, no additional discharges. Permit issued September 9, 1998.

17841301. **Manor Mining & Contracting Corp.** (P. O. Box 368, Bigler, PA 16825), to revise the permit for the Manor #44 in Girard Township, **Clearfield County**,

revision to add surface area and discharge point 003 location, Bald Hill Run. Permit issued September 21, 1998.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

40980103. No. 1 Contracting Corporation (1001 Wilkes-Barre Township Boulevard, Wilkes-Barre, PA 18702), commencement, operation and restoration of an anthracite surface mine operation in Hazle and Banks Townships, **Luzerne and Carbon Counties** affecting 37.0 acres, receiving stream—none. Permit issued September 24, 1998.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Permits Issued

40890301C. McClure Enterprises, Inc. (3 East McClure Avenue, Old Forge, PA 18518), correction to an existing quarry operation in Hanover Township, **Luzerne County** affecting 88.0 acres, receiving stream—none. Correction issued September 21, 1998.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

General Small Noncoal Authorizations Granted

58980840. Paul M. Pashchuk (R. R. 2, Box 2671, Nicholson, PA 18446), commencement, operation and restoration of a bluestone quarry operation in Lathrop Township, **Susquehanna County** affecting 2.0 acres, receiving stream—none. Authorization granted September 22, 1998.

40980803. Diane Gabriel (R. R. 1, Box 440B, Hazleton, PA 18201), commencement, operation and restoration of a small quarry operation in Butler Township, **Luzerne County** affecting 5.0 acres, receiving stream—none. Authorization granted September 24, 1998.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Coal Applications Withdrawn

54663021C2. Reading Anthracite Company (200 Mahantongo Street, Pottsville, PA 17901), correction to an existing anthracite surface mine operation in New Castle Township, **Schuylkill County** affecting 131.0 acres, receiving stream—none. Application received March 25, 1996. Application withdrawn September 23, 1998.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

The Department of Environmental Protection (Department) has taken the following actions on previously received Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals

must be filed with the Environmental Hearing Board within 30 days of receipt of the written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (*Note:* Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E54-247. Encroachment. **John J. and Ann Marie Biros**, P. O. Box 94, Sheppton, PA 18248-0094. To place fill in 0.2 acre of wetlands for the construction of a proposed office building. The project is located on Lot #192, on the northwest corner of the intersection of S. R. 0924 (Center Street) and Oak Street (Conyngham, PA Quadrangle N: 3.8 inches; W: 16.3 inches), in the Village of Sheppton, East Union Township, **Schuylkill County**. The permittee is required to provide for 0.2 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project.

E64-190. Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To modify and maintain a road crossing of Dyberry Creek and its associated floodplain, including removal of the existing bridge, raising of the roadway embankment, and construction of a prestressed concrete spread box beam bridge, having a clear normal span of 61.7 feet (18.81 meters) and an underclearance of 13.0 feet (3.96 meters). The elevation of the roadway at its low point will be increased by 4.4 feet. The project is located on S.R. 4009, Section 671, Segment 0010, Offset 1214, approximately 1 mile north of the General Edgar Jadwin Dam (Aldenville, PA Quadrangle N: 0.5 inch; W: 1.7 inches), in Dyberry Township, **Wayne County**.

Southcentral Regional Office: Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

E36-652. Encroachment. **Lancaster County Commissioners**, David McCudden, 50 N. Duke Street, Lancaster, PA 17608. To construct and maintain a bridge having three clear spans of 72.25, 69.75 and 67.5 feet with a low-chord of 31-feet at mid-center over the Conestoga River. The bridge overall length is 224-feet with a superstructure consisting of four prestressed concrete box beams and a concrete deck slab, supported by two reinforced concrete piers and abutments. Rock slope protection will be placed adjacent to both bridge abutments along the river banks. The bridge is for access to a proposed juvenile detention facility to be located on the Sunnyside Peninsula, connecting Circle Avenue to Broad Street (Lancaster, PA Quadrangle N: 5.9 inches; W: 5.2 inches) in the City of Lancaster, **Lancaster County**. This permit also includes 401 Water Quality Certification.

E36-656. Encroachment. **Warwick Township**, David Zimmerman, 315 Clay Rd., Lititz, PA 17543. To construct

and maintain a concrete diversion structure across the Santo Domingo Creek to divert stream flow to an off-stream forebay area for periodic sediment load removal. The permit authorizes excavation of 0.18 acre of wetlands and the placement of fill within the 100-year floodplain to construct approximately 500 feet of low earthen berm along the left channel bank to create a 2.8 acre wetland impoundment area. A concrete spillway structure consisting of a concrete endwall and two 24-inch outlet pipe culverts with a rock apron is authorized by this permit to be constructed from the impoundment area to discharge flow back into the stream. Construction of a rock ford road crossing in Tributary A is also authorized by this permit. The purpose of the wetlands restoration/creation project located approximately 1,000 feet north of Market Street is to improve water quality in the Lititz Run Watershed (Lititz, PA Quadrangle N: 7.5 inches; W: 7.5 inches) located in Warwick Township, **Lancaster County**. This permit also includes 401 Water Quality Certification.

E67-629. Encroachment. **North Hopewell Township**, Bruce Grove, 13081 High Point Road, Felton, PA 17322. To remove an existing structure and to construct and maintain a 59-inch by 81-inch corrugated metal culvert in an unnamed tributary to the North Branch of Muddy Creek on Lebanon Church Road 500 feet North of Mountain Road (Stewartstown, PA Quadrangle N: 16.0 inches; W: 11.25 inches) in North Hopewell Township, **York County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E06-502. Encroachment. **Wernersville Municipal Authority**, Brian Clements, P. O. Box 145, Wernersville, PA 19565. To construct a building which is partially in the floodplain of Quarry Creek at a point approximately 500 feet downstream of Fairview Street (Sinking Spring, PA Quadrangle N: 14.9 inches; W: 11.6 inches) in Wernersville Borough, **Berks County**. This permit was issued under Chapter 106 Flood Plain Management. 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.

E08-335. Encroachment. **Bradford County Commissioners**, 301 Main St. Courthouse, Towanda, PA 18848. To remove the existing structure and to construct and maintain a single span adjacent box beam bridge with a total clear span of 82 feet, skew of 86 degrees, and an underclearance of 1.2 to 13.0 feet across Tomjack Creek located on T-535 approximately 0.2 mile east of SR 4013 (East Troy, PA Quadrangle N: 9.6 inches; W: 0.5 inch) in West Burlington Township, **Bradford County**.

E14-322. Encroachment. **DCNR, Bureau of Facility Design Const.**, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing structure and to construct and maintain a structural plate aluminum arch culvert skewed 65 degrees left ahead having a span of 10.5 feet and a maximum underclearance of 5.5 feet in Stone Creek located 50 feet upstream of Penn Roosevelt Lake (Barrville, PA Quadrangle N: 18.7 inches; W: 10.6 inches) in Harris Township, **Centre County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E19-180. Encroachment. **Frank and Anna Mae Coleman**, P. O. Box 84, Stillwater, PA 17878-0084. To remove an existing addition and to construct, operate and maintain an expansion to a single family dwelling in the

floodway of Fishing Creek. The work shall consist of constructing a 16 foot x 24 foot expansion to the existing dwelling that is located along the western right-of-way of SR 0487 approximately 1.3 miles west of the intersection of SR 0239 and SR 0487 (Benton, PA Quadrangle N: 9.2 inches; W: 1.5 inches) in Benton Township, **Columbia County**. This permit was issued under section 105.13(e) "Small Projects."

E41-426. Encroachment. **Borough of Montoursville**, P. O. Box 266, Montoursville, PA 17754-0266. To remove the existing structures and to construct and maintain a municipal building 70' x 80' with parking area in the floodplain of Loyalsock Creek located on Loyalsock Avenue between Washington Street and Montour Street (Montoursville North, PA Quadrangle N: 1.4 inches; W: 6.4 inches) in the Borough of Montoursville, **Lycoming County**. This permit was issued under section 105.13(e) "Small Projects."

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1226. Encroachment. **Lincoln Property Company**, 35 Highland Road, Bethel Park, PA 15102. To construct and maintain a gangway, walkway, steps, an observation deck and a 679.2 foot long x 109.0 foot wide (as measured from the low water mark) floating boat docking facility in the channel of and along the right bank of the Allegheny River (WWF) for the purpose of providing docking spaces for the tenants of the Lincoln at North Shore Apartments. The project is located just upstream from the Ninth Street Bridge (Pittsburgh East, PA Quadrangle N: 13.4 inches; W: 16.5 inches) in the City of Pittsburgh, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E32-392. Encroachment. **Pennsylvania Department of Transportation**, P. O. Box 429, Indiana, PA 15701. To remove the existing structure and to construct and maintain a single span bridge having a normal clear span of 127.38 feet, and an underclearance of 12.3 feet across Two Lick Creek (TSF) located on S. R. 0954, Section 450, Segment 0100, Offset 0000 (Indiana, PA Quadrangle N: 16.60 inches; W: 2.1 inches) in White Township, **Indiana County**.

E02-1234. Encroachment. **Pennsylvania Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To place and maintain fill in 1.4 acres of wetlands (PEM) and to construct and maintain a 48 inch outfall to Peters Creek (TSF). The work is being done in conjunction with the Mon/Fayette Expressway (S. R. 0043), construction Section 52K consisting of a four lane limited access divided toll highway. The construction section starts at Fill Hill Road (S. R. 3017) and ends at S. R. 0051 (Project starts at Glassport, PA Quadrangle N: 5.0 inches; W: 10.5 inches and ends at Glassport, PA Quadrangle N: 7.5 inches; W: 5.5 inches) in Jefferson Borough, **Allegheny County**. The wetland replacement was approved under Pennsylvania Department of Environmental Protection Permit No. E02-1132.

E02-1239. Encroachment. **Allegheny Valley Joint Sewer Authority**, 2400 Freeport Road, P. O. Box 158, Cheswick, PA 15204. To construct and maintain a bank rehabilitation project (Allegheny Valley Riverbank Improvement Project) consisting of placing rip-rap and gabion baskets along the right bank of the Allegheny River (WWF) for a distance of approximately 200 feet for the purpose of preventing further streambank erosion. The project is located approximately 1,300 feet upstream

from the Hulton Bridge (New Kensington West, PA Quadrangle N: 5.6 inches; W: 13.5 inches) in Harmar Township, **Allegheny County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E11-259. Encroachment. **The Home Depot**, 3096 Hamilton Boulevard, South Plainfield, NJ 07080. To place and maintain fill in 0.27 acre of wetland (PEM) and 0.067 acre of the impoundment of a nonjurisdictional dam (POW) for the purpose of developing a commercial site. The project is located just south of the Johnstown—Cambria County Airport (Geistown, PA Quadrangle N: 10.5 inches; W: 11.5 inches) in Richland Township, **Cambria County**. The permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

E32-393. Encroachment. **North Mahoning Township**, R. D. 1, Rochester Mills, PA 15771. To remove the existing structure and to construct and maintain a 40-foot long C. M. arch pipe having a span of 71 inches and an underclearance of 47 inches (invert depressed 6 inches) in an unnamed tributary to Mudlick Run (HQ-CWF) on T-652 located at a point approximately 1.5 miles west of S. R. 119 (Marion Center, PA Quadrangle N: 19.5 inches; W: 7.4 inches) in North Mahoning Township, **Indiana County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

DAM SAFETY

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)).

Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

D38-103. Dam. **Pine Meadows Golf Course** (199 W. McKinley Avenue, Myerstown, PA 17067). To modify, operate and maintain an existing farm pond at the Pine Meadows Golf Course for the purpose of irrigation and aesthetics. This dam is located across a tributary to Little Swatara Creek in Bethel Township, **Lebanon County**.

D46-323. Dam. **Meadowview Homes, Inc.** (1120 N. Bethlehem Pike, P. O. Box 180, Springhouse, PA 19477). To construct, operate and maintain a stormwater detention dam, Detention Basin No. 1, located across a tributary to Stony Creek in Worcester Township, **Montgomery County**. The proposed facility is part of the stormwater management plan for the Sunny Brook Estates subdivision.

SPECIAL NOTICES

Certified Emission Reduction Credits in Pennsylvania's ERC Registry

Emission reduction credits (ERCs) are surplus, permanent, quantified and Federally enforceable emission reductions 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 Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. This computerized ERC registry system provides for the tracking of the creation, transfer and use of ERCs. Prior to registration of the credits, ERC Registry applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered, and certified ERCs in the ERC Registry are currently available for use as follows:

- (1) To satisfy new source review (NSR) emission offset ratio requirements;
- (2) To “net-out” of NSR at ERC-generating facilities;
- (3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The certified ERCs shown as follows, expressed in tons per year (tpy), satisfy the applicable ERC requirements contained in 25 Pa. Code §§ 127.206—127.208. ERCs created from the curtailment or shutdown of a source or facility expire for use as offsets 10 years after the emission reduction occurs. ERCs generated by the over-control of emissions by an existing facility do not expire for use as offsets. However, credits in the registry which are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or United States Environmental Protection Agency (EPA).

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.

| <i>Facility Information</i> | <i>Criteria Pollutant or Precursor</i> | <i>Certified ERCs Available (tpy)</i> | <i>Expiration Date</i> | <i>Intended use of ERCs</i> |
|--|--|---------------------------------------|------------------------|-----------------------------|
| American National Can Company
County: Lehigh, PA
Nonattainment status: Moderate
Contact Person: R. M. Rivetna
Telephone Number: (312) 399-3392 | VOCs | 166.7 | 11/06/2002 | Trading |
| National Fuel Gas Supply Corp.
Knox Compressor Station
County: Jefferson, PA
Nonattainment status: Moderate
Contact Person: Gary A. Young
Telephone Number: (814) 871-8657 | NOx | 145.7 | 06/30/2002 | Internal Use |
| National Fuel Gas Supply Corp.
Roystone Compressor Station
County: Warren, PA
Nonattainment status: Moderate
Contact Person: Gary A. Young
Telephone Number: (814) 871-8657 | NOx | 103.3 | 12/28/2002 | Internal Use |
| U. S. Naval Hospital
County: Philadelphia
Nonattainment Status: Severe
Contact Person: Mark Donato
Telephone Number: (215) 897-1809 | NOx | 30.5 | 3/31/2005 | Trading |
| United States Steel Group
County: Bucks
Nonattainment Status: Severe
Contact Person: Roy J. Weiskircher
Telephone Number: (412) 433-5914 | NOx
VOC | 1301.7
18.1 | 8/01/2001 | Trading |
| Lord Corporation
Source: Two coal fired boilers
County: Erie
Ozone nonattainment status: Moderate
Contact Person: Matthew Comi
Telephone Number: (814) 868-0924 | NOx | 30.5 | 12/20/2004 | Trading |

| <i>Facility Information</i> | <i>Criteria Pollutant or Precursor</i> | <i>Certified ERCs Available (tpy)</i> | <i>Expiration Date</i> | <i>Intended use of ERCs</i> |
|--|--|---------------------------------------|------------------------|-----------------------------|
| Julian B. Slevin, Inc.
Recipient/Holder: Ronald W. Lockhart
Sandra S. Lockhart
Source Location: Lansdowne
County: Delaware
Ozone nonattainment status: Severe
Contact Person: Pamela H. Woldow
Telephone Number: (215) 979-1836 | VOCs | 85.22 | 12/20/2005 | Trading |
| Graphic Controls Corporation
Recipient/Holder: RIDC Southwestern
Pennsylvania Growth Fund
Ozone nonattainment status: Moderate
Contact Person: F. Brooks Robinson
Telephone Number: (412) 471-3939 | VOCs | 104.0 | 5/15/2002 | Trading |
| Package Service Co. Inc.
Ozone nonattainment status: Moderate
Contact Person: Harry F. Klodowski
Telephone Number: (412) 281-7997 | VOCs | 39.6 | 3/31/2002 | Trading |
| R. R. Donnelley & Sons Co.
County: Lancaster
Ozone nonattainment status: Moderate
Contact Person: David A. York
Telephone Number: (717) 293-2056 | VOCs | 147 | | Internal Use |
| Kurz Hastings Inc.
County: Philadelphia
Nonattainment Status: Severe
Contact Person: Robert Wallace
Telephone Number: (215) 632-2300 | VOCs | 388.0 | | Trading |
| Pennsylvania Electric Company (Penelec)
Source Location: Williamsburg Station
County: Blair
Ozone nonattainment status: Moderate
Contact Person: Tim McKenzie
Telephone Number: (814) 533-8670 | NOx
VOCs | 452
3.0 | 1/18/2001 | Trading |
| Pennsylvania Electric Company (Penelec)
Recipient: Carpenter Technology Corp.
Ozone nonattainment status: Moderate
Contact Person: Sean McGowan
Telephone Number: (610) 208-3018 | NOx | 15.36 | 01/18/2001 | Internal Use |
| Caparo Steel Company
Source Location: Farrell
County: Mercer
Ozone nonattainment status: Moderate
Contact Person: Anthony W. Kurley, Jr.
Telephone Number: (412) 983-1919 | NOx
VOCs | 270.3
206.8 | 11/30/2002 | Trading |
| Sharon Steel Corp.
Source Location: Farrell
County: Mercer
Ozone nonattainment status: Moderate
Contact Person: Robert Trbovich
Telephone Number: (412) 983-6161 | NOx
VOCs | 96.3
10.7 | 11/30/2002 | Trading |
| Pennsylvania Power Company (PA Power)
Source Location: New Castle Plant
County: Lawrence
Ozone nonattainment status: Moderate
Contact Person: Donald R. Schneider
Telephone Number: (412) 652-5531 | NOx | 214 | 4/02/2003 | Trading |

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Facility Information

| <i>Facility Information</i> | <i>Criteria Pollutant or Precursor</i> | <i>Certified ERCs Available (tpy)</i> | <i>Expiration Date</i> | <i>Intended use of ERCs</i> |
|--|--|--|--|-----------------------------|
| Pennsylvania Power Company (PA Power)
Recipient: General Electric Company
Ozone nonattainment status: Moderate
Contact Person: Scott Gowdy
Telephone Number: (814) 875-2427 | NOx | 14 | 4/02/2003 | Internal Use |
| Ford New Holland, Inc.
Source Location: Mountville
County: Lancaster
Ozone nonattainment status: Moderate
Contact Person: William E. Knight
Telephone Number: (717) 355-4903 | NOx
VOCs | 4
78 | 1/22/2003 | Trading |
| Mercersburg Tanning Company
Source Location: Mercersburg
County: Franklin
Ozone nonattainment status: Moderate
Contact Person: David W. Warne
Telephone Number: (717) 765-0746 | VOCs | 20 | 10/1/2004 | Trading |
| I. H. F. P., Inc.
Source Location: Milton Borough
County: Northumberland
Ozone nonattainment status: Moderate
Contact Person: Michael West
Telephone Number: (717) 742-6639 | NOx
VOCs | 24.45
12.88 | 4/1/2006 | Trading |
| 3M Minnesota Mining & Manufacturing
Source Name: 1E Coater
Source Name: 2E Coater
Source Name: 3E Coater
Source Name: 4E Coater
Source Name: 5E Coater
Source Name: 3W Coater
Source Name: 4W Coater
Plant Location: Bristol, Bucks
Ozone nonattainment status: Severe
Contact Person: Belinda Wirth
Telephone Number: (612) 778-6014 | VOCs
VOCs
VOCs
VOCs
VOCs
VOCs
VOCs | 0.10
0.25
44.80
0.10
17.90
303.65
275.10 | 5/02/2001
5/06/2001
4/18/2001
4/16/2001
4/26/2001
10/18/2001
5/13/2001 | Trading |
| Leggett & Platt, Inc.
Source Location: Harris Hub—Columbia
County: Lancaster
Ozone nonattainment status: Moderate
Contact Person: Bob Anderson
Telephone Number: (417) 358-8131 | VOCs | 30 | 10/01/2004 | Trading |
| Scranton-Altoona Terminal Corporation
Source Location: Pittston Township
County: Luzerne
Ozone nonattainment status: Moderate
Contact Person: John M. Arnold
Telephone Number: (717) 939-0466 | VOCs | 18.36 | 1/1/2003 | Trading |
| Ball Metal Food Container Corporation
Plant Name: Heekin Can Inc.
County: Allegheny
Ozone nonattainment status: Moderate
Contact Person: John Munsch
Telephone Number: (303) 460-5601 | VOCs
NOx | 48.0
5.4 | 04/10/2006 | Trading |

| <i>Facility Information</i> | <i>Criteria Pollutant or Precursor</i> | <i>Certified ERCs Available (tpy)</i> | <i>Expiration Date</i> | <i>Intended use of ERCs</i> |
|---|--|---------------------------------------|--------------------------|-----------------------------|
| Metallized Paper Corporation of America
Recipient/Holder: 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
Telephone Number: (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
Telephone Number: (412) 274-3884 | VOCs | 171.82 | | Trading |
| York International Corporation
Sources:
Trichloroethylene Vapor Degreaser (151)
Trichloroethylene Vapor Degreaser (152)
Source Location: Spring Garden Township
County: York
Ozone nonattainment status: Moderate
Contact Person: Garen Macdonald
Telephone Number: (717) 771-7346 | VOCs
VOCs | 12.2
2.7 | 06/01/2006
10/01/2005 | Trading |
| Pennzoil Products Company
Source Location: Rouseville
County: Venango
Ozone nonattainment status: Moderate
Contact Person: Lee E. Wilson
Telephone Number: (814) 678-4649 | NOx | 31.6 | 04/15/2002 | Trading |
| REXAM DSI
Source Location: Muhlenberg Township
County: Berks
Ozone nonattainment status: Moderate
Contact Person: LeRoy H. Hinkle
Telephone Number: (610) 916-4248 | NOx
SOx | 9.42
51.05 | 11/22/2005 | Trading |
| Avery Dennison Corporation
Fasson Roll North America
Source Location: Quakertown
County: Bucks
Ozone nonattainment status: Severe
Contact Person: Roy R. Getz
Telephone Number: (215) 538-6271 | VOCs | 273 | | Trading |
| United States Steel
Source Location: Edgar Thomson Works
County: Allegheny
Ozone nonattainment status: Moderate
Contact Person: Harry F. Klodowski
Telephone Number: (412) 281-7997 | NOx
VOCs
SOx
PM | 136.6
83.9
46.4
64.7 | 11/02/2002 | Trading |
| Baldwin Hardware Corporation
Source Location: Reading
County: Berks
Ozone nonattainment status: Moderate
Contact Person: D. David Hancock, Jr.
Telephone Number: (215) 777-7811 | VOCs | 18 | 7/28/2005 | Trading |
| Magee Rieter Automotive Systems
Source Location: Bloomsburg
County: Columbia
Ozone nonattainment status: Moderate
Contact Person: Tim Bergerstock
Telephone Number: (717) 784-4100 | NOx
VOCs
CO
PM-10 | 0.39
0.02
0.08
0.01 | 4/17/2006 | Internal Use |

Facility Information

| <i>Facility Information</i> | <i>Criteria Pollutant or Precursor</i> | <i>Certified ERCs Available (tpy)</i> | <i>Expiration Date</i> | <i>Intended use of ERCs</i> |
|--|--|---------------------------------------|------------------------|-----------------------------|
| Graphic Controls Corporation
County: Allegheny
Ozone nonattainment status: Moderate
Contact Person: Harry F. Klodowski
Telephone Number: (412) 281-7997 | NOx | 5.0 | 5/15/2002 | Trading |
| White Consolidated Industries
Quaker Maid Plant (Division of Schrock Cabinets)
Source Location: Ontelaunee Township, Berks
Ozone nonattainment status: Moderate
Contact Person: Douglas McWilliams
Telephone Number: (216) 479-8500 | VOCs | 95.5 | 7/1/2006 | Trading |
| Susquehanna Steel Corporation
Source Location: Milton
County: Northumberland County
Ozone nonattainment status: Moderate
Contact Person: Harry F. Klodowski
Telephone Number: (412) 281-7997 | NOx
VOCs
SOx
CO | 45
25
25
220 | 02/28/2001 | Trading |

**Bureau of Air Quality
Summary of ERC Transaction**

The following ERC transactions are approved by the Bureau of Air Quality, Department of Environmental Protection, Commonwealth of Pennsylvania. The ERC transaction requirements are specified in 25 Pa. Code § 127.208.

- ERC Generating Facility Information**
ERC Generating Facility Name: Caparo Steel Company
Location of Source: Farrell Plant, Mercer County
Certified ERCs (tpy): 868.6 tpy of NO_x and 206.8 tpy of VOCs
Amount of ERCs traded to Purchaser/Recipient: Three ERC transactions
Date of ERCs Transfer: 9/20/96; 11/24/97; 09/14/98
ERCs available for future use: 270.3 tpy of NO_x and 206.8 tpy of VOCs

Purchaser/Recipient of ERCs
Purchaser/Recipient of ERCs: Allegheny Ludlum Corporation
Location of Source: Vandergrift, Westmoreland, PA
NO_x credits available for future use: 84.3 tpy

- ERC Generating Facility Information**
ERC Generating Facility Name: Brown Group Inc. d/b/a Moench Tanning Company
Location of Source: Gowanda, New York
Certified ERCs (tpy): 221.9 tons per year of VOCs
Amount of ERCs traded to Purchaser/Recipient: 221.9 tons per year of VOCs
Date of ERCs Transfer: 8/1/98
ERCs available for future use: 0

Purchaser/Recipient of ERCs
Purchaser/Recipient of ERCs: Dart Container Corporation
Location of Source: 60 East Main Street, Leola, PA
VOC credits available for future use: 221.9 tons per year of VOCs

- ERC Generating Facility Information**
ERC Generating Facility Name: Ball Corporation, Heekin Can Inc.
Location of Source: Allegheny County, PA
Certified ERCs (tpy): 64.5 tons per year of VOCs and 5.4 tons per year of NO_x
Amount of ERCs traded to Purchaser/Recipient: 16.5 tons per year of VOCs
Date of ERCs Transfer: 09/08/1998
ERCs available for future use: 48 tons per year of VOCs and 5.4 tons per year of NO_x

Purchaser/Recipient of ERCs
Purchaser/Recipient of ERCs: Dart Container Corporation
Location of Source: 60 East Main Street, Leola, PA
VOC credits available for future use: 16.5 tons per year of VOCs

- ERC Generating Facility Information**
ERC Generating Facility Name: Rexam DSI
Location of Source: Muhlenberg Township, Berks County, PA
Certified ERCs (tpy): 60.84 tpy of VOCs (without seasonal restriction), 9.42 tpy of NO_x and 51.05 tpy of SO_x
Amount of ERCs traded to Purchaser/Recipient: 60.84 tpy of VOCs
Date of ERCs Transfer: 9/16/98
ERCs available for future use: 9.42 tpy of NO_x and 51.05 tpy of SO_x

Purchaser/Recipient of ERCs
Purchaser/Recipient of ERCs: Dart Container Corporation
Location of Source: 60 East Main Street, Leola, PA
VOC credits available for future use: 60.84 tons per year of VOCs.

[Pa.B. Doc. No. 98-1659. Filed for public inspection October 9, 1998, 9:00 a.m.]

Availability of Technical Guidance

Technical Guidance Documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "July 1998 Inventory" heading is the Governor's List of Non-regulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 1998.

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 any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Technical Guidance

DEP ID: 563-2112-658 Title: Imminent Hazards Posed by Planned Subsidence Description: This guidance addresses situations where imminent hazards to human safety may develop as a result of planned subsidence from underground bituminous coal mining. Anticipated Effective Date: December 9, 1998 Deadline for Submittal of Comments: November 9, 1998 Contact: Harold Miller at (717) 783-8845.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1660. Filed for public inspection October 9, 1998, 9:00 a.m.]

Technical Advisory Committee on Diesel-Powered Equipment; Meeting Change

The October 21 meeting of the Technical Advisory Committee on Diesel-Powered Equipment (TAC) has been rescheduled to October 19 at 9 a.m. The meeting will be held in the Deep Mine Safety Training Room, Fayette County Health Center, Uniontown.

Questions concerning this meeting can be directed to Allison Trader at (724) 439-7289 or e-mail to Trader.Allison@a1.dep.state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Allison Trader directly at (724) 439-7289 or

through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 98-1661. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Request for Proposal; Construction Manager

The Department of General Services is seeking interested firms to submit sealed proposals for consideration for the following project:

DGS 1103-48.OA—REVISED—Construction Management, Construction of Convocation/Events Center, Upper Campus Chilled Water Plant and Steamline Distribution System, University of Pittsburgh, Pittsburgh, Allegheny County, PA. A brief description of the project is as follows: Construction Management for Pre-Construction and Construction Phases for design and construction of a multi-event complex, chilled water plant and steamline distribution. The facility will be used for convocations, intercollegiate men's and women's basketball and other sporting events, conferences, lectures and concerts. The building will contain an arena of approximately 12,000 to 14,000 seats and include all related ancillary facilities to accommodate the buildings many functions. Construction Manager is not acting as the Contractor.

RFP Price—\$25 (Includes PA Sales Tax) per RFP. Checks must be made payable to the Commonwealth of PA. This price is nonrefundable. Requests for the RFP should be mailed to The Department of General Services, Bureau of Professional Selections and Administrative Services, Room 107, Headquarters Building, 18th & Herr Streets, Harrisburg, PA 17125. Contact Bidders Services at (717) 787-3923 or <http://www.dgs.state.pa.us> for the names of those who have secured the RFP.

All proposals are due Thursday, November 5, 1998, no later than 2 p.m., in Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Responses received after this due date and time will be returned unopened.

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 98-1662. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Income and Resource Limits for Spouse Living in the Community when the Other Spouse Is Institutionalized

The Department of Public Welfare increased the income and resource limits described at 55 Pa. Code

§§ 181.452(c)(2)(iv), 178.124(a)(3)(i) and 178.124(a)(3)(ii) effective January 1, 1998, as required by 42 U.S.C.A. § 1396r-5.

The regulations at 55 Pa. Code §§ 181.452(c)(2)(iv), 178.124(a)(3)(i) and 178.124(a)(3)(ii) establish the basis for determining the Monthly Community Spouse Maintenance Need Amount and the maximum and standard Community Spouse Resource Standard for the Categorically Needy Nonmoney Payment Medical Assistance (NMP-MA) and Medically Needy Only Medical Assistance (MNO-MA) Programs. These standards are required to be published annually in the *Pennsylvania Bulletin* and are available to the public upon request at the county assistance offices.

Effective January 1, 1998, the amounts are:

| | |
|--|----------|
| Maximum Community Spouse Resource Standard | \$80,760 |
| Standard Community Spouse Resource Standard | \$16,152 |
| Maximum Monthly Community Spouse Maintenance Need Amount | \$ 2,019 |

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 98-1663. Filed for public inspection October 9, 1998, 9:00 a.m.]

1998 Group One Exception Requests MA/LTC Participation Review

The Department of Public Welfare (Department), by statement of policy effective December 18, 1996, adopted an interim policy announcing that, as a general matter, it intended to exercise its discretion to terminate or to refuse to enter into an MA provider agreement with a provider of nursing facility services that sought to increase the number of MA certified nursing facility beds through enrollment or expansion, unless the Department granted an exception on a case-by-case basis to permit that provider to enroll or expand. Effective August 11, 1997, this statement of policy was revised to state that enrolled nursing facility providers are prohibited from expanding their licensed bed capacity, under any circumstances, without first receiving an exception from the Department. A statement of policy that sets forth the guidelines the Department will use when making its case-by-case exception request decisions was published in the *Pennsylvania Bulletin* on January 10, 1998 (28 Pa.B. 138), and is codified at 55 Pa. Code § 1187.21a.

By this notice, published under 55 Pa. Code § 1187.21a(e)(4), the Department announces the 1998 Group One exception requests covering the submission period of January 1, 1998, through June 30, 1998.

Expansion Projects

| Number | Name | Address | County | Beds |
|---------|--|------------------------------------|--------------|------|
| JJ98003 | Twin Oaks Nursing Ctr. | 90 W. Main St., Lebanon | Lebanon | 50 |
| JJ98004 | St. Francis Hospital of New Castle SNC | 1000 S. Mercer St., New Castle | Lawrence | 5 |
| JJ98006 | Polyclinic Medical Center Extended Care | 2601 N. 3rd St., Harrisburg | Dauphin | 8 |
| JJ98008 | Good Shepherd Home & Rehabilitation Hospital | 601 St. John St., Allentown | Lehigh | 23 |
| JJ98009 | Memorial Hospital | One Hospital Drive, Towanda | Bradford | 4 |
| JJ98012 | Charles Cole Memorial Hospital | Route 6 East, Coudersport | Potter | 15 |
| JJ98014 | Bucktail Medical Center | Pine Street, Renovo | Clinton | 10 |
| JJ98015 | Philadelphia Protestant Home | 6500 Tabor Road, Philadelphia | Philadelphia | 10 |
| JJ98016 | Southwestern N. H. & Rehabilitation Center | 500 Lewis Run Road, Pittsburgh | Allegheny | 2 |
| JJ98017 | Saxony Health Center | 223 Pittsburgh St., Saxonburg | Butler | 30 |
| JJ98018 | Moravian Hall Square | 175 W. North St., Nazareth | Northampton | 29 |
| JJ98019 | Friends Hospital | 4641 Roosevelt Blvd., Philadelphia | Philadelphia | 13 |

New Facility Projects

| Number | Name | Address | County | Beds |
|---------|--|----------------------------------|--------------|------|
| JJ98007 | Belle Reve Health Care Center | Milford | Pike | 120 |
| JJ98010 | Pittston Hospital | P. O. Box 666, Pittston | Luzerne | 176 |
| JJ98011 | Presbyterian Medical Center | 39th & Market Sts., Philadelphia | Philadelphia | 50 |
| JJ98013 | Lutheran Social Services of South Central Pennsylvania | Hanover | York | 40 |
| JJ98020 | Hallsworth House | 435 Reed Avenue, Monessen | Westmoreland | 90 |

Copies of the above listed exception requests are available for review by the public during regular business hours. To schedule an appointment to review a request, call (717) 787-1171.

The Department will accept written comments related to the requests for a 30-day period following the date of this publication. Written comments may be submitted to: Department of Public Welfare, Bureau of LTC Programs, Attention: Policy Section, P. O. Box 8025, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users). Persons who require another alternative format should contact Thomas Vracarich at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 98-1664. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Drumstick Doubler Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Drumstick Doubler.
2. *Price:* The price of a Pennsylvania Drumstick Doubler instant lottery game ticket is \$1.00.
3. *Play Symbols:* Each Pennsylvania Drumstick Doubler instant lottery game ticket will contain one "Play Area." The play symbols and their captions located in the "Play Area" are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$8.⁰⁰ (EGT DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWYFIVE), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and a Drumstick Symbol (DBLE).
4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$5, \$8, \$10, \$16, \$20, \$25, \$40, \$50, \$100 and \$500.
5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,320,000 tickets will be printed for the Pennsylvania Drumstick Doubler instant lottery game.
6. *Determination of Prize Winners:*
 - (a) Holders of tickets with three matching play symbols of \$500 (FIV HUN) in the "Play Area" on a single ticket, shall be entitled to a prize of \$500.
 - (b) Holders of tickets with three matching play symbols of \$100 (ONE HUN) in the "Play Area" on a single ticket, shall be entitled to a prize of \$100.
 - (c) Holders of tickets with two matching play symbols of \$50\$ (FIFTY), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$100.
 - (d) Holders of tickets with three matching play symbols of \$50\$ (FIFTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$50.
 - (e) Holders of tickets with two matching play symbols of \$25\$ (TWYFIVE), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$50.
 - (f) Holders of tickets with two matching play symbols of \$20\$ (TWENTY), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$40.
 - (g) Holders of tickets with three matching play symbols of \$25\$ (TWYFIVE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$25.

- (h) Holders of tickets with three matching play symbols of \$20\$ (TWENTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$20.
- (i) Holders of tickets with two matching play symbols of \$10.⁰⁰ (TEN DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$20.
- (j) Holders of tickets with two matching play symbols of \$8.⁰⁰ (EGT DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$16.
- (k) Holders of tickets with three matching play symbols of \$10.⁰⁰ (TEN DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$10.
- (l) Holders of tickets with two matching play symbols of \$5.⁰⁰ (FIV DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$10.
- (m) Holders of tickets with three matching play symbols of \$8.⁰⁰ (EGT DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$8.
- (n) Holders of tickets with two matching play symbols of \$4.⁰⁰ (FOR DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$8.
- (o) Holders of tickets with three matching play symbols of \$5.⁰⁰ (FIV DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$5.
- (p) Holders of tickets with three matching play symbols of \$4.⁰⁰ (FOR DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$4.
- (q) Holders of tickets with two matching play symbols of \$2.⁰⁰ (TWO DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$4.
- (r) Holders of tickets with three matching play symbols of \$2.⁰⁰ (TWO DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$2.
- (s) Holders of tickets with two matching play symbols of \$1.⁰⁰ (ONE DOL), and a Drumstick play symbol (DBLE) in the "Play Area" on a single ticket, shall be entitled to a prize of \$2.
- (t) Holders of tickets with three matching play symbols of \$1.⁰⁰ (ONE DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$1.

(u) A prize will be paid only for the highest Pennsylvania Drumstick Doubler instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

| <i>Get</i> | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of
Winners Per 4,320,000
Tickets</i> |
|-------------------|------------|-------------------------|---|
| 3-\$1 | \$1 | 1:7.69 | 561,600 |
| 2-\$1 W/DRUMSTICK | \$2 | 1:21.43 | 201,600 |
| 3-\$2 | \$2 | 1:41.67 | 103,680 |

| <i>Get</i> | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of
Winners Per 4,320,000
Tickets</i> |
|--------------------|------------|-------------------------|---|
| 2-\$2 W/DRUMSTICK | \$4 | 1:150 | 28,800 |
| 3-\$4 | \$4 | 1:300 | 14,400 |
| 3-\$5 | \$5 | 1:150 | 28,800 |
| 2-\$4 W/DRUMSTICK | \$8 | 1:300 | 14,400 |
| 3-\$8 | \$8 | 1:300 | 14,400 |
| 2-\$5 W/DRUMSTICK | \$10 | 1:500 | 8,640 |
| 3-\$10 | \$10 | 1:750 | 5,760 |
| 2-\$8 W/DRUMSTICK | \$16 | 1:500 | 8,640 |
| 2-\$10 W/DRUMSTICK | \$20 | 1:1,500 | 2,880 |
| 3-\$20 | \$20 | 1:1,500 | 2,880 |
| 3-\$25 | \$25 | 1:1,500 | 2,880 |
| 2-\$20 W/DRUMSTICK | \$40 | 1:2,400 | 1,800 |
| 2-\$25 W/DRUMSTICK | \$50 | 1:4,800 | 900 |
| 3-\$50 | \$50 | 1:4,800 | 900 |
| 2-\$50 W/DRUMSTICK | \$100 | 1:13,333 | 324 |
| 3-\$100 | \$100 | 1:13,333 | 324 |
| 3-\$500 | \$500 | 1:24,000 | 180 |

DRUMSTICK = double the prize

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Drumstick Doubler instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Drumstick Doubler, prize money from winning Pennsylvania Drumstick Doubler instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Drumstick Doubler instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Drumstick Doubler or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1665. Filed for public inspection October 9, 1998, 9:00 a.m.]

Pennsylvania Holiday Cash '98 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Holiday Cash '98.

2. *Price:* The price of a Pennsylvania Holiday Cash '98 instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Holiday Cash '98 instant lottery game ticket will contain one play area featuring one "Holiday Numbers" area and one "Your Numbers" area. The play symbols and their captions located in the "Holiday Numbers" area and the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELVN), 12 (TWLE), 13 (THRTN), 14 (FORTN), 15 (FIFTN) and 16 (SIXTN).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$6.⁰⁰ (SIX DOL), \$12.⁰⁰ (TWELVE), \$24.⁰⁰ (TWY FOR), \$25\$ (TWY FIV), \$48\$ (FTY EGT), \$96\$ (NTY SIX), \$300 (THR HUN) and \$250,000 (TFTYTHO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$5, \$6, \$12, \$24, \$25, \$48, \$96, \$300 and \$250,000. The player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 2,400,000 tickets will be printed for the Pennsylvania Holiday Cash '98 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$250,000 (TFTYTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$250,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$300 (THR HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$300.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$96\$

(NTY SIX) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$96.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$48\$ (FTY EGT) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$48.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$24^{.00} (TWY FOR) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$24.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$12^{.00} (TWELVE) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$6^{.00} (SIX DOL) appears under the matching "Your Numbers"

play symbol, on a single ticket, shall be entitled to a prize of \$6.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$5^{.00} (FIV DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$4^{.00} (FOR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$2^{.00} (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Holiday Numbers" play symbols and a prize play symbol of \$1^{.00} (ONE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Match Any Of Your Numbers To Either Of The Holiday Numbers With Prize(s) Of:

| | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of Winners Per 2,400,000 Tickets</i> |
|-----------|------------|-------------------------|---|
| \$5 | \$5 | 1:6.00 | 400,000 |
| \$4 + \$2 | \$6 | 1:21.43 | 112,000 |
| \$6 | \$6 | 1:30 | 80,000 |
| \$1 x 12 | \$12 | 1:30 | 80,000 |
| \$6 x 2 | \$12 | 1:60 | 40,000 |
| \$12 | \$12 | 1:60 | 40,000 |
| \$2 x 12 | \$24 | 1:300 | 8,000 |
| \$12 x 2 | \$24 | 1:300 | 8,000 |
| \$6 x 4 | \$24 | 1:300 | 8,000 |
| \$24 | \$24 | 1:300 | 8,000 |
| \$24 x 2 | \$48 | 1:2,400 | 1,000 |
| \$12 x 4 | \$48 | 1:2,400 | 1,000 |
| \$4 x 12 | \$48 | 1:2,400 | 1,000 |
| \$48 | \$48 | 1:2,400 | 1,000 |
| \$12 x 8 | \$96 | 1:4,800 | 500 |
| \$96 | \$96 | 1:4,800 | 500 |
| \$25 x 12 | \$300 | 1:8,000 | 300 |
| \$300 | \$300 | 1:8,000 | 300 |
| \$250,000 | \$250,000 | 1:400,000 | 6 |

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Holiday Cash '98 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Holiday Cash '98, prize money from winning Pennsylvania Holiday Cash '98 instant lottery game tickets will be retained by the

Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Holiday Cash '98 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regula-

tions contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Holiday Cash '98 or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1666. Filed for public inspection October 9, 1998, 9:00 a.m.]

Pennsylvania Season's Greetings Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Season's Greetings.

2. *Price:* The price of a Pennsylvania Season's Greetings instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Season's Greetings instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN) and \$500 (FIV HUN).

4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$5, \$10, \$20, \$40, \$100 and \$500.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 10,080,000 tickets will be printed for the Pennsylvania Season's Greetings instant lottery game.

| Get | Win |
|---------|-------|
| 3-\$1 | \$1 |
| 3-\$2 | \$2 |
| 3-\$5 | \$5 |
| 3-\$10 | \$10 |
| 3-\$20 | \$20 |
| 3-\$40 | \$40 |
| 3-\$100 | \$100 |
| 3-\$500 | \$500 |

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Season's Greetings instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Season's Greetings, prize money from winning Pennsylvania Season's Greetings instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Season's Greetings instant lottery

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of \$500 (FIV HUN) in the play area on a single ticket, shall be entitled to a prize of \$500.

(b) Holders of tickets with three matching play symbols of \$100 (ONE HUN) in the play area on a single ticket, shall be entitled to a prize of \$100.

(c) Holders of tickets with three matching play symbols of \$40\$ (FORTY) in the play area on a single ticket, shall be entitled to a prize of \$40.

(d) Holders of tickets with three matching play symbols of \$20⁰⁰ (TWENTY) in the play area on a single ticket, shall be entitled to a prize of \$20.

(e) Holders of tickets with three matching play symbols of \$10⁰⁰ (TEN DOL) in the play area on a single ticket, shall be entitled to a prize of \$10.

(f) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIV DOL) in the play area on a single ticket, shall be entitled to a prize of \$5.

(g) Holders of tickets with three matching play symbols of \$2⁰⁰ (TWO DOL) in the play area on a single ticket, shall be entitled to a prize of \$2.

(h) Holders of tickets with three matching play symbols of \$1⁰⁰ (ONE DOL) in the play area on a single ticket, shall be entitled to a prize of \$1.

(i) A prize will be paid only for the highest Pennsylvania Season's Greetings instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

| Approximate Odds | Approximate No. of Winners Per 10,080,000 Tickets |
|------------------|---|
| 1:6.52 | 1,545,600 |
| 1:13.64 | 739,200 |
| 1:50 | 201,600 |
| 1:300 | 33,600 |
| 1:300 | 33,600 |
| 1:1,200 | 8,400 |
| 1:4,615 | 2,184 |
| 1:48,000 | 210 |

game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Season's Greetings or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1667. Filed for public inspection October 9, 1998, 9:00 a.m.]

Pennsylvania Stocking Stuffer '98 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Stocking Stuffer '98.

2. *Price:* The price of a Pennsylvania Stocking Stuffer '98 instant lottery game ticket is \$2.00.

3. *Play Symbols:*

(a) Each Pennsylvania Stocking Stuffer '98 instant lottery game ticket will contain three play areas, designated as "Game 1," "Game 2" and "Game 3." Each game has a different game play method and is played separately.

(b) The play area for "Game 1" will feature a "Fast \$5" area. The play symbols and their captions located in the "Fast \$5" area for "Game 1" are: Snowman Symbol (SNMAN), Bell Symbol (BELL), Holly Symbol (HOLLY), Horn Symbol (HORN), Candle Symbol (CANDLE), Mitten Symbol (MITT), Deer Symbol (DEER), Tree Symbol (TREE) and Stocking Symbol (STKG).

(c) The play area for "Game 2" will feature one "Lucky Number" area and one "Your Numbers" area. The play symbols and their captions located in the "Lucky Number" area and "Your Numbers" area for "Game 2" are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

(d) The play symbols and their captions located in the play area for "Game 3" are: Snowman Symbol (SNMAN), Bell Symbol (BELL), Holly Symbol (HOLLY), Horn Symbol (HORN), Snowflake Symbol (SNFLK), Candle Symbol (CANDLE), Mitten Symbol (MITT), Deer Symbol (DEER), Tree Symbol (TREE) and Stocking Symbol (STKG).

4. *Prize Play Symbols:*

(a) The prize play symbols and their captions located in the "Prize" area for "Game 2" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOUR DOL), \$5⁰⁰ (FIVE DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN) and \$20,000 (TWY THO).

(b) The prize play symbols and their captions located in the "Prize" area for "Game 3" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOUR DOL), \$5⁰⁰ (FIVE DOL), \$10⁰⁰ (TEN DOL), \$100 (ONE HUN), \$200 (TWO HUN), \$1,000 (ONE THO) and \$20,000 (TWY THO).

5. *Prizes:* The prize that can be won in "Game 1" is \$5. The prizes that can be won in "Game 2" are \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100, \$200 and \$20,000. The prizes that can be won in "Game 3" are \$1, \$2, \$4, \$5, \$10, \$100, \$200, \$1,000 and \$20,000. The player can win up to six times on each ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,040,000 tickets will be printed for the Pennsylvania Stocking Stuffer '98 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" is: Holders of tickets with two matching play symbols in the "Fast \$5" area for "Game 1," on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$20,000 (TWY THO) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(2) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$200 (TWO HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(3) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$50\$ (FIFTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$5⁰⁰ (FIVE DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$4⁰⁰ (FOUR DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$2⁰⁰ (TWO DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$20,000 (TWY THO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$20,000.

(2) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$1,000 (ONE THO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$200 (TWO HUN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$200.

(4) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$100 (ONE HUN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column

or diagonal, and a prize play symbol of \$10.⁰⁰ (TEN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(6) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$5.⁰⁰ (FIVE DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(7) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$4.⁰⁰ (FOUR DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$2.⁰⁰ (TWO DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$2.

(9) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$1.⁰⁰ (ONE DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

| <i>Game 1</i> | <i>Game 2</i> | <i>Game 3</i> | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of Winners Per 5,040,000 Tickets</i> |
|---------------|----------------------|---------------|------------|-------------------------|---|
| | \$1 x 2 | | \$2 | 1:9.38 | 537,600 |
| | | \$2 | \$2 | 1:13.64 | 369,600 |
| | \$2 | \$2 | \$4 | 1:68.18 | 73,920 |
| | \$1 x 2 | \$2 | \$4 | 1:34.09 | 147,840 |
| | \$2 + \$2 | | \$4 | 1:62.50 | 80,640 |
| | | \$4 | \$4 | 1:75 | 67,200 |
| \$5 (F) | | | \$5 | 1:75 | 67,200 |
| \$5 (F) | \$1 x 4 | \$1 | \$10 | 1:187.50 | 26,880 |
| | \$2 x 3 | \$4 | \$10 | 1:500 | 10,080 |
| | \$1 + \$2 x 2 | \$5 | \$10 | 1:500 | 10,080 |
| | \$4 + \$5 | \$1 | \$10 | 1:500 | 10,080 |
| | \$10 | | \$10 | 1:500 | 10,080 |
| \$5 (F) | \$2 x 2 + \$1 + \$10 | | \$20 | 1:250 | 20,160 |
| \$5 (F) | \$10 | \$5 | \$20 | 1:1,500 | 3,360 |
| | \$4 x 4 | \$4 | \$20 | 1:1,500 | 3,360 |
| | \$4 x 2 + \$5 x 2 | \$2 | \$20 | 1:1,500 | 3,360 |
| | \$20 | | \$20 | 1:1,500 | 3,360 |
| \$5 (F) | \$20 x 2 | \$5 | \$50 | 1:6,000 | 840 |
| \$5 (F) | \$10 x 3 + \$5 | \$10 | \$50 | 1:4,000 | 1,260 |
| | \$20 x 2 | \$10 | \$50 | 1:6,000 | 840 |
| | \$50 | | \$50 | 1:6,000 | 840 |
| | \$100 x 2 | | \$200 | 1:12,000 | 420 |

| <i>Game 1</i> | <i>Game 2</i> | <i>Game 3</i> | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of Winners Per 5,040,000 Tickets</i> |
|---------------|---------------|---------------|------------|-------------------------|---|
| | \$50 x 2 | \$100 | \$200 | 1:12,000 | 420 |
| | \$50 x 4 | | \$200 | 1:6,000 | 840 |
| | | \$200 | \$200 | 1:12,000 | 420 |
| | \$200 x 4 | \$200 | \$1,000 | 1:60,000 | 84 |
| | | \$1,000 | \$1,000 | 1:60,000 | 84 |
| | \$20,000 | | \$20,000 | 1:840,000 | 6 |
| | | \$20,000 | \$20,000 | 1:840,000 | 6 |

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Stocking Stuffer '98 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Stocking Stuffer '98, prize money from winning Pennsylvania Stocking Stuffer '98 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Stocking Stuffer '98 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Stocking Stuffer '98 or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 98-1668. Filed for public inspection October 9, 1998, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 Pa. Code § 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by Martin Media, of P. O. Box 7003, Paso Robles, California 93447 seeking to lease highway right-of-way located on the western side of West Liberty Avenue and the intersection of Saw Mill Run Boulevard, in the City of Pittsburgh, County of Allegheny, (parcel 7) 1,407 square feet ±, adjacent to SR 0051 Section A29, for purposes of erecting an outdoor advertising device(s). Interested persons are

invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Raymond S. Hack, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1669. Filed for public inspection October 9, 1998, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 5129(c)) and in 67 Pa. Code § 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by Martin Media, of P. O. Box 7003, Paso Robles, California 93447 seeking to lease highway right-of-way located on the western side of Saw Mill Run Boulevard, north of West Liberty Avenue, in the City of Pittsburgh, County of Allegheny, (parcel 40) 33,977 square feet ±, adjacent to SR 0051 Section A29, for purposes of erecting an outdoor advertising device(s). Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Raymond S. Hack, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1670. Filed for public inspection October 9, 1998, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 Pa. Code § 495.4,

gives notice that an application to lease highway right-of-way has been submitted to the Department by Martin Media, of P. O. Box 7003, Paso Robles, California 93447 seeking to lease highway right-of-way located on the eastern side of Saw Mill Run Boulevard, in the City of Pittsburgh, County of Allegheny, (parcel 51) 21,699 square feet ±, adjacent to SR 0051 Section A29, for purposes of erecting an outdoor advertising device(s). Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Raymond S. Hack, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1671. Filed for public inspection October 9, 1998, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 Pa. Code § 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by Martin Media, of P. O. Box 7003, Paso Robles, California 93447 seeking to lease highway right-of-way located on the eastern side of West Liberty Avenue, in the City of Pittsburgh, County of Allegheny, (parcel 55) 2,360 square feet ±, adjacent to SR 0051 Section A29, for purposes of erecting an outdoor advertising device(s). Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Raymond S. Hack, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1672. Filed for public inspection October 9, 1998, 9:00 a.m.]

Availability of Local Real Estate Tax Reimbursement Grants for Taxes Paid in 1998

The Department of Transportation, Bureau of Aviation, is accepting applications for Tax Reimbursement Grants from qualifying owners of public airports who have paid local real estate taxes for the calendar year ending December 31, 1998.

Each year, under Subchapter B of the Aviation Code (74 Pa.C.S. Sections 6121, 6122, 6123 and 6124) and 67 Pa. Code Chapter 477, the owner of a public airport shall

be eligible for a grant from the local real estate tax reimbursement portion of the Aviation Restricted Account. These grants are available to reimburse airport owners for local real estate taxes paid on those portions of an airport which are aviation related areas, as defined in Section 5102 of the Aviation Code (74 Pa.C.S. § 5102). Prior to applying for a grant, each public airport owner shall enter into an agreement with the Department. This agreement shall specify that the owner shall continue, for a period of not less than ten years, to maintain the property, for which the grant will be sought, as an airport at least equal in size and capacity as that indicated in the owner's initial grant application. This agreement shall be a covenant which runs with the land and thus shall apply to any subsequent purchases of land. Upon acceptance of any grant, the covenant shall be deemed extended for one additional year. Any violation of the agreement shall make the owner liable for the repayment of the total appropriation for the year plus a penalty of two times the grant. In any action wherein the owner is found to have violated the agreement, the Department shall receive all costs of prosecution.

The final date for submission of applications for reimbursement of local real estate taxes paid in calendar year ending December 31, 1998 is the close of business on February 1, 1999. Applications shall be filed with the Department of Transportation, Bureau of Aviation, 555 Walnut Street—8th Floor, Harrisburg, PA 17057.

Interested persons may direct their request for applications, inquiries or comments regarding the local real estate tax reimbursement program to Demetrius D. Glass, Director, Bureau of Aviation, 555 Walnut Street—8th Floor, Harrisburg, PA 17101, (717) 705-1230.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1673. Filed for public inspection October 9, 1998, 9:00 a.m.]

Finding Lackawanna 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 Delaware, Lackawanna and Western (DL&W) Railroad Bridge in the City of Scranton, Lackawanna County. The project involves widening Keyser Avenue from an existing two and three lane roadway up to six lanes in the vicinity of the DL&W Railroad Bridge. As a consequence of the road widening, the existing DL&W Railroad Bridge will be demolished and replaced with a new bridge spanning a six lane roadway section. The DL&W Railroad Bridge is considered eligible for listing on the National Register of Historic Places.

To mitigate the replacement of the Delaware, Lackawanna and Western Railroad Bridge, PennDOT shall ensure that all documentation for recordation of the property is completed and accepted by the PHMC prior to demolition.

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. 98-1674. Filed for public inspection October 9, 1998, 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 Fort Washington Bridge which carries Bethlehem Pike (S. R. 2018) over the Southeastern Pennsylvania Transportation Authority (SEPTA) railroad tracks in Whitmarsh Township, Montgomery County. The bridge will be replaced on the existing alignment with a single span concrete box beam bridge. Roadway approaches will be improved approximately 207 meters (680 ft.) on the south side and 152 meters (500 ft.) on the north side of the bridge. The approach work is primarily to improve the vertical geometry of the roadway.

This bridge project will match the adjacent S. R. 3014, Section 001 project at each end of the project study area. Based on preliminary design, it appears that the impacts from the project will be contained within either the existing legal right-of-way or the adjacent required right-of-way to be acquired for the S. R. 3014, Section 001 project.

The Pennsylvania Historical and Museum Commission (PHMC) has determined that this project will have an "Adverse Effect" on the Fort Washington Historic District, a property eligible for the National Register of Historic Places. This resource is protected by Section 2002 of Pennsylvania Act 120. The bridge to be replaced is a contributing resource within the eligible historic district.

The effect of this project on the Fort Washington Historic District will be mitigated as stipulated in the Categorical Exclusion/Section 2002 Evaluation.

The environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, have been considered. It has been concluded that there is no prudent and feasible alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1675. Filed for public inspection October 9, 1998, 9:00 a.m.]

Retention of Engineering Firms

Erie County Project Reference No. 08430AG2248

The Department of Transportation will retain an engineering firm to perform final design and provide consulta-

tion during construction for S. R. 4034, Section A91 in Harborcreek Township, Erie County. This project involves the construction of a new four lane bridge spanning Wintergreen Gorge and Four-mile Creek. This project is a part of the East Side Access corridor for which the final Environmental Impact Statement (FEIS) was approved on March 3, 1997. The estimated project construction cost is \$20.0 million.

The design of this structure must be coordinated with and coincide with the design of the highway section between Interstate 90 and McClelland Avenue. The design of the highway section will be done by others and has been advertised separately. An important element of this assignment will be to effectively work and exchange information with the highway design consultant so the project design and letting schedules are not compromised.

The selected firm will be required to provide the following engineering and design services for final design: field surveys; erosion and sedimentation pollution control plan preparation; utility coordination; coordination with environmental review agencies, Harborcreek Township, Penn State Erie-The Brehrend Campus, the area public and the Department; soils and geological investigations; structure design; and preparation of structure drawings, design specifications and cost estimates. All final designs must be in accordance with the mitigation summary that is a part of the FEIS.

Consultation during construction will consist of alternate design review and shop drawing review.

Firms that are under contract, or are being considered, to provide engineering services to a land developer or local municipality for a site that is along the project corridor will not be considered for this assignment. Firms are to state in their letter-of-interest that they are not under contract nor are being considered for a contract with a land developer or local municipality with interests in the project area.

Letters-of-Interest will be evaluated at the Engineering District 1-0 office with emphasis on the following factors:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information Section."
- b. Proven ability to meet project schedules and control costs.
- c. Experience and competence of project manager and key personnel.
- d. Innovations and flexibility in thinking, particularly with respect to the needs of the local community.
- e. Past performance record on similar projects.
- f. Past performance record of listed subconsultants.
- g. Availability of listed staff; and
- h. Current workload.

Limits to the letters-of-interest submittals, in addition to those mentioned in the General Requirements and Information section following the advertised project(s), are as follows:

1. Standard Form 255, Item No. 7—No more than ten (10) total pages of resumes, one-sided.
2. Standard Form 255, Item No. 8—No more than eight (8) project descriptions are to be included.

Engineering District 1-0 will announce the firms that have been shortlisted at an open, public meeting to be held in the District office. All firms that have submitted a

letter-of-interest will be notified of the time and date. Specify two (2) contact persons in the letter-of-interest.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The second copy of the letter-of-interest and required forms shall be sent to Mr. John L. Baker, P.E., District Engineer, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323, Attention: Mr. Michael L. McMullen, P.E.

Any technical questions concerning the requirements for this project should be directed to: Mr. William G. Petit, P.E., District 1-0, at (814) 437-4270 or Mr. Michael L. McMullen, P.E., District 1-0, at (814) 437-4331.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Centre and Clearfield Counties
Project Reference No. 08430AG2249**

The Department of Transportation will retain an engineering firm to provide preliminary engineering and the preparation of an Environmental Impact Statement for S. R. 0322, Section B02, in Centre and Clearfield Counties.

S. R. 0322, Section B02 is the relocation of approximately 27 miles of U.S. 0322 as a four lane limited access highway from its interchange with I-99 north of Port Matilda in Centre County to the Woodland Interchange (Interchange 20) of Interstate 80 in Clearfield County.

The preliminary engineering will consist of the development and analysis of five (5) alternates in addition to the TSM and No Build Alternative. Each will be developed taking into consideration specific environmental impacts identified in the environmental studies. Traffic routes to be included in the development and evaluation of each alternative will be Interstate 80, proposed Interstate 99, S. R. 0322, S. R. 0350, S. R. 0053, S. R. 0504, and S. R. 0970. The interchange of U.S. 0322 between Interstate 80 and proposed Interstate 99 will be high speed movements. Mapping will be provided at 1 to 2000 scale. Digitized files will be provided. The Department will provide the selected firm with traffic counts, traffic projections and an Origin and Destination Survey. The selected firm will develop traffic projections for individual alternates using the Centre Regional Metropolitan Planning Organization Traffic Model.

The project's environmental scope of work will include all items related to regional and community growth; soil erosion and sedimentation; classification and delineate vegetation types and communities; geological resources; aquatic resources; wetland identification, delineation, evaluation, and mitigation; floodplain identification, delineation, flood risk analysis and mitigation; groundwater resources; wildlife and wildlife habitat; endangered plants and animals; productive agricultural lands; historic resources including reports and MOA's; archaeological resources including MOA's; energy conservation; park and recreational facilities; Section 4(f) resources; public facilities and services; community cohesion; economy, employment and potential impacts; displacement of people; businesses and farms; air quality; noise analysis; water pollution; hazardous and residual waste; aesthetics and other values; secondary impacts; public meetings; advi-

sory committee meetings, newsletters, public hearing; mitigation plan and necessary permits.

The Letters of Interest, at a minimum, will indicate the following: how the selected firm will accomplish the tasks outlined or provide the services as detailed, and the names and resumes of individuals and firms intended to be utilized to fulfill the services. The Department will establish a shortlist of a minimum of three firms. The following factors, listed in order of importance, will be considered by the Consultant Selection Committee during the evaluation of the firms submitting Letters of Interest:

- a. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Specialized experience and technical competence of the team in environmental studies.
- c. Specialized experience and technical competence of the team in preliminary design.
- d. Experience in public participation.
- e. Specialized experience and technical competence of the team in the design of high speed interchanges.
- f. Specialized experience, previous experience, technical competence of individuals.
- g. The understanding of this assignment.
- h. Current workload and capacity to perform the work.
- i. Past record of performance with respect to cost control, work quality, and ability to meet schedules.

The shortlisting for this project will be done at the District. All firms submitting Letters of Interest will be notified by the District of the shortlisting date.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. George Khoury, P.E., District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830.

Any technical questions concerning the requirements for this project should be directed to: Mr. Christopher J. Sokol, P.E., District 2-0, at (814) 765-0676 or Mr. James R. Bathurst, P.E., District 2-0, at (814) 765-0437.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Beaver and Lawrence Counties
Project Reference No. 08430AG2250**

The Department of Transportation will retain engineering firms to perform two (2) bi-annual NBIS inspections for various locally owned bridges in Beaver and Lawrence Counties in District 11-0. Approximately 173 bridge inspections will be performed in Group "C" which are in Beaver and Lawrence Counties.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be estab-

lished directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The selected firm will be required to inspect/re-inspect selected locally owned bridges at various locations, and provide updated inspection reports including the following:

- Bridge load capacity rating/re-rating, including inventory and operating ratings based on existing conditions for H20, HS20 and ML80 loadings using the Department's BAR 7 computer program. This is for all of the newly inspected bridges and for some previously inspected bridges.

- Load postings recommendations in accordance with the Department's current load posting policy.

Various structure types and materials will be involved: i.e. reinforced concrete, prestressed concrete, steel beam, steel truss, culvert, and others. A detailed listing of the bridges will be included with the scope of work. The contract will have a duration of four (4) years and involve the inspections of the structures listed.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.

- b. Location of firm and/or the location of individuals assigned to this project.

- c. Current workload.

- d. Past performance on similar work assignments including meeting NBIS deadlines and cost containment abilities, Q.A. procedures and technical success, traffic control procedures and railroad involvement.

- e. Staff qualifications—technical expertise, availability for this project and computer capabilities.

All of the work must be completed within 48 months following the Notice to Proceed.

The inspections will be conducted in accordance with the provisions of the "Guidelines for General Scope of Work for Bridge Safety Inspection" dated January 1997.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Raymond Hack, P.E., District Engineer, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, Attention: Mr. Joel Bowman.

Contract related questions for this project should be directed to: Mr. Joel Bowman, P.E., District 11-0, at (412) 429-4927.

Any technical questions concerning the requirements for this project should be directed to: Mr. Ron Todorowski, District 11-0, at (412) 429-4914.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Allegheny and Beaver Counties
Project Reference No. 08430AG2251**

The Department of Transportation will retain engineering firms to perform two (2) bi-annual NBIS inspections for various locally owned bridges in Allegheny County and the Ambridge-Aliquippa Bridge in Beaver County, District 11-0. Approximately 234 bridge inspections will be per-

formed in Group "B" which is owned by the City of Pittsburgh, City of Clairton, Port Authority and the Ambridge-Aliquippa Bridge.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The selected firm will be required to inspect/re-inspect selected locally owned bridges at various locations, and provide updated inspection reports including the following:

- Bridge load capacity rating/re-rating, including inventory and operating ratings based on existing conditions for H20, HS20 and ML80 loadings using the Department's BAR 7 computer program. This is for all of the newly inspected bridges and for some previously inspected bridges.

- Load postings recommendations in accordance with the Department's current load posting policy.

Various structure types and materials will be involved: i.e. reinforced concrete, prestressed concrete, steel beam, steel truss, culvert, and others. A detailed listing of the bridges will be included with the scope of work. The contract will have a duration of four (4) years and involve the inspections of the structures listed.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.

- b. Location of firm and/or the location of individuals assigned to this project.

- c. Current workload.

- d. Past performance on similar work assignments including meeting NBIS deadlines and cost containment abilities, Q.A. procedures and technical success, traffic control procedures and railroad involvement.

- e. Staff qualifications—technical expertise, availability for this project and computer capabilities.

- f. Experience inspecting large, complex structures.

- g. Experience performing inspection in the City of Pittsburgh involving the Parkways or requiring traffic control or weekend work. Show how your firm can limit these restrictions where possible.

All of the work must be completed within 48 months following the Notice to Proceed.

The inspections will be conducted in accordance with the provisions of the "Guidelines for General Scope of Work for Bridge Safety Inspection" dated January 1997.

The District's copy of the Letter of Interest and required forms (see general requirements and information section) shall be sent to: Mr. Raymond Hack, P.E., District Engineer, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, Attention: Mr. Joel Bowman.

Contract related questions for this project should be directed to: Mr. Joel Bowman, P.E., District 11-0, at (412) 429-4927.

Any technical questions concerning the requirements for this project should be directed to: Mr. Ron Todorowski, District 11-0, at (412) 429-4914.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Allegheny County
Project Reference No. 08430AG2252**

The Department of Transportation will retain engineering firms to perform two (2) bi-annual NBIS inspections for various locally owned bridges in Allegheny County in District 11-0. Approximately 208 bridge inspections will be performed in Group "A" which is all of Allegheny County except City of Pittsburgh, City of Clairton and Port Authority.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The selected firm will be required to inspect/re-inspect selected locally owned bridges at various locations, and provide updated inspection reports including the following:

- Bridge load capacity rating/re-rating, including inventory and operating ratings based on existing conditions for H20, HS20 and ML80 loadings using the Department's BAR 7 computer program. This is for all of the newly inspected bridges and for some previously inspected bridges.

- Load postings recommendations in accordance with the Department's current load posting policy.

Various structure types and materials will be involved: i.e. reinforced concrete, prestressed concrete, steel beam, steel truss, culvert, and others. A detailed listing of the bridges will be included with the scope of work. The contract will have a duration of four (4) years and involve the inspections of the structures listed.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Ability to package and present the letter of interest in accordance with the "General Requirements and Information" section.

- b. Location of firm and/or the location of individuals assigned to this project.

- c. Current workload.

- d. Past performance on similar work assignments including meeting NBIS deadlines and cost containment abilities, Q.A. procedures and technical success, traffic control procedures and railroad involvement.

- e. Staff qualifications—technical expertise, availability for this project and computer capabilities.

All of the work must be completed within 48 months following the Notice to Proceed.

The inspections will be conducted in accordance with the provisions of the "Guidelines for General Scope of Work for Bridge Safety Inspection" dated January 1997.

The District's copy of the Letter of Interest and required forms (see general requirements and information

section) shall be sent to: Mr. Raymond Hack, P.E., District Engineer, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, Attention: Mr. Joel Bowman.

Contract related questions for this project should be directed to: Mr. Joel Bowman, P.E., District 11-0, at (412) 429-4927.

Any technical questions concerning the requirements for this project should be directed to: Mr. Ron Todorowski, District 11-0, at (412) 429-4914.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit two copies of a Letter of Interest are required information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to:

Mr. Charles W. Allwein, P.E., Chief
Consultant Selection Committee
7th Floor, Forum Place
555 Walnut Street
P. O. Box 3060
Harrisburg, Pennsylvania 17105-3060

Note: The Zip Code for express Mailing is 17101-1900

The Letter of Interest and required information must be received within twenty (20) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 P.M. prevailing time of the twentieth day.

The second copy of the letter of interest and required information must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If an individual, firm, or corporation not authorized to engage in the practice of engineering desires to submit a Letter of Interest, said individual, firm, or corporation may do so as part of a Joint Venture with an individual, firm, or corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum

opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act, WBEs or combinations thereof).

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

The Department requests that each Letter of Interest include the following information and that the information be packaged and presented in the order indicated below to facilitate the Department's review and evaluation.

The firm's ability and willingness to package and present the requested information in the above order to facilitate the Department's review and evaluation will be the first factor considered in the evaluation process.

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

2. A fact sheet that includes the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant should indicate on this fact sheet the names and Professional Engineer License Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm. If the project advertisement indicated the Department will retain an Land Surveying firm for the project, the applicant should indicate on this fact sheet the names and Professional Land Surveyor Registration Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's land surveying activities, and whose names and seals shall be stamped on all plans, plats, and reports issued by the firm.

3. Project Organizational Chart (one page, one side, maximum size 11" x 17")

This Chart should show key staff from the prime and each subconsultant and their area of responsibility.

4. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team)

The Standard Form 255 should be signed, dated, and filled out in its entirety, including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project.

Under Item 4 of this form, Column A must specify only the number of subconsultant personnel and Column B should specify only the number of prime consultant personnel to be assigned to work on this project reference

number. Do not include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant should not include more than one page each for Items 10 and 11.

If a Disadvantaged Business Enterprise (DBE) goal is specified by the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

5. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, should accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

These Forms should be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Standard Form 255.

6. Authorization Letters (if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the Letter of Interest, the letters from proposed prime employees should be first, followed by subconsultant employees, in the same order as shown in Item 6 of Standard Form 255.

7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. Overhead Rates (one page)

A single page summary should indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public Accountant must be indicated. New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

Letters of Interest will be rejected for the following reasons:

1. Received after the cut-off time and date specified above.
2. Failure to identify a Department Certified Disadvantaged Business Enterprise (DBE) if a DBE participation goal is identified in the advertised project.
3. Failure to include a copy of the registration to do business in the Commonwealth, if applicable.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 98-1676. Filed for public inspection October 9, 1998, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Cancellation of Meeting

The October 20, 1998, Environmental Quality Board meeting has been canceled. The next meeting is scheduled for November 17, 1998, at 10 a.m. in Room 105 of the Rachel Carson State Office Building (RCSOB), Harrisburg.

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 98-1677. Filed for public inspection October 9, 1998, 9:00 a.m.]

FISH AND BOAT COMMISSION

Temporary Changes to Fishing Regulations

Under the Commission's regulation's at 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), the Executive Director is authorized to take immediate action to temporarily modify fishing regulations when he finds that such modifications are necessary and appropriate for the protection, preservation and management of fish or fish habitat, to conserve and preserve fishing opportunities or to provide for health and safety of persons who fish such waters. Notice is hereby given that the Executive Director, acting under the authority of § 65.25, applies the following regulation to Lake Erie and its tributaries:

No person other than a holder of a live bait fish, live fish bait and live fish dealers license issued under § 3309 of the code (relating to live bait fish, live fish bait and live

fish dealers licenses) shall sell live bait fish, live fish bait, live fish, fish parts or fish eggs.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 98-1678. Filed for public inspection October 9, 1998, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, September 24, 1998, and took the following actions:

Regulations Approved:

Department of Revenue #15-405: Net Gains or Income From Disposition of Property (amends 61 Pa. Code Chapter 103)

State Board of Pharmacy #16A-547: Examination Fees (amends 49 Pa. Code §§ 27.21, 27.24 and 27.91)

Insurance Department #11-160: Motor Vehicle Financial Responsibility Law; Catastrophic Loss Benefits Continuation Fund (amends 31 Pa. Code Chapter 67)

Public School Employees' Retirement Board #43-7: General Revisions; Contributions; Credited Service (amends 22 Pa. Code Chapters 201, 211, 213 and 215)

Regulations Deemed Approved under Section 5(g) of the Regulatory Review Act—Effective September 24, 1998.

Department of Revenue #15-380: Return of Information as to Payment in Excess of \$10 (amends 61 Pa. Code Chapter 117)

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
September 24, 1998

Department of Revenue—Net Gains or Income from the Disposition of Property; Regulation No. 15-405

Order

On August 25, 1998, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code Chapter 103. The authority for this regulation is contained in section 354 of the Tax Reform Code (72 P. S. § 7354). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The Department is amending its regulations concerning the net gains for the disposition of property because of a recent legislative change. The Tax Reform Code was amended in 1998 to repeal the personal income tax levy on the gain from the sale or other disposition of a principal residence.

The final-omitted regulation explains how the recent legislative amendment applies to taxpayers, describes

what is a principle residence, explains how the date of disposition will be determined, and establishes the rules pertaining to depreciable property.

We have reviewed this regulation and find it to be in the public interest. The regulation is necessary to explain when the personal income tax will not apply to the gain from the sale of a principal residence.

Therefore, It Is Ordered That:

1. Regulation No. 15-405 from the Department of Revenue, as submitted to the Commission on August 25, 1998, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
September 24, 1998

State Board of Pharmacy—Examination Fees; Regulation No. 16A-547

Order

On September 1, 1998, the Independent Regulatory Review Commission (Commission) received this regulation from the State Board of Pharmacy (Board). This rulemaking amends 49 Pa. Code §§ 27.21, 27.24 and 27.91. The authority for this regulation is found in sections 3, 6(k) and 8.2 of the Pharmacy Act (63 P.S. §§ 390-3, 390-6(k) and 390-8.2). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The Board is amending the fee for the pharmacy jurisprudence examination. Current regulations require an applicant for licensure to pass the North American Pharmacist Licensure Examination (NAPLEX) and the Federal Drug Law Examination (FDLE). Effective November 1, 1998, the Multistate Pharmacy Jurisprudence Examination (MPJE) will replace the FDLE. The existing fee for the FDLE is \$75. The fee for the computerized MPJE will be \$85.

We have reviewed this regulation and find it to be in the public interest. The \$85 fee reflects development costs for the MPJE and the costs of the National Association of Boards of Pharmacy to schedule a candidate to take the examination.

Therefore, It Is Ordered That:

1. Regulation No. 16A-547 from the State Board of Pharmacy, as submitted to the Commission on September 1, 1998, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
September 24, 1998

Insurance Department—Motor Vehicle Financial Responsibility Law; Catastrophic Loss Benefits Continuation Fund; Regulation No. 11-160

Order

On November 14, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapter 67. The authority for this regulation is Sections 506 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 186 and 412). The proposed regulation was published in the November 29, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 27, 1998.

This proposal from the Department modifies existing regulations to conform to 1988 and 1989 amendments to the Motor Vehicle Financial Responsibility Law (law). Those statutory changes include: repeal of the Catastrophic Loss Trust Fund (fund) in Act 144 of 1988; the addition of a savings provision to allow claimants to continue to receive fund benefits in Act 144 of 1988; and a change in financing of the fund, replacing a fee levied on registration of vehicles with a surcharge placed on motor vehicle violations in Act 24 of 1989.

We have reviewed this regulation and find it to be in the public interest. The proposal will make the Department's regulations consistent with statutory changes. It also revises provisions for handling of claims and reflects the financing, administration, and appeals process used by the Fund.

Therefore, It Is Ordered That:

1. Regulation No. 11-160 from the Insurance Department, as submitted to the Commission on August 27, 1998, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
September 24, 1998

Public School Employes' Retirement Board—General Revisions; Contributions; Credited Service; Regulation No. 43-7

Order

On March 18, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Public School Employes' Retirement Board (Board). This rulemaking amends 22 Pa. Code Chapters 201, 211, 213 and 215. The authority for this regulation is the Public School Employes' Retirement Code at 24 Pa.C.S. § 8502(h). The proposed regulation was published in the March 28, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 2, 1998.

In response to Executive Order 1996-1, the Board is amending this regulation to delete duplicative provisions contained in the Public School Employes' Retirement Code and to update the regulation so that it is consistent with Federal requirements. The regulation also provides for an expedited hearing and decision when there are no factual disputes. The expedited hearing, which must be agreed to by both sides, would allow the case to go directly to the Board for adjudication.

We have reviewed this regulation and find it to be in the public interest. The Board made many clarifying changes to the rulemaking in response to the comments it received. The clarity of the final-form regulation is significantly improved as a result.

Therefore, It Is Ordered That:

1. Regulation No. 43-7 from the Public School Employees' Retirement Board, as submitted to the Commission on September 2, 1998, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners Present: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
September 24, 1998

*Department of Revenue—Return of Information as to
Payment in Excess of \$10; Regulation No. 15-380*

Order

On April 23, 1997, the Independent Regulatory Review Commission (Commission) received the proposed version of this regulation from the Department of Revenue (Department). This rulemaking would amend 61 Pa. Code Chapter 117. The authority for this regulation is contained in section 354 of the Tax Reform Code (72 P. S. § 7354). The proposed version of this regulation was published in the May 3, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form version of this regulation was submitted to the Commission on September 3, 1998.

This proposed regulation allows a regulated investment company to meet the Department's information return requirements in two additional ways. First, a regulated investment company that furnishes a Federal form 1099-DIV to its investors may now attach or provide a separate statement that allows the taxpayer (investor) to compute the correct amount of Pennsylvania exempt-interest dividend. Second, a regulated investment company, that is not required to furnish its investors with a Federal form 1099-DIV, may provide a statement that allows the investor to compute the amount of taxable dividend distributions and any adjustment to basis or taxable gain for the taxable year.

The final-form version of this regulation contains no changes from the initially proposed version. We did not file any comments on the proposed version of this regulation. Furthermore, we did not receive any negative recommendations on the final-form version of this regulation from the House Finance Committee or the Senate Finance Committee.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 15-380 from the Department of Revenue, as submitted to the Commission on September 3, 1998, was deemed approved under section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) on September 24, 1998.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-1679. Filed for public inspection October 9, 1998, 9:00 a.m.]

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> |
|-----------------|--|-----------------|
| 18-331 | Department of Transportation
Vehicle Equipment and Inspection | 9/29/98 |

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 98-1680. Filed for public inspection October 9, 1998, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of Black, Davis & Shue Agency, Inc. under Act 143; General Accident Insurance Company; Doc. No. AT98-09-017

The request for review is granted and the scheduled day for review shall be held on October 27, 1998 at 10 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

The parties are advised that under 40 P. S. § 24 any information or documents exchanged under this order are absolutely privileged and may not be disclosed to any outside party. Failure to maintain the confidentiality of such information or documents may result in enforcement action or other civil penalty.

The agency contract at issue shall remain in force and effect pending the issuance of a Decision in this matter.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1681. Filed for public inspection October 9, 1998, 9:00 a.m.]

Agency Contract Termination of Triggiani Insurance under Act 143; Blue Ridge Insurance Company; Doc. No. AT98-09-010

The request for review is granted and the scheduled day for review shall be held on November 3, 1998 at 10 a.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

The parties are advised that under 40 P. S. § 24 any information or documents exchanged under this order are absolutely privileged and may not be disclosed to any outside party. Failure to maintain the confidentiality of such information or documents may result in enforcement action or other civil penalty.

Pending further Order, the agency contract at issue shall remain in force and effect as existing prior to March 17, 1998.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1682. Filed for public inspection October 9, 1998, 9:00 a.m.]

Agency Contract Termination of William Brucker and Co., Inc. under Act 143; Blue Ridge Insurance Company; Doc. No. AT98-09-026

The request for review is granted and the scheduled day for review shall be held on November 3, 1998 at 2:30 p.m., in the Administrative Hearing Office, 901 North Seventh Street, Suite 200, Harrisburg, PA 17102.

The parties are advised that under 40 P.S. § 24 any information or documents exchanged under this order are absolutely privileged and may not be disclosed to any outside party. Failure to maintain the confidentiality of such information or documents may result in enforcement action or other civil penalty.

Pending further Order, the agency contract at issue shall remain in force and effect as existing prior to January 26, 1998.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1683. Filed for public inspection October 9, 1998, 9:00 a.m.]

Appeal of Kenneth A. Moraski, Jr.; Order to Show Cause; Doc. No. SC98-06-032

A hearing shall occur on December 14, 1998, at 9 a.m. in Room 200, Administrative Hearing Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. 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); General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.251; Special Rules of Administrative Practice and Procedure, 31 Pa. Code §§ 56.1—56.3 and other relevant procedural provisions of law.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1684. Filed for public inspection October 9, 1998, 9:00 a.m.]

James and Carlene McCarthy; Hearing

Appeal of James and Carlene McCarthy; under Act 68; file no. 98-121-33906; Travelers Insurance Group; Doc. No. PH98-09-023.

Under Act 68, Act of June 17, 1968, P. L. _____, No. 68 (act) notice is hereby given that the appellant in this action has requested a hearing, in connection with the termination of the above-captioned automobile insurance policy. The hearing will be held in accordance with the requirements of the act, Administrative Rules of Practice and Procedure, 1 Pa. Code § 31.1 et seq. and the Insurance Department's Special Rules of Administrative Practice and Procedure, 31 Pa. Code §§ 56.1—56.3. All administrative hearings are held in the Insurance Department Offices in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held as follows:

Location: Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102

Date: October 28, 1998

Time: 10 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Commissioner may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1685. Filed for public inspection October 9, 1998, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with his company's termination of the insured's automobile policies. All administrative hearings are held in the Insurance Department Offices in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of William E. and Elaine M. Wilson; file no. 98-265-33624; Erie Insurance Exchange; doc. no. PH98-09-025; October 27, 1998, at 2 p.m.;

Appeal of Arnold N. Stark; file no. 98-267-33596; Nationwide Mutual Insurance Co.; doc. no. PH98-09-024; October 28, 1998, at 1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

After the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 98-1686. Filed for public inspection October 9, 1998, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Columbia County, Wine & Spirits Shoppe #1901, Berwick Plaza, 1530 W. Front Street, Berwick, PA 18603-4321.

Lease Expiration Date: August 31, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,500 to 4,000 net useable square feet of new or existing retail

commercial space within Briar Creek Township or Briar Creek Borough.

Proposals due: November 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

Allegheny County, Wine & Spirits Shoppe #0265, 745 Little Deer Creek Valley Road, Russellton, PA 15076-0295.

Lease Expiration Date: October 31, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,500 net useable square feet of new or existing retail commercial space serving the town of Russellton.

Proposals due: November 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Beaver County, Wine & Spirits Shoppe #0408, 816 3rd Avenue, New Brighton, PA 15066-1915.

Lease Expiration Date: October 31, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space serving the New Brighton area.

Proposals due: November 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Blair County, Wine & Spirits Shoppe #0704, 1258 Pennsylvania Avenue, Tyrone, PA 16686-1618.

Lease Expiration Date: May 31, 2000

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,000 net useable square feet of new or existing retail commercial space serving the Tyrone area.

Proposals due: November 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Lawrence County, Wine & Spirits Shoppe #3707, Westgate Shopping Center, 2034 W. State Street, New Castle, PA 16101-1240.

Lease Expiration Date: October 31, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space in a shopping center environment near the intersection of Routes 224 and 422 in New Castle.

Proposals due: November 6, 1998 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 98-1687. Filed for public inspection October 9, 1998, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule; Milk Marketing Area No. 4

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1301), the Milk Marketing Board will conduct a public hearing for Milk Marketing Area No. 4 on December 2, 1998, at 9 a.m. in Room 309 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA. If necessary, the hearing will continue on December 3, 1998.

Scope of the hearing

The purpose of the hearing is to receive testimony and exhibits concerning:

A. Cost replacement, such evidence to be limited to the following:

1. Evidence of annualized costs for the processing, packaging, and delivery cost centers based solely on audits of the cross-section milk dealers' financial statements (PMMB-60s) for the 1997 calendar year.

2. Evidence of costs for containers and ingredients based on audits of applicable invoices of the cross-section milk dealers dated not later than October 30, 1998.

3. Evidence of costs for purchasing Class II price-controlled packaged products based on audits of applicable invoices of the cross-section milk dealers dated not later than October 30, 1998, along with recommendations concerning a methodology for calculating the prices of products and container sizes for which no evidence of purchase costs is presented.

4. Evidence of labor, insurance and utility costs based on comparisons between costs per point for corresponding quarters of 1998 and 1997.

5. Evidence concerning a reasonable rate of return to milk dealers.

B. Retailers' costs.

C. Wholesale discounts, including discounts for volume efficiency for multi-store groups.

D. A methodology for assessing container costs.

E. The appropriateness of including changes in retailer costs in future cost replacement hearings, together with the evidentiary parameters therefor.

Entries of appearance

The staff of the Board is deemed to be a party to this hearing, and the attorneys representing staff are deemed to have entered their appearances. Other persons that may be affected by the Board order fixing prices in Area No. 4 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, on or before October 16, 1998, 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.

2. 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 October 16, 1998, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

Witnesses, exhibits, presentation of evidence

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. On or before November 2, 1998, each party shall file with the Board seven copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. On or before November 16, 1998, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

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 20 copies shall be available for distribution to nonparties attending the hearing.

Requests for data from Board staff

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 October 23, 1998.

Board's filing address

The filing address for the Board is Pennsylvania Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD users).

BEVERLY R. MINOR,
Chairperson

[Pa.B. Doc. No. 98-1688. Filed for public inspection October 9, 1998, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before November 2, 1998, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Application of the following for the approval of the transfer of stock as described under each application.

A-00088807, F. 5000. Blue Bird Coach Lines, Inc., (One Blue Bird Square, Olean, NY 14760), a corporation of the State of New York—stock transfer—approval of the transfer of all issued and outstanding stock from Louis A. Magano (188 shares) to Coach USA, Inc. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

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-00115326. Galil Moving & Storage, Inc., (25 Chapel Street, 12th Floor, Brooklyn, NY 11201) a corporation of the State of New York—as a contract carrier for REO Allegiance, Inc., household goods in use, between points in the Commonwealth of Pennsylvania. *Attorney:* Ross Chintz, 191 Post Road West, Westport, CT 06880.

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-00115330. Glenn D. Samuels, Sr., John Mark Samuels, Glenn David Samuels, Jr., Geraldine Love, Rhonda Lynn Samuels and Shirley J. Samuels, Partners, t/d/b/a Samuels Family Cab Co. (725 Arlington Avenue, New Castle, Lawrence County, PA 16101)—persons upon call or demand in the county of Lawrence.

Applications of the following for approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle for the transportation of passengers as described under each application.

A-00113597, F. 1, Am-A. John Russell Fanning, Jr. (58 Fairview Avenue, Williamsport, Lycoming County, PA 17701)—discontinuance of service and cancellation of the certificate of public convenience as a common carrier by motor vehicle which authorizes the following right: persons in paratransit service, from points in the city of Williamsport, Lycoming County, and from points within an airline distance of 10 statute miles of the city of Williamsport, to points in Pennsylvania beyond the limits

of the county of Lycoming, and return; subject to the following condition: that the service may be provided only to persons who have obtained reservations at least 24 hours in advance of each trip.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-00100664, Folder 7. Model Management Services, Inc., t/d/b/a Friendly Transportation Services (625 East Orange Street, Lancaster, Lancaster County, PA 17602), a corporation of the Commonwealth of Pennsylvania—additional right—persons in limousine service, between points in the county of Lancaster, and from points in said county, to points in Pennsylvania, and return. *Attorney:* Thomas T. Niesen, Suite 500, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

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 November 9, 1998.

- | | |
|----------------|---|
| A-00115325 | Pablo J. Asson, t/a Argentina Transport
6504 North 5th Street, Philadelphia,
PA 19120 |
| A-00115335 | Kermit L., Byrd K. and David W.
Wagner, t/a Charles B. Wagner & Son
P. O. Box 26, Strausstown, PA 19559 |
| A-00115337 | Steven A. McKenzie
2536 Stillhouse Hollow Road, Ship-
pensburg, PA 17257-7905 |
| A-00115338 | Jeffrey D. Yoder, t/a Timber Transport
R. D. 2, Box 511, Farmington, PA
15437 |
| A-00115340 | Matthew W. Shelton, t/a Shelton
Trucking
128 South 6th Street, Oxford, PA
19363 |
| A-00113907 F.2 | Yolanda Vucina & Lori Harr, t/a L & L
Courtesy Courier's
R. D. 1, Box 132B, Latrobe, PA 15650 |
| A-00115333 | Electronic Distribution, Inc.
P. O. Box 261, Clayton, NJ 08312 |
| A-00114556 F.2 | Leda, Inc.
410 East Lincoln Avenue, Myerstown,
PA 17067 |
| A-00115332 | East Coast Bulk Carriers, Inc.
2927 Rickert Road, Perkasie, PA
18944 |
| A-00115331 | Dean Doaty, t/a Dean Doaty Trucking
994 Ben Franklin Highway,
Douglassville, PA 19518 |
| A-00115329 | DeRosa Trucking, Inc.
421 Washington Road, Dravosburg,
PA 15034 |

- A-00114501 F.2 Robert C. Green, t/a Green's Taxi
2079 Smith Township State Road,
Burgettstown, PA 15201: Paul J.
Walsh, 63 Main Street, Burgettstown,
PA 15021
- A-00115339 William O. Sones
1331 Smith Road, Muncy, PA 17756:
Benjamin E. Landon, 433 Market
Street, P. O. Box 7, Williamsport, PA
17703
- A-00115336 Joseph's Hauling, Inc.
P. O. Box 855, Belle Vernon, PA
15012: Richard Victoria, 506 Circle
Drive, Belle Vernon, PA 15012
- A-00115334 Glenco Construction Services, Inc.
2233 Route 522 North, Lewistown,
PA 17044: David H. Radcliff, 3905
North Front Street, Harrisburg, PA
17110

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. John H. Seydak, t/d/b/a
Bond Electric Systems Transport; Doc. No. A-
00107867C98 and A-00107867*

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That John H. Seydak, t/d/b/a Bond Electric Systems Transport, respondent, maintains his principal place of business at 717-A Fellowship Road, Mt. Laurel, NJ 08054.
2. That respondent was issued a certificate of public convenience by this Commission on January 6, 1989, at Application Docket No. A-00107867.
3. That on or before February 13, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke John H. Seydak, t/d/b/a Bond Electric Systems Transport's certificate of public convenience at A-00107867.

Respectfully submitted,

George T. Mahan
Director, Bureau of Transportation
and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. USA Cartage, Inc.; Doc.
No. A-00110418C98 and A-00110418*

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That USA Cartage, Inc., respondent, maintains its principal place of business at 14240 Pennsylvania Avenue, Hagerstown, MD 21742.
2. That respondent was issued a certificate of public convenience by this Commission on November 10, 1993, at Application Docket No. A-00110418.

3. That on or before February 12, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke USA Cartage, Inc.'s certificate of public convenience at A-00110418.

Respectfully submitted,

George T. Mahan
 Director, Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

 George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Layton Transportation Co., Inc.; Doc. No. A-00112021C98 and A-00112021

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Layton Transportation Co., Inc., respondent, maintains its principal place of business at 212 Black Morse Lane, North Brunswick, NJ 08902-4319.

2. That respondent was issued a certificate of public convenience by this Commission on September 12, 1995, at Application Docket No. A-00112021.

3. That on or before February 18, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Layton Transportation Co., Inc.'s certificate of public convenience at A-00112021.

Respectfully submitted,

George T. Mahan
 Director, Bureau of Transportation and Safety
 P. O. Box 3265
 Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

 George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter

imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. William Saienni t/d/b/a Material Trucking; Doc. No. A-00100393C98 and A-00100393

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That William Saienni, t/d/b/a Material Trucking, respondent, maintains his principal place of business at 510 Century Boulevard, Wilmington, Delaware 19808.

2. That respondent was issued a certificate of public convenience by this Commission on December 9, 1977, at Application Docket No. A-00100393.

3. That on or before February 13, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke William Saienni, t/d/b/a Material Trucking's certificate of public convenience at A-00100393.

Respectfully submitted,

George T. Mahan
Director, Bureau of Transportation
and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Helen M. Levasseur, Louis Levasseur and Christopher Hahn, Copartners, t/d/b/a Levasseur Delivery Service; Doc. No. A-00106525C98 and A-00106525 Fs. 1 and 2

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Helen M. Levasseur, Louis Levasseur and Christopher Hahn, Copartners, t/d/b/a Levasseur Delivery Service, respondents, maintain their principal place of business at 855 Industrial Road, Cinnaminson, NJ 08077.

2. That respondents were issued certificates of public convenience by this Commission on September 21, 1987 and February 17, 1988, at Application Docket No. A-00106525, Fs. 1 and 2, respectively.

3. That on or before February 13, 1998, respondents abandoned or discontinued service without having first filed an application with this Commission.

4. That respondents, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Helen M. Levasseur, Louis Levasseur and Christopher Hahn, Copartners, t/d/b/a Levasseur Delivery Service's certificate of public convenience at A-00106525, Fs. 1 and 2.

Respectfully submitted,

George T. Mahan
Director, Bureau of Transportation
and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Transportation Specialists,
Ltd.; Doc. No. A-00108510C98 and A-00108510*

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Transportation Specialists, Ltd., respondent, maintains its principal place of business at 5332 South 138th Street, Suite 300, Omaha, Nebraska 68137.

2. That respondent was issued a certificate of public convenience by this Commission on February 5, 1990, at Application Docket No. A-00108510.

3. That on or before February 13, 1998, respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Transportation Specialists, Ltd.'s certificate of public convenience at A-00108510.

Respectfully submitted,

George T. Mahan
Director, Bureau of Transportation
and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transpor-

tation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. New Alexandria Bus Co.; Doc. No. A-00073779C98 and A-00073779 F.3

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That New Alexandria Bus Co., respondent, maintains its principal place of business at P. O. Box 676, Latrobe, Westmoreland County, Pennsylvania 15650.

2. That respondent was issued a certificate of public convenience by this Commission on April 7, 1949, at Application Docket No. A-00073779, F. 3.

3. That on or before March 9, 1998, respondent abandoned or discontinued service without having first filed an application with this Commission.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke New Alexandria Bus Co.'s certificate of public convenience at A-00073779, F. 3.

Respectfully submitted,

George T. Mahan
Director, Bureau of Transportation
and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
George T. Mahan

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is

the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include the revocation of your certificate of public convenience or other remedy.

C. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

D. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1689. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310594. Bell Atlantic-Pennsylvania, Inc. and ACC National Telecom Corp. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and ACC National Telecom Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and ACC National Telecom Corp., by its counsel, filed on August 27, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and ACC National Telecom Corp. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1690. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310291F0002. Bell Atlantic-Pennsylvania, Inc. and GTE Communications Corporation. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and GTE Communications Corporation for approval of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and GTE Communications Corporation, by its counsel, filed on August 28, 1998, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and GTE Communications Corporation Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1691. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310687F0002. Bell Atlantic-Pennsylvania, Inc. and ICG Telecom Group, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and ICG Telecom Group, Inc., for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and ICG Telecom Group, Inc., by its counsel, filed on September 25, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and ICG Telecom Group, Inc., Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1692. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310725F0002. Bell Atlantic-Pennsylvania, Inc. and MJD TeleChoice Corp. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and MJD TeleChoice Corp. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and MJD TeleChoice Corp., by its counsel, filed on September 25, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and MJD TeleChoice Corp. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1693. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310464F0002. Bell Atlantic-Pennsylvania, Inc. and Net-Tel Corporation. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Net-Tel Corporation for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Net-Tel Corporation, by its counsel, filed on August 31, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Net-Tel Corporation Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1694. Filed for public inspection October 9, 1998, 9:00 a.m.]

Telecommunications

A-310726F0002. Bell Atlantic-Pennsylvania, Inc. and Ntegrity Telecontent Services, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Ntegrity Telecontent Services, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Ntegrity Telecontent Services, Inc., by its counsel, filed on August 31, 1998, at the Pennsylvania Public Utility Commission, a joint petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. All comments are due on or before 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Ntegrity Telecontent Services, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1695. Filed for public inspection October 9, 1998, 9:00 a.m.]

Wastewater Service Without Hearing

A-230240F0006 and A-230240F0007. Little Washington Wastewater Company. Application of Little Washington Wastewater Company for approval of (1) the acquisition of certain wastewater system assets in East Bradford Township, Chester County, PA; and (2) the right to furnish wastewater service to the public in a portion of East Bradford Township, Chester County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before October 26, 1998, under 52 Pa. Code (relating to public utilities).

Applicant: Little Washington Wastewater Company

Through and By Counsel: Mark J. Kropilak, Esquire, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 98-1696. Filed for public inspection October 9, 1998, 9:00 a.m.]

STATE BOARD FOR CERTIFICATION OF SEWAGE ENFORCEMENT OFFICERS

Examination Announcement for 1999

Examination Dates.

*January 23, 1999—All applications must be received by the Board, complete and correct by close of business December 14, 1998.

**May 22, 1999—All applications must be received by the Board, complete and correct by close of business April 12, 1999.

**July 17, 1999—All applications must be received by the Board, complete and correct by close of business June 7, 1999.

**September 18, 1999—All applications must be received by the Board, complete and correct by close of business August 9, 1999.

**November 13, 1999—All applications must be received by the Board, complete and correct by close of business October 4, 1999.

*Certification examination will be administered in the Harrisburg area Only. SEO candidates who have completed precertification training course (#101) and soils interpretation training course (#103) within 2 years of the date of the examination may apply for the January exam.

**Certification examination will be administered in the area of the following cities;

Erie, Harrisburg, Philadelphia, Pittsburgh, State College and Wilkes-Barre

Beginning with the May 22, 1999 exam, to qualify to sit for the certification exam, all SEO candidates must complete the SEO pre-certification academy which consists of 6 days of training over 2 weeks.

For information on SEO training, contact the Pennsylvania State Association of Township Supervisors, 3001 Gettysburg Road, Camp Hill, PA 17011-7296, (717) 763-0930.

The Sewage Enforcement Officer examination contains 125 multiple choice questions and is divided into four subject areas: Planning, 12 questions; Administration & Enforcement, 24 questions; Soils, 24 questions; Technical Criteria, 65 questions. The passing grade is 50% correct responses to questions in each of the four subject areas; additionally, an overall score of 88 correct responses is required.

Exam applications may be obtained by contacting the Department of Environmental Protection, Certification and Licensing Section, Rachel Carson State Office Building, 400 Market St., P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-6045.

Approximately 4 weeks prior to an examination, applicants will receive an admittance letter from the Certification Board.

Persons with a disability who require accommodation to take the SEO examination should contact the Board at (717) 787-6045 or through Pennsylvania AT&T Relay Services at 1 (800) 654-5984 (TDD) to discuss how the Board may accommodate their needs.

ANITA L. GROSS,
Secretary

[Pa.B. Doc. No. 98-1697. Filed for public inspection October 9, 1998, 9:00 a.m.]

STATE BOARD FOR CERTIFICATION OF SEWAGE TREATMENT PLANT AND WATERWORKS OPERATORS

Examination Announcement for 1999

Examination Dates:

April 24, 1999—Applications must be received, complete and correct, no later than February 8, 1999.

November 6, 1999—Applications must be received, complete and correct, no later than August 23, 1999.

The certification examination will be offered in the area of the following cities:

Altoona, Harrisburg, Meadville, Philadelphia, Pittsburgh, Williamsport and Wilkes-Barre

Applications may be obtained from and must be returned to the Department of Environmental Protection, Certification and Licensing, P. O. Box 8454, 400 Market Street, Harrisburg, PA 17105-8454, (717) 787-5236, by the established cutoff dates stated above (not postmarked). Information regarding the certification examination can be obtained by contacting this same address and telephone number.

Information on training courses can be obtained by contacting the Department of Environmental Protection, Technical Training, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-1458.

Applicants requesting two examinations (water and sewage) must be examined in the Harrisburg area.

Qualified applicants will receive a "letter of notification" approximately 3 weeks prior to the examination. This letter must be presented at the examination center for admission to the examination.

All applicants will be notified of examination results within 75 days after the examination date.

The sewage and water treatment plant operator examination consists of 100 multiple-choice questions. A formula conversion table is provided with the examination package at the test site.

Persons with a disability who require accommodation to take the sewage treatment plant or waterworks operator exam should contact the Board at (717) 787-5236 or through PA AT&T Relay Services at 1 (800) 654-5984 (TDD) to discuss how the board may accommodate their needs.

ROBERT J. SLATICK,
Secretary

[Pa.B. Doc. No. 98-1698. Filed for public inspection October 9, 1998, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following contract:

Contract No. 94-002-FT62: Mon/Fayette Expressway, S. R. 0043, Section 52M, Construction in Allegheny Co., PA

Bid Opening Date: November 10, 1998, 11 a.m.

Bid Surety: 5%

Plans, Specifications and Contract Documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission. Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. No Refund for any reason will be made for plans, specifications and contract documents. Selection of the desired materials should be by the following designations with proper respective remittance (Do not add state tax): a) Construction Plans including roadway subsurface profiles—\$60; b) Cross-sections—\$75; c) Specifications and Contract Bid Documents—\$25; d) Total package—\$160.

A prebid meeting for the project will be held on October 21, 1998, beginning at 10 a.m., at the Trumbull Corporation Construction Management Office, 600 Park Ave., Monongahela, PA 15063, (724) 258-9234.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Pennsylvania Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

Direct any questions for this project to Michael S. Houser at (724) 755-5176.

JAMES F. MALONE, III,
Secretary

[Pa.B. Doc. No. 98-1699. Filed for public inspection October 9, 1998, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.
- ③ Contract Information
- ④ Department
- ⑤ Location
- ⑥ Duration
- ⑦ (For Commodities: Contact: Vendor Services Section 717-787-2199 or 717-787-4705)

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

8504700 Agricultural machinery & supplies—200 each spray tanks, high pressure 4 gallon knapsack; 400 each spray tanks, 3 gallon Rhomar #RH553-5.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: Fax request to (717) 787-0725 or call (717) 787-2199

8118390 Chemicals & chemical products—150,000 gallon liquid magnesium chloride with noncorrosive agent.

Department: Transportation
Location: Somerset, Somerset County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1082118 Clothing & individual equipment—75M emblem Keystone patch size 3 1/4 x 3 color PS10 black twill lettering P543 State logo P484 silver; 75M emblem American flag size 2 3/8 x 3 1/2 marrow stitching P543 yellow/gold; 20M emblem round State logo P484 silver background P510 black twill marrow stitching P543 yellow/gold size 3" diameter; 25M emblem Chevron P510 black twill P543 yellow/gold Chevron black marrow stitching.

Department: Corrections
Location: Huntingdon, Huntingdon County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1203238 Clothing & individual equipment—30,000 each 1999 Working Together for Wildlife patches (raccoons).

Department: Game Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1271238 Clothing & individual equipment—385 each uniform sweater, Blauer style no. 200 or Jack Young style 6000-G with modifications or approved equal.

Department: Game Commission
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1133218 Communications equipment—4 each Fiber Options receivers No. 242 dir.; 8 each Fiber Option power supplies #611P; 1 each Burle Industries master controller No. TC-5136-60; 1 each Burle Industries distribution box No. TC-8780; 4 each Burle Industries upper dome back boxes No. TC-7441A; 4 each Burle Industries dome trim rings No. TC-7402-20; 4 each Burle Industries parapet mounts No. TC-9311-PA2; 4 each Burle Industries mounting arms No. TC-7440WM; 1 each Sanyo 24-hour time-lapse video recorder No. TLS-924; 7,300 foot cable, fiber optic 62.5 miclose tube; 1 each video monitor B&W PSA 20" No. VM-2001; 1 each video monitor B&W PSA 12" No. VM-1201; 1 fee installation/training; 4 each Fiber Options transmitters No. 242 DIT.

Department: Public Welfare
Location: Torrance, Westmoreland County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1272138 Communication Equipment—19 each video packages consisting of Super Dynamic DSP Color Camera (equal to Panasonic WV-CP654); 1 each eight camera-capable supply unit (equal to Bitronics BT-24-40); 1 each Stamise cable equal to Slam-100; 8 each camera lens focal length 2.8mm equal to Panasonic CCTV WV-LA2.8; 2 each zoom lens equal to Panasonic CCTV WV-LZ81/6A; 2 each zoom lens control unit equal to Panasonic WV-7330; 1 each switcher 12 input equal to Panasonic WJ-225; 3 each monitor 3 bank B&W 5-inch equal to Panasonic WV-BM503; 1 each monitor color program 27" w/audio equal to Panasonic CT-2786Y; 2 each video cassette recorder S-VHS time lapse equal to Panasonic AG-6740; 1 each audio mixer 5 input equal to Shure M268; 4 each microphone surface mont omni directional equal to Audio Technica ATB41A; 100 ft. XLR mic cable male to female equal to Canare SC100XXJ; 10 each indoor housing bracket equal to Panasonic WV-7110; 1 each outdoor housing w/heater and blower equal to Panasonic POH 1000HB; 10 each indoor wall mounts equal to Panasonic WV-831P; 2 each outdoor wall mount equal to Panasonic P9000HW.

Department: Military and Veterans Affairs
Location: Annville, Lebanon County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8504710 Construction & building materials—1 each box, precast concrete box culvert

Department: Transportation
Location: Chambersburg, Franklin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1274308 Equipment, boating—2 each spanker sails; 1 each foresale; 1 each small boat sails, sail repairs & hammock repairs.

Department: Erie Maritime Museum
Location: Erie, Erie County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1258048 Laboratory Instruments & Equipment—1 each seed germinator.

Department: Agriculture
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8122300 Laboratory Instruments & Equipment—2 each portable weigh-in-motion system.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1170228 Marine Equipment & Supplies—2 each fiberglass distribution tank for hauling and stocking warm and cool water fish species.

Department: Fish & Boat Commission
Location: Bellefonte, Centre County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8215720 Materials Handling Equipment—1 each lifting system, heavy duty wheel contact mobile.

Department: Transportation
Location: Cyclone, McKean County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1195118 Medical, Dental & Vet Equipment & Supplies—1 each GNR T-308B Sit and Reach flexibility testor or approved equal; 2 each GNR T-211-339 eye level beam scale or approved equal; 2 each GNR X-304-2 folding mats or approved equal 8'x4'x2"; 3 each GNR X700 Monark rehab trainer model 881E or approved equal; 3 each GNR X-701 Monark ergometric fitness/stress testing trainer model 818E or approved equal; 2 each GNR T-710-5 Jackson evaluation system or approved equal.

Department: Corrections
Location: Camp Hill, Cumberland County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1209118 Metal bars, sheets and shapes—2,000 each stainless steel seats, 12" diameter heavy duty 16 gauge steel.

Department: Corrections
Location: Pittsburgh, Allegheny County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1277118 Metal bars, sheets and shapes—100 each stainless steel sheets 48" x 96" x 11 gauge type 304, 2B finish sheet weight 161.3 lbs.

Department: Corrections
Location: Pittsburgh, Allegheny County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1210128 Paper and printing—556M UC—2/20/2B—Employers report for unemployment compensation—1st and 2nd quarter for 1999; 556M UC-2/2A/2B—Employers report for unemployment compensation—1st and 2nd quarter 1999; 556M UC-2/2A/2B Employers report for unemployment compensation 1st and 2nd quarter 1999.

Department: Labor & Industry
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1220118 Plumbing, Heating & Sanitation Equipment—400 each American Standard prison lavatory valve replacement parts for Model L-4410 push button flange PT #60059-02; 200 each American Standard prison lavatory valve parts for Model L-4410 push button hot 60060-02; 200 each American Standard prison lavatory valve parts for Model L-4410 push button cold 60060-02.

Department: Corrections
Location: Huntingdon, Huntingdon County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1232388 Power supply—68 each 50/30/20 AMP power panel—underground feed recreational vehicle power panel, pedestal type; 101 each 30/20 AMP power panel—underground feed recreational vehicle power panel, pedestal type.

Department: State Parks
Location: Various
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1116118 Textiles—57,000 yards sheeting 54" bleached salvage two sides color snow white pantone textile color No. 11-0602TP.

Department: Corrections
Location: Camp Hill, Cumberland County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1202118 Textiles—19,000 lb. jersey knit material; 1,500 lb. jersey knit collarette 1x1 rib knit trim.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1223118 Textiles—15,000 yards navy blue denim.

Department: Corrections
Location: Pittsburgh, Allegheny County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1244118 Textiles—40,000 chambray width 60" color powder blue pantone 14-4214TP.

Department: Corrections
Location: Huntingdon, Huntingdon County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1264118 Textiles—10,000 yards ACA Flamex ticking striped 43" wide 100% cotton.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1265118 Textiles—6,200 each fiber pad, a uniform pliable felt pad composed of 60 percent polyester and 40 percent cotton non-woven fibers.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1282208 Textiles—8,000 lin. yd. fabric, tropical weave 55% Dacron polyester/45% wool color to match existing summer trouser, Raeford Uniform fabric style No. 573-14895. No substitute.

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8504690 Vehicular Equipment and Components—or Automotive Repair and Maintenance Parts—1,000 each revolving warning lights, 360 degree radius 12V clear amber lens.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

SERVICES

Agricultural Services—02

325552 Contractor will provide breeding services to the herd at SCI-Graterford.

Department: Corrections
Location: Correctional Industries, P. O. Box 244 (Off Route 29), Graterford, PA 19426
Duration: 7/1/99 to 6/30/02
Contact: J. L. Barber, Purchasing Agent, (610) 489-4151

325325553 Contractor will combine shell corn planted with 4 row planter in 30" rows on an as needed basis for an estimated 60 acres.

Department: Corrections
Location: Correctional Industries, P. O. Box 244 (Off Route 29), Graterford, PA 19426
Duration: 7/1/99 to 6/30/02
Contact: J. L. Barber, (610) 489-4151

325556 Contractor will provide moving, repairs, general maintenance services to the silo unloaders located at the Farm Department at SCI-Graterford.

Department: Corrections
Location: Correctional Industries, P. O. Box 244 (Off Route 29), Graterford, PA 19426
Duration: 7/1/99 to 6/20/02
Contact: J. L. Barber, (610) 489-4151

SP336993 Contract services required for basal application of a herbicide to trees on State Forest land. Project 98-19 consists of basal application of Garlon 4 in an oil mixture to all striped maple and birch trees more than 1/4 inch in diameter at root collar. Project 98-19 contains 22 acres in Walker Township, Centre County.

Department: Conservation and Natural Resources
Location: Bald Eagle State Forest, Laurelton, PA 17835
Duration: 12/1/98—5/3/99
Contact: Mark A. Hofmann, Forester, (717) 922-3344

Audio/Video—04

34-0104-2-98 Television broadcast video server.

Department: PA Public Television Network
Location: 24 Northeast Dr., Hershey, PA 17033
Duration: One time purchase
Contact: Ronnie A. Smith, (717) 533-6079

RFQC 1998-081-02 On September 23, 1998 the Office of Administration released RFQC 1998-081-02, Request for Qualified Contractors (RFQC) to provide all Commonwealth Telecommunications Services used by State government. On October 27, 1998, the Commonwealth will hold Discovery Day to present the RFQC process. The Commonwealth will use Discovery Day to provide background information and to provide informal answers to questions. This will be an opportunity for vendors to meet each other, to submit additional questions, and to engage in direct dialog with the issuing office. All vendors interested in participating in the RFQC are strongly encouraged to attend. Written, binding answers to all questions will be available at the RFQC Web Site: www.cts_a.state.pa.us. Discovery Day will be held on October 27, 1998 beginning at 9 a.m. and continuing for most of the day. It will be located at the Forum Building in downtown Harrisburg, the 500 block of Walnut, on the corner of Walnut St. and Commonwealth Ave. Entrance to the building is on Walnut Street. Parking is available at 4th and Market Streets, 5th and Market Streets, and 7th and Forster Streets.

Department: Office of Administration
Location: Statewide
Duration: Five Years
Contact: Nicholas Giordano, (717) 705-8324

Construction—09

DGS A172-6-ADA Project title: New comfort station. Brief description: Install new comfort station in compliance with the ADA requirements. Work includes excavation, placing concrete into forms, backfilling and grading, constructing wood frame and siding, asphalt shingle roofing, fixtures and accessories. General Construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Street, Harrisburg, PA 17125. Bid Date: Wednesday, October 28, 1998 at 2 p.m. (717) 787-3923.

Department: General Services
Location: Minnich's Hit Picnic Area, Weiser State Forest District No. 18, Jackson Township, Dauphin County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract bidding unit, (717) 787-6556

DGS A205-4 Project title: New electrical service, emergency generator and distribution system. Brief description: Install new main electrical service and two new branch circuit panelboards. Install new surface metal raceway and branch circuiting, new 80 kw stand-by generator and automatic transfer switch and construct new electrical room. Electrical Construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid Date: Wednesday, October 21, 1998 at 11 a.m.

Department: General Services
Location: PA State Police, Troop C Headquarters, Punxsutawney, Jefferson County, PA
Duration: 150 calendar days from date of initial job conference
Contact: Contract bidding unit, (717) 787-6556

DGS A251-472 Project title: New fuel facility. Brief description: Remove six fuel/waste oil tanks. Install two 8,000 gallon diesel underground storage tanks (UST) with fuel island and canopy, associated control, monitor systems, associated electrical equipment and one 2,000 gallon (1,500/500) UST for waste oil. Electrical and UST/AST construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid Date: Wednesday, October 21, 1998 at 2 p.m. A prebid conference has been scheduled for Tuesday, October 13, 1998 at 10 a.m. at the Pennsylvania Department of Transportation, Maintenance Building, Lancaster, PA. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Pennsylvania Department of Transportation, Lancaster, Lancaster County, PA
Duration: 115 calendar days from date of initial job conference
Contact: Contract bidding unit, (717) 787-6556

DGS A251-473 Project title: New fuel facility. Brief description: Remove seven fuel/waste oil tanks. Install two 10,000 gallon diesel underground storage tanks (UST) with fuel island, associated control, monitor systems, associated electrical equipment and install one 2,000 gallon (1,500/500) UST for waste oil. Electrical and UST/AST construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid Date: Wednesday, November 4, 1998 at 2 p.m. A prebid conference has been scheduled for Friday, October 16, 1998 at 10 a.m. at PENNDOT Maintenance Building, York, PA. Meet at Main Building Front Office. Contact: Norman Klinikowski, (717) 783-2593. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: PENNDOT Maintenance Building, York, York County, PA
Duration: 115 calendar days from date of initial job conference
Contact: Contract bidding unit, (717) 787-6556

DGS A251-514 Project title: Glass block and three window replacements. Brief description: Work consists of glass block window replacement on both sides of the tunnel and replace three windows on the north facade. General Construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. (717) 787-3923. Bid Date: Wednesday, October 21, 1998 at 11 a.m.

Department: General Services
Location: Squirrel Hill Tunnel, Pittsburgh, Allegheny County, PA
Duration: 180 calendar days from date of initial job conference
Contact: Contract bidding unit, (717) 787-6556

DGS 1103-48.OA (Revised) Project title: Construction of convocation/events center. Upper Campus chilled water plant and steamline distribution system. Brief description: Construction management for pre-construction and construction phases for design and construction of a multi-event complex, chilled water plant and steamline distribution. The facility will be used for convocations, intercollegiate men's and women's basketball and other sporting events, conferences, lectures and concerts. The building will contain an arena of approximately 12,000 to 14,000 seats and include all related ancillary facilities to accommodate the buildings many functions. Construction manager is not acting as the contractor. RFP Price: \$25 (includes PA Sales Tax per RFP). Checks made payable to: Commonwealth of Pennsylvania. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Receiving Date for RFP: Thursday, November 5, 1998 at 2 p.m.

Department: General Services
Location: University of Pittsburgh, Pittsburgh, Allegheny County, PA
Duration: Indeterminate 1998—99
Contact: Contract bidding unit, (717) 787-6556

HUN 324 The contractor will provide all labor and materials to repair metal portions of a Sally Port roof located at the front gate. Specific requirements and bid forms are available from the purchasing department. Site visitation will be required by appointment.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654
Duration: 10/1/98 to 10/1/99
Contact: Robert Jessell, Purchasing Agent, (814) 643-2400

Project No. KU 99-12 Kutztown University is seeking qualified contractors for the replacement of the exterior entrance to Schaeffer Auditorium at Kutztown University. Work to include but is not limited to: installation of new exterior aluminum clad wood entrances, including window transoms, selective demolition, cutting and patching, staining the interior of the new entrances and wood molding and removing and reinstalling existing light fixtures. Bid packages are available for a non-refundable fee of \$35 from: Entech Engineering Inc., 4 South Fourth Street, P. O. Box 32, Reading, PA, 19603, (610) 373-6667. Bid packages are available October 12, 1998 through prebid. A prebid meeting has been scheduled for Tuesday, October 20, 1998 at 10 a.m. Bids must be received on November 3, 1998 by 2 p.m. in Room 229, Office of Planning and Construction, South Campus Drive, Kutztown, PA 19530. Bids will be opened on November 4, 1998 at 2 p.m. in the Office of Planning and Construction.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: 90 days after Notice to Proceed
Contact: Barbara Barish, Contract Specialist, (610) 683-4602

13—Elevator Maintenance

HUN 323 The contractor shall provide all labor and materials to repair one rotary hydraulic sidewalk freight elevator, Model H5, located within the State Correctional Institution at Huntingdon. Specific requirements and bid forms are available from the Purchasing Department. Site visitation will be required by appointment.

Department: Corrections
Location: State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654
Duration: 10/1/98 to 10/1/99
Contact: Robert Jessell, Purchasing Agent II, (814) 643-2400

Project No. KU 99-05 Kutztown University is seeking qualified contractors to replace the existing freight elevator at the South Dining Hall at Kutztown University. Work to include but is not limited to: removal of existing elevator assembly including cab, signal fixtures, door frames, power unit and controller; installation of new elevator assembly; rehabilitation of existing components and spaces. Bid packages are available from: Janet Spahr, STV Architects, 205 West Welsh Drive, Douglassville, PA 19518, (610) 385-8219. Bid packages are available October 5, 1998 through prebid. A prebid meeting has been scheduled for Tuesday, October 13, 1998 at 10 a.m. Bids must be received on October 27, 1998 by 2 p.m. and will be opened on October 27, 1998 at 2 p.m. in Room 229, Office of Planning and Construction, Kutztown, PA 19830.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: 90 days after Notice to Proceed
Contact: Barbara Barish, Contract Specialist, (610) 683-4602

14—Engineering Services

08430AG2248 To perform final design and provide shop drawing review and consultation during construction for S. R. 4034, Section A91 in Harborcreek Township, Erie County.

Department: Transportation
Location: Engineering District 1-0
Duration: Fifteen (15) calendar months
Contact: Consultant Agreement Division (717) 783-9309

08430AG2249 Preliminary engineering and environmental studies for S. R. 0322, Section B02, Centre and Clearfield Counties.

Department: Transportation
Location: Engineering District 2-0
Duration: Thirty (30) months
Contact: Consultant Agreement Division (717) 783-9309

08430AG2250 To provide two biannual NBIS bridge inspections for 173 locally-owned bridges in Beaver and Lawrence Counties.

Department: Transportation
Location: Engineering District 11-0
Duration: Forty-eight (48) calendar months
Contact: Consultant Agreement Division (717) 783-9309

08430AG2251 To provide two biannual NBIS bridge inspections for 234 locally-owned bridges in Allegheny and Beaver Counties.

Department: Transportation
Location: Engineering District 11-0
Duration: Forty-eight (48) calendar months
Contact: Consultant Agreement Division (717) 783-9309

08430AG2252 To provide two biannual NBIS bridge inspections for 208 locally-owned bridges in Allegheny County.

Department: Transportation
Location: Engineering District 11-0
Duration: Forty-eight (48) calendar months
Contact: Consultant Agreement Division (717) 783-9309

19—Food

8000-M98 Milk low fat, 2% butterfat and under. To be packed in 5 gallon dispenser containers. And skim milk to be packed in 1/2 pt. containers. Milk to be delivered twice a week.

Department: Corrections
Location: State Correctional Institution, Greene County, R. D. 1, Box 67, Waynesburg, PA 15370
Duration: 11/98 through 6/30/99
Contact: Judith Cook, Purchasing Agent, (724) 852-5609

FS 4385 Fresh milk—homogenized, pasteurized milk, packaged in 1/2 pts. Whole, skim and 2%. Monthly bids—weekly deliveries, group bid award. Bid proposal on file within the agency.

Department: Corrections
Location: State Correctional Institution at Smithfield, 1120 Pike Street, P. O. Box 999, Huntingdon, PA 16652
Duration: 9/21/98 through 6/30/99
Contact: Peggy A. Chilcote, Purchasing Agent, (814) 643-6520

G-98-04 Dairy and related products: Contracts shall cover the months of November 01, 1998 through October 31, 1999 with issuance of bid proposals made on a semi-annual (or more frequent) basis. Delivery of the products specified shall be made approximately one or two days each week, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person. Separate solicitations shall be made for commodities as controlled and uncontrolled by the Pennsylvania Milk Marketing Board.

Department: Corrections
Location: State Correctional Institution—Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370-8089
Duration: 11/1/98 through 10/31/99
Contact: Patrick F. Nichols, (724) 852-5533

LBP-97-085 Milk; whole, 2%, skim and Lactaid. To be delivered as needed upon request. Quantities, specifications and delivery dates may be obtained from the Northeastern PA Veterans Center.

Department: Military and Veterans Affairs
Location: Northeastern PA Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: 1/1/99 through 12/31/99
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

LH-F-082 Milk products: Skim milk, pasteurized, homogenized, in 1/2 pt. containers and pasteurized milk, homogenized, in 6 gallon containers with plastic liners, 2% if required by this institution during this period. To be bid quarterly or as needed with quantities and delivery dates to be determined by the Institution. Bids will be on file at the Institution prior to solicitation.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631
Duration: 01/01/99 through 06/30/99
Contact: Carole Kolesko, Purchasing Agent I, (814) 445-6501, Ext. 366

ML-009 The Hiram G. Andrews Center will be inviting bids for the procurement of milk and cream. Deliveries are required three days per week: Monday, Wednesday, Friday; hours: 6 a.m. to 7 a.m. Quantity requirements available from facility.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, PA 15905 (Cambria County)
Duration: 1/1/99 through 12/31/99
Contact: R. D. Robinson, Purchasing Agent II, (814) 255-8210

22—HVAC

DES005 This contract will provide for emergency/routine repair work to heating, plumbing, electrical and air-conditioning systems as needed for Bortondale's Driver Exam Site. All requests for bid packages must be received via fax at (717) 772-8282 (Attn: James Doheny).

Department: Transportation
Location: Bortondale Driver Exam Site, 440 S. Old Middletown Rd., Bortondale, PA 19063
Duration: 2 years with three 1-year renewals
Contact: James Doheny, (717) 787-4463

DES006 This contract will provide for emergency/routine repair work to heating, plumbing, electrical and air-conditioning systems as needed for Warren's Driver Exam Site. All requests for bid packages must be received via fax at (717) 772-8282 (Attn: James Doheny).

Department: Transportation
Location: Warren Driver Exam Site, Batch Run Road, Warren, PA 16365
Duration: Two years with three 1-year renewals
Contact: James Doheny, (717) 787-4463

Contract No. FDC-225-496 Remove and replace the reservoir pump and install a plug valve on the sanitary line in the reservoir in the fountain pumphouse at Point State Park.

Department: Conservation and Natural Resources
Location: City of Pittsburgh, Allegheny County
Duration: 90 days
Contact: Construction Management Section, (717) 787-5055

MI-731 Project Title: Bassler Hall electric boiler refurbishing. Scope of Work: Refurbish existing electrical boiler and the addition and piping for a new booster heater. Plans Cost: \$15 nonrefundable.

Department: State System of Higher Education
Location: Bassler Hall, Millersville University, Millersville, Lancaster County, PA 17551-0302
Duration: 14 days from Notice to Proceed
Contact: Jill M. Coleman, Dilworth Building, (717) 872-3730

24—Laboratory Services

325558 Testing of raw milk, pasteurized milk, sweet water, and the like. Complete testing requirements will be described on bid inquiry.

Department: Corrections
Location: P. O. Box 244 (Off Route 29), Graterford, PA 19426
Duration: 7/1/99 to 6/20/02
Contact: J. L. Barber, (610) 489-4151

25—Laundry/Dry Cleaning

325555 Contractor to provide finishing, drying, scouring, bleaching, desizing, softening, and the like for summer and winter weight tubular cloths, and finishing of Stockinette material.

Department: Corrections
Location: Correctional Industries, P. O. Box 244 (Off Route 29), Graterford, PA 19426
Duration: 7/1/99 to 6/30/02
Contact: J. L. Barber, (610) 489-4151

29—Medical Services

Inquiry No. 9006 Orientation and Mobility Services: To be provided by a certified orientation and mobility specialist. Estimated 150 hours (yearly) services to include: Training for blind or low vision individuals at Center; Training of staff in completing orientation and mobility training plans; completion of orientation and mobility assessments for individuals at center. Includes training of approximately 35 individuals, 24 direct care staff, and 6 direct care supervisors.

Department: Public Welfare
Location: Selingsgrove Center, Box 500, Route 522, Selingsgrove, PA 17870, Snyder County
Duration: 1/1/99 to 12/31/03
Contact: Arletta K. Ney, Purchasing Agent, (717) 372-5070

33—Property Maintenance

030 Landscape maintenance project at Washington Crossing Historic Park to provide trimming and/or removal of 13 trees. All cutting will be upon consultation with park staff. A prebid meeting is required and date will be set in advance of bid due date. Following credentials or equal are required: American Society of Consulting Arborists; International Shade Tree Association; licensed and certified by states of New Jersey and/or Pennsylvania. Work supervised by certified arborist through the Pen-Del Chapter of the International Society of Arboriculture (ISA) or approved equivalent organization.

Department: Historical and Museum Commission
Location: Washington Crossing Historic Park, P. O. Box 103, 1112 River Road, Washington Crossing, PA 18977
Duration: 3 months
Contact: Eric F. Castle, Historic Site Administrator, (215) 493-4076

030-0300 Recoating salt dome and two metal roofs on warehouse storage buildings. Service contractor will be 100% responsible for all maintenance and repairs. Contractor will be required to use materials as specified.

Department: Transportation
Location: District 3-2, 716 Jordan Avenue, Montoursville, PA 17754
Duration: SPC Award date through 6/30/99
Contact: James E. McCourt, (717) 368-4283

11098008 Tree removal from the median of Interstate 79 in Lawrence County.

Department: Transportation
Location: Engineering District 11-0, Interstate 79, Lawrence County, Maintenance District 11-4
Duration: March 1999
Contact: Brad Saxton, (412) 429-4948

35—Real Estate Services

98-040-REA3 Appraisal of real estate in the Greater Wilkes Barre area, Luzerne County, for Department Highway projects. Contractor must be on the Department's pre-qualified list of approved appraisers. Contractor must have Pennsylvania General appraiser certification with experience appraising partial takes on commercial and industrial properties. Requests for bid packages must be received by October 19, 1998.

Department: Transportation
Location: District 4-0, Wilkes Barre Area, Luzerne County
Duration: Indeterminate 1998—2000
Contact: Donald J. VanFleet, (717) 963-4073

98-040-REA4 Appraisal of real estate in the Tunkhannock area of Wyoming County for Department Highway projects. Contractor must have Pennsylvania general appraiser certification with experience appraising partial takes on commercial and industrial properties. Requests for bid packages must be received by October 19, 1998.

Department: Transportation
Location: District 4-0, Tunkhannock Area, Wyoming County
Duration: Indeterminate 1998-2000
Contact: Donald J. VanFleet, (717) 963-4073

37—Security Services

A-8 The Pennsylvania Higher Education Assistance Agency (PHEAA) will issue an RFP on October 19, 1998 for the purchase of a new Access Control and Integrated Security and Automated Time Tracking System. Interested vendors may obtain a copy by contacting the Purchasing Office, (717) 720-2702, and requesting to be added to the mailing of the Security System RFP. The response deadline is 3 p.m. Thursday, October 15, 1998. Purchasing office hours are 8 a.m. to 4:30 p.m. Monday through Friday.

Department: PA Higher Education Assistance Agency
Location: 1200 North Seventh Street, Harrisburg, PA 17102-1444
Duration: Indeterminate 1998-1999
Contact: Donna Orris, (717) 720-2702

39—Miscellaneous

8000-C2 Provide chaplaincy services for inmates of the Protestant faith at the State Correctional Institution at Waynesburg. Approximately 20 hours per week.

Department: Corrections
Location: State Correctional Institution—Waynesburg, R. D. 1, Box 67, Waynesburg, PA 15370
Duration: 12/01/98 through 06/30/01
Contact: Judith Cook, Purchasing Agent, (724) 852-5609

FC-001 The Hiram G. Andrews Center is seeking bids to provide freight carrier and call-tag pickup services in conjunction with the facility's lending library program. Bid documents can be obtained via fax request at (814) 255-8370.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, PA 15905 (Cambria County)
Duration: 3/1/99 to 2/28/02 with renewal option not to exceed two 1-year periods
Contact: Robert D. Robinson, Purchasing Agent II, (814) 255-8210

FC-1H (L. E.) Construction of a boat storage building at the Southcentral Regional Law Enforcement Office, Penn Township, Cumberland County, Pennsylvania.

Department: Fish and Boat Commission
Location: Engineering Section, 450 Robinson Lane, Bellefonte, PA 16823, Southcentral Regional Law Enforcement Office, Penn Township, Cumberland County, PA
Duration: 90 days ARO
Contact: Amos Ferguson, (814) 359-5105

[Pa.B. Doc. No. 98-1700. Filed for public inspection October 9, 1998, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

| Requisition
or
Contract # | Awarded
On | To | In the
Amount Of |
|---------------------------------|---------------|---|---------------------|
| 3610-04
RIP #1 | 10/01/98 | Central Penn
Graphics | 5,000.00 |
| 3610-04
RIP #1 | 10/01/98 | Ricoh Corp. | 10,000.00 |
| 6750-02 | 10/01/98 | Bernies Photo
Center Inc. | 90,000.00 |
| 7450-02 | 10/01/98 | Dictaphone
Corp. | 100,000.00 |
| 7450-02 | 10/01/98 | Graffen Busi-
ness Sys-
tems Inc. | 100,000.00 |
| 7450-02 | 10/01/98 | Advanced
Business
Products
Inc. | 100,000.00 |
| 9110-01 | 10/01/98 | Kobin Coal
Corp. | 51,614.30 |
| 9110-01 | 10/01/98 | F & M
Brown's
Sons Inc. | 10,794.00 |
| 9110-01 | 10/01/98 | Blaschak Coal
Corp. | 2,424,678.50 |
| 9110-01 | 10/01/98 | Direnzo Coal
Co. | 100,500.00 |
| 9110-01 | 10/01/98 | Naughton En-
ergy Corp. | 461,420.00 |
| 9110-01 | 10/01/98 | F & D Coal
Sales Co. | 4,873,351.50 |
| 9110-01 | 10/01/98 | Centralia Coal
Sales Co. | 48,547.50 |
| 9120-01 | 10/01/98 | Agway Energy
Products
LLC | 19,875.75 |
| 9120-01 | 10/01/98 | Amerigas Pro-
pane LP | 8,382.50 |
| 9120-01 | 10/01/98 | Ferrellgas LP | 14,663.10 |
| 9120-01 | 10/01/98 | Keystone Pro-
pane Service
Inc. | 2,434.00 |
| 9120-01 | 10/01/98 | Propane Conti-
nental DBA
Minns Gas | 630.00 |
| 9120-02 | 10/01/98 | Aero Oil Co. | 12,810.00 |
| 9120-02 | 10/01/98 | Agway Energy
Prod. LLC | 87,269.15 |
| 9120-02 | 10/01/98 | Amerigas Pro-
pane LP | 11,154.80 |
| 9120-02 | 10/01/98 | Carlos R. Lef-
fler Propane | 156,072.30 |
| 9120-02 | 10/01/98 | Columbia Pro-
pane Corp. | 63,563.75 |
| 9120-02 | 10/01/98 | Ferrellgas LP | 16,102.50 |

| Requisition
or
Contract # | Awarded
On | To | In the
Amount Of |
|---------------------------------|---------------|---|---------------------|
| 9120-02 | 10/01/98 | Level Propane | 41,461.43 |
| 9120-02 | 10/01/98 | Modern Gas
Sales Inc. | 65,875.50 |
| 9120-02 | 10/01/98 | Propane Conti-
nental DBA
Minns Gas | 10,275.00 |
| 9140-04 | 10/01/98 | Agway Petro-
leum Corp. | 670,217.74 |
| 9140-04 | 10/01/98 | Bedford Valley
Petroleum
Corp. | 26,939.65 |
| 9140-04 | 10/01/98 | BP Oil Co. | 734,430.43 |
| 9140-04 | 10/01/98 | Butler Petro-
leum Corp. | 725.00 |
| 9140-04 | 10/01/98 | Carlos R. Lef-
fler Inc. | 2,159,218.12 |
| 9140-04 | 10/01/98 | Erie Petro-
leum Inc. | 5,000.00 |
| 9140-04 | 10/01/98 | Export Fuel
Co. Inc. | 45,666.62 |
| 9140-04 | 10/01/98 | Farm & Home
Oil Co. | 174,961.95 |
| 9140-04 | 10/01/98 | Hunt Oil Prod-
ucts Inc. | 18,694.75 |
| 9140-04 | 10/01/98 | H. J. Tanner
Fuels | 5,000.00 |
| 9140-04 | 10/01/98 | Jack Rich Inc. | 5,000.00 |
| 9140-04 | 10/01/98 | Klasen Oil Co.
Inc. | 13,007.00 |
| 9140-04 | 10/01/98 | Luther P.
Miller Inc. | 39,480.25 |
| 9140-04 | 10/01/98 | Montour Oil
Service Inc. | 231,521.35 |
| 9140-04 | 10/01/98 | Orris Fuel
Service | 57,820.44 |
| 9140-04 | 10/01/98 | Phoenix Petro-
leum Inc. | 756,629.75 |
| 9140-04 | 10/01/98 | Pipeline Petro-
leum Inc. | 6,398.00 |
| 9140-04 | 10/01/98 | Reed Oil Co. | 17,168.10 |
| 9140-04 | 10/01/98 | Texas Liquids
LIC | 28,464.70 |
| 9140-04 | 10/01/98 | Witter Gas &
Oil Co. Inc. | 18,812.70 |
| 1024118-01 | 09/30/98 | Atlantic Tex-
tiles Co. | 9,510.00 |
| 1050238-01 | 09/30/98 | Grafika Com-
mercial
Printing | 5,850.00 |
| 1058118-01 | 09/30/98 | Tabb Textiles
Co. Inc. | 23,500.00 |

STATE CONTRACTS INFORMATION

5213

| Requisition
or
Contract # | Awarded
On | To | In the
Amount Of |
|---------------------------------|---------------|--|---------------------|
| 1129208-01 | 09/30/98 | Vence Sales &
Investments
Inc. dba/
Southern
Precision
Armory | 10,662.84 |
| 1185208-01 | 09/30/98 | Sylvan Enter-
prises | 17,377.00 |
| 8249070-01 | 09/30/98 | Linear Dy-
namics Inc. | 734,845.40 |

| Requisition
or
Contract # | Awarded
On | To | In the
Amount Of |
|---------------------------------|---------------|--|---------------------|
| 8249470-01 | 09/30/98 | Groff Tractor
& Equip-
ment Inc. | 17,270.00 |
| 8249470-02 | 09/30/98 | Walsh Equip-
ment Inc. | 59,370.00 |
| | | GARY E. CROWELL,
<i>Secretary</i> | |

[Pa.B. Doc. No. 98-1701. Filed for public inspection October 9, 1998, 9:00 a.m.]