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PENNSYLVANIA BULLETIN

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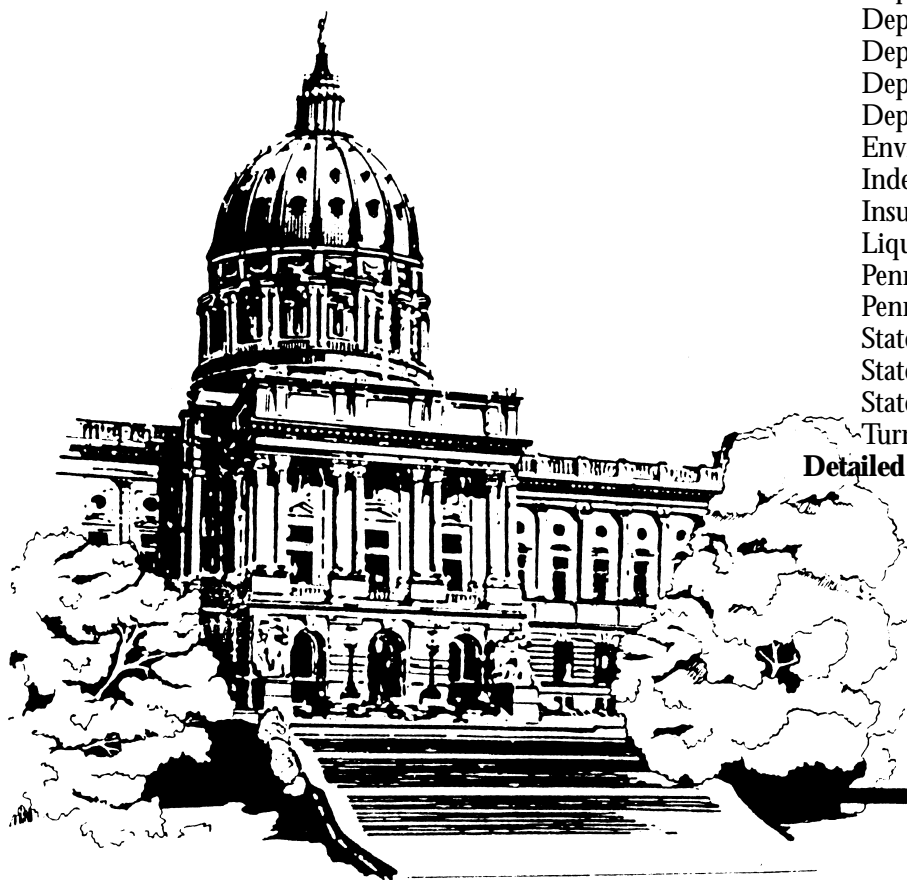
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concerning Storage Tanks and Spill
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Insurance Department
Liquor Control Board
Pennsylvania Infrastructure Investment Authority
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State Board of Education
State Board of Nursing
State Board of Psychology
Turnpike Commission

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

No. 325, December 2001

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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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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GENERAL ASSEMBLY

COMMISSION ON SENTENCING

Meeting Notice

The Commission on Sentencing announces the following public meetings, to be held at The Union League of Philadelphia, 140 South Broad Street, Philadelphia, PA 19102 in the McMichael Room:

Tuesday,
December 4, 2001 Media Conference 10 a.m.

Wednesday,
December 5, 2001 Quarterly
Commission Meeting 9 a.m.

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 01-2124. Filed for public inspection November 30, 2001, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

LACKAWANNA COUNTY

Repeal and Adoption of Rules of Civil Procedure; No. 94-CV-102

Order

And Now, this 8th day of November, 2001, it is hereby *Ordered and Decreed* that, as per the following rescissions, amendments and revisions, Lacka. Co. R.C.P. 211, 212, 212.1, 214, 214.1, 214.2, 214.3, 214.4, 216, 223, 1018, 4007.1, 4012, 4013, 4017.1, and 4018 are hereby amended as follows:

1. The language of the following rules which appears in brackets and boldface is rescinded and deleted from the amended rules;

2. The language of the following rules which appears in regular type and has not been bracketed and in boldface is not rescinded and shall remain part of the revised rules;

3. The language of the following rules which appears in boldface reflects new provisions which have been added to the amended rules;

4. The following repeals, amendments and adoptions shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin* as per Pa. R.Civ.P. 239;

5. Seven certified copies of the new rules shall be filed with the Administrative Office of the Pennsylvania Courts;

6. Two certified copies of the new rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

7. One certified copy of the new rules shall be filed with the Civil Procedural Rules Committee for the Supreme Court of Pennsylvania; and

8. These new rules shall be available for public inspection and copying in the office of the Clerk of Judicial Records, Civil Division.

By the Court

CHESTER T. HARHUT,
President Judge

Rule 211. [Argument and Argument Court] Disposition of Motions and Petitions.

(a) **[Any party shall have the right to argue any motion and the court shall have the right to require oral argument with respect to any motion or petition presented to it. With the approval of the court, oral argument may be dispenses with by agreement of the attorneys and the matter submitted to the court either on the papers filed of record or on such briefs as may be filed by the parties.] To assign a motion or petition to a judge for disposition or to schedule a motion or petition for argument where a rule returnable does not set a schedule, a party shall file with the Clerk of Judicial Records and the Court Administrator a Praecipe for Assignment. See Appendix, Form 1.**

(b) **[To schedule a motion or petition for argument where a rule returnable does not set a schedule, a party shall file with the Clerk of Judicial Records and the Court Administrator a Praecipe for Argument.] Prior to filing a Praecipe for Assignment, the moving or petitioning party shall contact counsel for all other parties of record to determine whether an opposing party or lawyer wishes to present oral argument. The moving or petitioning party shall indicate on the Praecipe for Assignment whether the matter is being submitted on briefs and without the necessity of oral argument or is to be scheduled for argument by the Court Administrator. No Praecipe for Assignment will be accepted by the Clerk of Judicial Records or the Court Administrator unless the moving or petitioning party has indicated in writing whether the matter is to be submitted on briefs or scheduled for oral argument. [Except as provided in Lacka. Co. R.C.P. 1028 governing disposition and briefing of preliminary objections, motions for summary judgment, and motions for judgment on the pleadings, the Court Administrator, upon notice of the praecipe, will schedule argument, set a briefing schedule and notify the parties of the same.]**

(c) The Court Administrator shall assign **[arguments] motions and petitions** to the judges of the court on a rotating basis and **shall establish a briefing schedule for the parties.**

(d) The original of a party's brief shall be filed with the Clerk of Judicial Records and copies shall be provided to the assigned judge and all opposing counsel in accordance with the schedule set by the Court Administrator.

(e) If the moving **or petitioning** party fails to timely file and serve **[his or her]** a brief, or fails to appear at **[the]** oral argument, **if requested**, the matter may be dismissed by the court as of course. **The judge to whom the matter has been assigned may grant additional time for the filing of briefs or may require supplemental briefing by the parties.**

(f) If any party other than the moving **or petitioning** party fails to timely file and serve **[his or her]** a brief, that party **may be deemed not to oppose the motion or petition** and may not be allowed to present oral argument. **[and the court may take such other actions with respect to that party's position as it deems appropriate.]**

(g) No case listed for argument will be continued except for good cause shown to the satisfaction of the court.

Rule 212. Pre-Trial Procedure and Conference.

It is the intent of this rule that, in all civil actions, a pre-trial proceeding may be instituted at various states for specific purposes.

(a) Prior to Filing of Certificate of Readiness

After a complaint alone has been filed or after a complaint and answer have been filed, all parties may jointly praecipe a case for a preliminary pre-trial settlement conference if it is the joint consensus of the parties that the case may be settled as a result of such a

conference, and it is the intention of the parties to avoid ordinary pre-trial procedures leading to the filing of a certificate of readiness.

At such a conference, the basis for the joint consensus that a settlement may be effected at this preliminary stage shall be stated in a joint presentment entitled: "PLAINTIFF/DEFENDANT PRELIMINARY PRE-TRIAL SETTLEMENT STATEMENT." See Appendix, Form [1] 2.

(b) After Filing Certificate of Readiness

[After a case has been listed for trial by the filing of a certificate of readiness, a pre-trial conference and settlement conference shall be held in all cases.]

Upon the filing of a Certificate of readiness, the Court Administrator shall assign a case to an individual judge to conduct a status conference, schedule a pre-trial conference and establish a date for trial.

(c) [In the event that the case is assigned to a judge for trial prior to the conducting of a pre-trial conference, that judge shall conduct the conference. Otherwise, the pre-trial conference shall be conducted at such time and by such judge as is designated by the President Judge on a pre-trial schedule to be maintained by the Court Administrator.] If the court determines at the time of the status conference that a party has not fully complied with Lacka. Co. R.C.P. 214(b), the court may strike the original certificate of readiness and remove the case from the judge's individual calendar or may take such other action as it deems appropriate under the circumstances. At the status conference, the court will also schedule the pre-trial conference and the trial date.

[(d) All cases placed on the protracted list shall be scheduled for a pre-trial conference by the Court Administrator. Pre-trial procedures for protracted cases are listed in Lacka. Co. R.C.P. 212.1.]

[(e)] (d) For the pre-trial conference, each party shall [prepare,] submit to the court[,] and serve on all other parties[,] at least seven (7) days prior to the scheduled time of the conference, a pre-trial statement substantially in the form set forth in Plaintiff/Defendant Pre-Trial Statement or such other form as shall be required by the assigned judge. [who is to conduct the pre-trial conference.] See Appendix, Form [2] 3. The court may in its discretion require the parties to submit a pre-trial order in the format contained in former Lacka. Co. R.C.P. 212.1. See Appendix, Form 4.

[(f)] (e) [At least one attorney for each party shall appear and conduct the pre-trial conference except in the case of parties appearing pro se. At least one attorney for each of the parties who is fully familiar with the case and who has complete authority to settle the case shall appear for each party. If an attorney does not have complete settlement authority, the party or a person with full settlement authority shall accompany the attorney to the pre-trial conference or shall be available by telephone during the pre-trial conference. Counsel are mandated to alert their clients to this requirement and are responsible for having available in

person or by telephone a person with full settlement authority for the party whom counsel represents.] Except for good cause shown, trial counsel with complete settlement authority must attend the pre-trial conference in person. The designated representatives for the plaintiff and defendant, including duly authorized representatives of the primary and excess liability insurers and statutorily created funds, must be available by telephone during the entire course of the pre-trial conference. The court may in its discretion order the designated representatives for the plaintiff and the defendant and the duly authorized representatives of the primary and excess liability insurers and statutorily created funds to attend the pre-trial conference in person. To ensure that full settlement authority has been secured by the date of the pre-trial conference, the primary and excess liability insurers and statutorily created funds are required to have the matter at issue investigated, evaluated and reviewed by all necessary representatives and committees prior to the date of the pre-trial conference.

[(g)] (f) At some time prior to the filing of Plaintiff/Defendant Pre-Trial Statement, all parties shall [meet] confer to discuss settlement. [It shall be the duty of the plaintiff to take the initiative in holding such a settlement meeting.] It shall be the responsibility of the plaintiff to schedule the conference required by this subparagraph. The parties shall certify in writing in their pre-trial statements that such a settlement conference was held and shall identify the date of the conference, the individuals who participated and the results of the conference.

[(h)] (g) If a party or [his] counsel fails to attend the pre-trial conference or fails to participate in a settlement conference pursuant to Lacka. Co. R.C.P. 212(f), the court may make such order or impose such sanctions as [in its discretion seem] it deems proper under the circumstances."

[Rule 212.1. Pre-Trial Procedure for Protracted Cases.

(a) At least one pre-trial conference shall be held for each case on the protracted case list. At the first conference so scheduled, each party shall present a brief pre-trial conference statement in the form set forth in Plaintiff/Defendant Pre-Trial Conference Statement. See Appendix, Form 2.

Trial counsel will attend the conference. The purpose of the conference is to consider the simplification of the issues, the necessity or desirability of amendments to the pleadings, the separation of issues, the desirability of an impartial medical examination, the limitation of the number of expert witnesses, the probable length of trial, the desirability of trial briefs, the date for trial, evidentiary questions, the submission of points for charge, and such other matters as may aid in the trial or other disposition of the action.

The prospects of settlement will be explored. Accordingly, counsel who attend the pre-trial conference shall be authorized to enter into a settlement agreement or shall have available by telephone such persons who are empowered to enter into a settlement agreement.

(b) If a protracted case is not settled and is scheduled for trial, a proposed pre-trial order shall

be prepared consisting of one document signed by all counsel, reflecting the efforts of all counsel. It will be the obligation of plaintiff's counsel to initiate the procedures for its preparation and to assemble and to submit the proposed pre-trial order to the judge.

Counsel may find it advantageous to prepare the proposed pre-trial order jointly in one conference, or each attorney may prepare his or her section which will then be circulated to other counsel for review and approval. No explicit directions covering the mechanics of preparation are included in these instructions. However, after each counsel has submitted his respective proposed pre-trial order suggestions to other counsel, all counsel must have a conference to attempt to reconcile any matters on which there is disagreement. Counsel are expected to make a diligent effort to prepare a proposed pre-trial order in which will be noted all of the issues on which the parties are in agreement and all of the issues on which they disagree. The proposed pre-trial order shall be submitted by counsel for the plaintiff at chambers at least five (5) days prior to trial, unless another date is specified by the judge.

The proposed pre-trial order, if accepted by the judge, will become a final pre-trial order and shall govern the conduct of the trial and shall supersede all prior pleadings in this case. Amendments will be allowed only in exceptional circumstances to prevent manifest injustice.

After the proposed pre-trial order has been designated as the final pre-trial order, the case will be considered ready for trial. Neither the pre-trial conference statements nor the pre-trial order shall be made the subject of comment to the jury.

The form of the proposed pretrial order shall be as follows:]

Rule 214. Listing Cases for Hearing or Trial.

(a) The Court Administrator shall [list] assign a case for hearing or trial upon the filing of a Certificate of Readiness in the form provided by the Court Administrator with the approval of the court[,]. See Appendix, Form [3] 5. [But the filing of same by any party shall constitute the certification by such party that:]

(b) No Certificate of Readiness may be filed until all discovery in the case has been completed and all depositions for use at trial have been scheduled or completed. Nor may a Certificate of Readiness be filed if any case dispositive motion is pending for disposition by the court. The filing of a Certificate of Readiness shall constitute a verification that no case dispositive motions are pending nor does any party or attorney contemplate filing such a case dispositive motion.

(c) No party or lawyer may file more than one Certificate of Readiness on any single day.

[(1) The pleadings in the action are completed;

(2) The time has expired for all parties to engage in discovery proceedings, or that the party believes that, after making diligent inquiry, all discovery proceedings in the action have been completed or that another party is engaging in dilatory discovery to prevent the trial of the case; and

(3) The party is ready for trial, subject only to the holding of a pre-trial conference.]

Rule 214.1. Hearing and Trial Terms.

(a) The judicial calendar of the court shall establish hearing and trial terms each year for the conducting of arbitration hearings, equity and non-jury trials, jury trials, and protracted case trials.

(b) While the composition of the judicial calendar may vary and should therefore be consulted, generally the court schedules terms as follows:

(1) arbitration hearings—one week each month every month, except July and August;

(2) equity and non-jury trials—one week each month every month, except July and August;

(3) jury trials—[two] three weeks each month every month, except July and August;

[(4) protracted trials—three times during three different months of the year.]

Rule 214.2. Hearing and Trial Lists.

[(a) The Court Administrator shall maintain a list for arbitration hearings, a list for equity and non-jury trials, and a list for protracted cases and two lists for jury trials which shall be designated A and B, for the various hearing and trial terms of court. Each judge shall maintain an individual trial calendar for all cases which have been assigned to that judge for trial.

(b) With the exception of protracted cases, when a certificate of readiness is filed, the Court Administrator shall assign the case to the appropriate list giving priority on the list based on the filing date of the certificate of readiness, subject to Lacka. Co. R.C.P. 214.4.

(c) Cases on the protracted list will be assigned by the Court Administrator on a rotating basis to all judges of the civil division except the president judge due to administrative responsibilities. No person shall directly or indirectly ascertain or divulge or attempt to ascertain or divulge the name of the judge to whom any case may be assigned before the assignment. Once a protracted case has been assigned to a judge, it shall carry his or her assignment designation. The judge so assigned will thereafter manage the case and schedule it for trial during a protracted case term.

(d) A case may be placed on the protracted list prior to the filing of a certificate of readiness if, in the discretion of the court, pre-trial management of the case is necessary.

(e) The assignment of protracted cases determined to be related will follow the initial assignment.

(f) These rules do not preclude the president judge from making special assignments of both civil and criminal cases if the circumstances warrant.]

Rule 214.3. [Publication and] Notice of Hearing or Trial.

(a) [The jury trial lists designated as A and B shall be published on an alternating term basis.] Notice of trial in a jury case will be provided by the judge to whom the case has been assigned for trial.

[(b) With the exception of the arbitration list and protracted case list, at least thirty (30) days prior to the beginning of the trial term, the Court Administrator shall publish in the Lackawanna Jurist the list of cases to be tried during that term. Said publication shall constitute notice to all parties that the trial will be conducted during that term. Following publication, all counsel of record are required to promptly notify all pro se parties that trial will be conducted during that term.]

[(c)] (b) Notice of hearing in arbitration cases will be provided by the Court Administrator by mail to all counsel of record and pro se parties.

[(d) Notice of trial in a protracted case will be provided by the assigned judge.

(e) While publication pursuant to subparagraph (b) shall constitute the only required notice of trial, the Court Administrator shall endeavor to provide written notice by mail to those counsel of record who are not members of the Lackawanna County Bar Association.]

[Rule 214.4. Cases Not Heard.

(a) If a case is not heard or tried during the term for which it is listed because it was not reached by the court, it shall be given priority on the next list over cases which were continued by a party.

(b) If a case on the A or B jury trial list is not tried, it shall remain on that list absent order of court for good cause shown.]

Rule 216. Application for Continuance.

(a) An application for continuance of a hearing or trial must be submitted [to the Court Administrator] to the assigned judge at least seven (7) days before the first day of the hearing or trial term for which the case is listed.

[(b) An application for continuance must be in accord with Pa. R.C.P. 216 and list all counsel, indicating their concurrence or non-concurrence with the application. See Appendix, Form 4.

(c) Any application for a continuance because of the absence of a witness not a party who has not been served with a subpoena shall be accompanied by an affidavit which shall state:

(1) the facts to which the witness would testify if present or if his or her deposition should be taken;

(2) the grounds for believing that the absent witness would so testify;

(3) the efforts made to procure the attendance or deposition of such absent witness; and

(4) the reasons for believing that the witness can be subpoenaed at a later date.

(d) An application for a continuance because of the absence of a witness not a party who has not been served with a subpoena may be refused if:

(1) the moving party knew of the intended absence of the witness in time to subpoena him or her;

(2) the witness lives in the Commonwealth of Pennsylvania and through the exercise of a reasonable diligence could have been subpoenaed within five (5) days of the day set for trial or hearing;

(3) the deposition of the witness could have been obtained with reasonable diligence; or,

(4) the adverse party agrees that the witness if present would testify to the facts set forth in the affidavit.

(e) The Court Administrator will notify counsel of any action taken on the application.

(f) An appeal from a decision of the Court Administrator will be allowed only to the judge then assigned to hear appeals on continuances.]

[(g)] (b) The grounds for continuance shall be those set forth in Pa. R.Civ.P. 216.

(c) The grant or denial of an application for continuance shall be in the discretion of the judge giving due consideration to the timeliness of the application, any prejudice to the opposing party or counsel, the reasons offered for the continuance, and any other factors deemed relevant by the judge.

[(h) Continuance will not be granted for a cause existing and known at the time of the publication of the list if application is not made within seven (7) days following publication.

(i) No continuance will be granted if not timely made in accordance with subparagraph (a) unless the party seeking a continuance demonstrates to the court's satisfaction that manifest injustice will result if the case is not continued.

(j) If a case is continued three times, the Court Administrator shall strike it from the trial list.]

Rule 223. Civil Trials.

(a) Schedule of Commencement of Trial

[During a trial session, cases shall be called for trial in the following manner:

(1) Cases in their order on the trial list shall be assigned to trial until a case has been assigned to each of the courtrooms available. Thereafter, cases shall be so assigned as the courtrooms become disengaged.

(2) If a case is not tried when reached on the trial list because counsel is engaged in another trial, such case shall be temporarily passes. Such case shall be assigned to the first available courtroom after counsel is available.

(3) Except in actions to which a minor or an incompetent is a party and in actions for a wrongful death in which a minor or an incompetent has an interest, verdicts and judgments thereon may be entered by agreement at any time the court is in session.] During a trial session, cases shall be called for trial in the order in which they were scheduled for trial by the assigned judge.

(b) Openings and Closings

The opening addresses and closing arguments of counsel engaged in trial shall be in accordance with the following principles:

(1) Unless the trial judge shall otherwise direct, only one attorney may present an opening address or a closing argument for any party;

(2) Opening remarks shall consist only of a succinct statement, without argument, of the positions and conten-

tions of the party represented by the speaker and a brief recital of the evidence intended to be introduced in support of the same;

(3) Counsel for the party having the affirmative of the issue on the pleadings shall open the case and shall be followed by opposing counsel, and by third parties, in the order in which each appears in the caption of the action;

(4) Counsel for the defendant or any third party defendant may elect to make the opening address prior to the taking of any testimony or immediately prior to the presentation of evidence by the defense, unless the trial judge in a particular case required such opening addresses by the defense counsel to be made at a particular time;

(5) At the conclusion of the evidence, closing arguments shall be presented by counsel in the reverse order in which counsel was entitled to open under subparagraph (3), so that counsel for the party having the affirmative of the issue shall close last;

(6) In actions involving more than one plaintiff, defendant, or third-party defendant, not covered under subparagraph (3), if the attorneys are unable to agree, the trial judge shall determine the order of presentation of the opening addresses and closing arguments.

(c) Conduct of Trial

The party calling a witness shall, upon motion of another party or when required to do so by the court, state briefly the matter proposed to be established by the testimony of that witness and the legal purpose for presenting such evidence. The entire examination of a witness shall be conducted by only one attorney for each party unless otherwise permitted by the trial judge.

Rule 1028. Disposition of Preliminary Objections and Motions for Judgment.

Preliminary objections and case dispositive motions shall be governed by Lacka. Co. R.C.P. 211.

[(a) Mindful of the provisions contained Pa. R.Civ.P. 1028(c) that preliminary objections are to be promptly determined, such matters, as well as motions for summary judgment and motions for judgment on the pleadings, shall be presented and determined as provided by this rule.

(b) Upon filing with the Clerk of Judicial Records any preliminary objections or motion of the type set forth in subsection (a) above, the moving party shall file a memorandum of law in support of the same within ten (10) days and shall serve a copy thereof upon all opposing counsel and any unrepresented party at their respective addresses of record. When filed, the memorandum of law shall be accompanied by a certificate indicating that such service has been made.

(c) All parties who wish to contest the preliminary objections or the motion shall within thirty (30) days from the filing of such preliminary objections or motion file a reply memorandum of law and a certificate that such service has been made.

(d) The party who presents the preliminary objections or any motion to which this rule refers shall, at the time of filing, inform the Court Administrator in writing that such has been filed.

(e) Upon receiving notice that such document has been filed, the Court Administrator shall assign the preliminary objections or the motion to a judge for

disposition, which assignment shall be made on a rotating basis, shall list the matter for argument, and shall give notice to the parties.

(f) The usual course, disposition of preliminary objections and the motions to which this rule refers shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(g) The judge to whom the preliminary objections or motion has been assigned for disposition may in the exercise of judicial discretion grant additional time to file a memorandum of law, require additional memoranda to be filed, or make such other order as shall be appropriate for the disposition of the matter before him.

(h) Timely filing of memoranda of law is essential to the proper functioning of this rule. Therefore, if a moving party fails to file a memorandum of law within the time provided in subsection (b) above, the preliminary objections or motion shall be dismissed. If any opposing party fails to file a memorandum of law within the time provided in subsection (c) above, that party shall be deemed not to contest the matters raised in the preliminary objections or motion and the court shall proceed to disposition on that basis.]

Rule 4007.1. Objections During Oral Depositions; Speaking Objections.

(a) Counsel making an objection during an oral deposition shall state the word, "objection", and briefly state the legal basis for the objection without argument.

(b) If there is to be any discussion, amplification or argument on the objection, the witness shall be excused from the room at the request of any party. Such discussion, amplification or argument shall be made on the record unless all parties agree otherwise.

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

Rule 4012. Protective Orders.

(a) If a deposition is being taken within the Lackawanna County courthouse and demand is made for its suspension, a motion for a protective order under Pa. R.C.P. 4012(b) shall be made immediately [, if a judge is available] to the Special Trial Master for Discovery, if available, in which event the motion may be oral and heard. If [no judge] the Special Trial Master for Discovery is not available [or if the deposition is not being taken within the courthouse, though it is being taken within the County], the motion for a protective order may be oral and shall be presented to the [court or a judge thereof] Special Trial Master for Discovery within forty-eight (48) hours of the suspension of the taking of the deposition. Otherwise, the objecting party or deponent will be deemed to have waived the objection and the taking of the deposition shall be immediately resumed on notice to all interested parties and the deponent.

(b) In all other cases, the motion must be in writing and presented to the [court] **Special Trial Master for Discovery** as provided in Lacka. Co. R.C.P. 4000 herein except that, upon failure to present such motion within fifteen (15) days of the suspension of the taking of the deposition, the objecting party or deponent will be deemed to have waived the objection whereupon the taking of the deposition shall be resumed on reasonable notice to all interested parties and the deponent.

Rule 4013. Stay of Proceedings by Discovery.

(a) If a party seeks a stay of discovery pending disposition of a motion for a protective order, the basis for such a request shall be stated with particularity in the motion and shall be called to the [court's] attention of the **Special Trial Master for Discovery** at the time of presentation of the motion.

(b) If during the pendency of an action a party desires a general stay of the proceedings for purposes of deposition and discovery, the court upon motion and for cause shown may enter an appropriate order staying the proceedings.

Rule 4017.1. Objections During Videotape Depositions.

(a) Counsel making an objection during a videotape deposition shall simply state "objection" upon which the video operator shall stop the videotape. Further argument or discussion shall be made off camera but on the written transcript.

(b) During any discussion or argument, the witness shall be excused from the room at the request of any party.

(c) An instruction by counsel to a witness that the witness shall not answer a question shall be sufficient basis for other counsel to suspend the deposition and present the question for resolution

under Lacka. Co. R.C.P. 4012. Every reasonable effort shall be made to resolve the matter under Lacka. Co. R.C.P. 4012 during the deposition.

[**Rule 4018. Medical and Employment Records.**

(a) As an alternative to the use of subpoenas or request for production of documents, a party may request another party, whose counsel has a medical and/or employment records authorization, to have the medical provider or past or present employer forward directly to the requesting party any such records. Upon receipt of such a request, the party receiving the request shall either:

(1) direct the medical provider and/or past or present employer to forward directly to the requesting party any such records with reasonable costs to be paid by the requesting party upon proper invoice from the person or entity providing the records; or

(2) advise the requesting party of any objection in which event the requesting party shall proceed by use of subpoena and deposition.

(b) Any requesting party who receives records pursuant to this rule shall immediately upon receipt of the same provide a copy of the same to all other parties of record.

(c) No subpoena of this court shall be caused to be issued by a party to any person or entity not a party if the same is returnable by affidavit and all subpoenas of this court which issue shall in all instances include a scheduled deposition, hearing, or other formal court proceedings, provided however, that this rule shall not prevent any person from seeking or obtaining medical records pursuant to the Medical Records Act, 42 Pa.C.S.A. §§ 6151, et seq.]

THE COURTS

FORM 1

IN THE COURT OF COMMON PLEAS
OF LACKAWANNA COUNTY

Plaintiff(s) :

:

vs.

:

:

:

Defendant(s) :

NO. ___ -CV- ___

PRAECIPE FOR ASSIGNMENT

TO: Lackawanna County Court Administrator

Please be advised that the Plaintiff/Defendant has filed _____
(Identify motion, petition or preliminary objection)
in the above-captioned case.

- All parties have agreed to submit this matter on briefs without the necessity of oral argument.
- Please schedule this matter for oral argument.

(Attorney for Plaintiff)

(Attorney for Defendant)

Address

Address

Telephone Number

Telephone Number

Respectfully submitted:

Date: _____

By: _____

FORM 4
Pre-Trial Order

(1) Jurisdiction. A statement as to the nature of the action and the authority under which the jurisdiction of the court is invoked.

(2) Facts. A comprehensive written stipulation of all uncontested facts in such form that it can be read to the jury as the first evidence at trial.

(a) These facts should include all matters capable of ascertainment, such as ownership, agency, dimensions, physical characteristics, weather conditions, road surfaces, etc. Approximations and estimates which are satisfactory to counsel will be accepted by the judge.

(b) No facts should be denied unless opposing counsel expects to present contrary evidence on the point at trial, or genuinely challenges the fact on credible grounds.

(c) The facts relating to liability and to damages are to be separately stated.

(d) The parties shall reach agreement on uncontested facts even though relevancy is disputed; if such facts are ruled admissible, they need not be proved.

(e) The parties shall also set forth their respective statements of facts which are in dispute, separating those referring to liability from those referring to damages.

(3) Damages or Other Relief. A statement of damages claimed or relief sought.

(a) A party seeking damages shall list each item claimed under a separate descriptive heading (personal injury, wrongful death, loss of profits, survival, loss of wages, deprivation of civil rights, punitive damages, false imprisonment, libel, slander, property damage, pain, suffering, past and future medical expense, balance due under contract, performance due under a contract, interest, etc.) shall provide a detailed description of each item, and state the amount of damages claimed.

(b) A party seeking relief other than damages shall list under separate paragraphs the exact form of relief sought with precise designations of the persons, parties, places, and things expected to be included in any order providing relief.

(4) Legal Issues. Under separate paragraphs, each legal issue that must be decided and the principal constitutional, statutory, regulator, and decisional authorities relied upon.

(5) Witnesses. Under separate headings, and under separate headings for liability and damages, the names and addresses of all witnesses whom the plaintiff, defendant, and third-parties actually intend to call at trial.

(a) Witnesses shall be listed in the order they will be called. Each witness shall be identified and there shall be a brief statement of the evidence which the witness will give.

(b) A detailed summary of the qualifications of each expert witness shall be submitted. This summary shall be in such form that it can be read to the jury when the expert takes the stand to testify.

(c) Only those witnesses listed will be permitted to testify at trial, except to prevent manifest injustice.

(d) Failure to call at trial any listed witness shall not be a proper subject of jury argument unless justified by the record of the case exclusive of pre-trial conference statements or the pre-trial order.

(e) Whenever practicable, a hypothetical question to be propounded to any expert witness shall be prepared in advance for submission to the court and parties in sufficient time as not to delay the trial. If impracticable at this stage, counsel shall arrange for its submission at a later time during trial.

(6) Exhibits. A schedule of all exhibits to be offered in evidence at trial, together with a statement of those agreed to be admissible and the grounds for objection to any not so agreed upon.

(a) The exhibits shall be serially numbered without any designation as to whether they are being offered by plaintiff or defendant. The exhibits shall be physically marked before trial in accordance with the schedule.

(b) Where testimony is expected to be offered as to geographical location, building, structure, waterway, highway, road, walkway, or parcel of real estate, plaintiff shall furnish an exhibit in such form that it can be used in the courtroom as an aid to oral testimony.

(i) Except in those cases where the issues require the use of exact scale, the exhibit may be a simple single-line, hand-drawn sketch.

(ii) In most instances, it will not be necessary that the exhibit be to scale or contain other than reasonably accurate features of the geographical characteristics involved.

(iii) If of adequate size and clarity, this exhibit may be an existing drawing, plan, or blueprint.

(c) Except for unusual circumstances, it is expected that the authenticity or genuineness of all exhibits, including non-documentary items, documents, photographs, and data from business records from sources other than parties to the litigation will routinely be stipulated to and will be received in evidence if relevant. Counsel likewise are expected to agree upon the use of accurate extracts from or summaries of such records. Life expectancy tables, actuary tables, and other similar statistical tabular data routinely and regularly used in litigation in the Commonwealth's courts should also normally be stipulated to.

(d) At trial, counsel shall furnish a copy of each exhibit to the judge.

(7) Legal Issues and Pleadings. Special comments regarding the legal issues or any amendments to the pleadings not otherwise set forth.

(8) Trial Time. An estimate of the number of trial days required, separately stated for liability and damages.

(9) Discovery Evidence and Trial Depositions. Each discovery items and trial deposition to be offered into evidence.

(a) Where the videotape or deposition of a witness is to be offered in evidence, counsel shall review it so that there can be eliminated irrelevancies, side comments, resolved objections, and other matters not necessary for consideration by the trier of fact. Counsel shall designate by page the specific portions of deposition testimony and by number the interrogatories which shall be offered in evidence at the trial. To serve this end all videotape depositions will be accompanied by a typewritten deposition of the same testimony.

(b) Depositions and interrogatories to be used for cross-examination or impeachment need not be listed or purged.

FORM 5

Court of Common Pleas County of Lackawanna	CERTIFICATE OF READINESS CIVIL TRIAL LISTING ACTION	NUMBER ACTION
ALL CIVIL CASES SHALL BE ASSIGNED TO A JUDGE FOR TRIAL BY THE COURT ADMINISTRATOR UPON THE FILING OF A CERTIFICATE OF READINESS IN THE FOLLOWING FORM:		
TYPE OF TRIAL REQUESTED <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Arbitration	ESTIMATED TIME _____ DAYS	DATE PREPARED _____
PLAINTIFF(S)		
DEFENDANT(S)		
ADDITIONAL DEFENDANTS(S)		
I CERTIFY THAT ALL DISCOVERY IN THE CASE HAS BEEN COMPLETED; ALL NECESSARY PARTIES AND WITNESSES WILL BE AVAILABLE; SERIOUS SETTLEMENT NEGOTIATIONS HAVE BEEN CONDUCTED; ALL DEPOSITIONS FOR USE AT TRIAL HAVE BEEN COMPLETED OR SCHEDULED; NO CASE DISPOSITIVE MOTIONS ARE PENDING NOR DOES ANY PARTY CONTEMPLATE THE FILING OF SAME; NO CERTIFICATE OF READINESS HAS BEEN FILED WITHIN THE PAST 24 HOURS BY ANY PARTY OR LAWYER OF RECORD IN THIS CASE; THE CASE IS READY IN ALL RESPECTS FOR TRIAL; THAT A COPY OF THIS CERTIFICATE OF READINESS HAS BEEN SERVED ON ALL COUNSEL HAVING AN INTEREST IN THE CASE NO LESS THAN 15 DAYS PRIOR TO THE FILING; NO PARTY OR COUNSEL OBJECTS TO THE FILING OF THIS CERTIFICATE OF READINESS.		
DATE SERVED _____		SIGNATURE OF TRIAL COUNSEL _____
_____ COUNSEL WHO WILL ACTUALLY TRY THE CASE		
FOR THE PLAINTIFF(S) ADDRESS	TEL. NUMBER	
FOR THE DEFENDANT(S) ADDRESS	TEL. NUMBER	
FOR THE ADDITIONAL DEFENDANT(S)	TEL. NUMBER	
CASE ASSIGNED TO JUDGE _____		
STATUS CONFERENCE SCHEDULED FOR _____ AT _____ .M.		
IMPORTANT NOTICE: FILE CERTIFICATE WITH THE CLERK OF JUDICIAL RECORDS, LACKAWANNA COUNTY COURTHOUSE, SCRANTON, PA		
CJR-CV-2		

[Pa.B. Doc. No. 01-2125. Filed for public inspection November 30, 2001, 9:00 a.m.]

PROPOSED RULEMAKING

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Oral Orders

The State Board of Nursing (Board) proposes to amend §§ 21.14 and 21.145 (relating to administration of drugs; and functions of the LPN) to read as set forth in Annex A.

A. Effective Date

The proposed amendments will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority

The Board is authorized to establish rules and regulations for the practice of professional and practical nursing under section 2.1(k) of the Professional Nursing Law (63 P. S. § 212.1(k)) and section 17.6 of the Practical Nurse Law (63 P. S. § 667.6).

C. Background and Purpose

The proposed amendments originated in the Board's review of its regulations under Executive Order 1996-1, which directs executive agencies to evaluate existing regulations and amend and repeal regulations as necessary to comply with the order, and in response to requests from the regulated community. The proposed amendments were generated by a request from the Pennsylvania Health Care Association (PHCA) which suggested that the Board consider removing language in § 21.145 which prohibits a licensed practical nurse (LPN) from accepting an oral order except in urgent circumstances. In accordance with the Executive Order, a draft of the proposed amendments was sent on December 12, 2000, to 27 agencies, associations, health care entities and individuals who have been identified as interested parties or who have expressed an interest in the proposed amendments. The Board reviewed these comments at its meeting of February 9, 2001.

The Board seeks to remove the prohibition in § 21.145(b) against an LPN accepting an oral order except in urgent circumstances, which the Board now regards as unnecessary and burdensome. The Board also seeks to update and clarify the language of § 21.14, which currently appears to limit the administration of medications to registered nurses (RN) only and limits the ability of an RN to accept orders from a practitioner other than a licensed doctor of the healing arts.

D. Description of Proposed Amendments

The proposed amendments would make changes to two sections of the existing regulations.

§ 21.14. Administration of drugs.

The current language of this section states that the administration of drugs is a function performed by an RN and may not be performed by anyone other than an RN and a nursing student or a graduate nurse supervised by an RN. The current language is unduly restrictive and appears to limit administration of drugs to RNs only, when, in fact, LPNs may also administer medications in accordance with § 21.145(b).

The Board also recognizes that other licensed health care practitioners are permitted to administer medications under law and proposes to amend the language of § 21.14(a) accordingly. Therefore, the proposed amendments would also remove reference to "a licensed doctor of the healing arts" as the sole prescribers of drugs, to reflect the Board's desire that RNs and LPNs be permitted to accept orders from other practitioners with prescriptive authority who are not licensed doctors. These practitioners include certified registered nurse practitioners who prescribe medical, therapeutic or corrective measures in collaboration with and under the direction of a physician (see 63 P. S. §§ 212 and 422.15(b) and 49 Pa. Code §§ 18.21 and 21.251 (relating to definitions)), and physician assistants who prescribe and dispense drugs at the direction of a physician (see 63 P. S. § 422.13(f) and 49 Pa. Code § 18.158 (relating to prescribing and dispensing drugs)).

§ 21.145(b). Oral orders and the LPN.

PHCA, an organization representing more than 280 Commonwealth long-term care facilities, by letter of September 22, 1994, requested the Board to reconsider § 21.145(b). The Pennsylvania Medical Directors Association (PMDA), an organization of long-term care physicians, by letter of October 11, 1994, supported the PHCA request and recommended that the Board remove any restriction that limits the authority of an LPN to receive an oral order. These organizations maintained that removing the restriction would enhance quality of care and eliminate delays in getting medication to a patient. PMDA maintained that the current practice in long-term care facilities was for LPNs to receive oral orders.

The Board concurs in the need for regulatory relief with regard to the language of § 21.145. The Board notes that in long-term care facilities with a census of 59 years of age and under, an LPN may be the only licensed nurse on the premises during night shifts. See 28 Pa. Code § 211.12(f)(1) (relating to nursing services). The prohibition against an LPN receiving an oral order when the LPN is the only nurse on the premises delays treatment. Even if an RN is on the premises, the RN may not be immediately available to receive the oral or telephone order and there will be a delay in treatment. These delays cannot benefit the patient.

Current regulations pertaining to long-term care facilities and general and special hospitals permit both RNs and LPNs to receive oral orders in varying circumstances. Regulations of the Department of Health pertaining to long-term care facilities authorize "a registered nurse, physician or other individual authorized by appropriate statutes and the State Boards in the Bureau of Professional and Occupational Affairs" (regardless of whether the circumstances are urgent) to receive a telephone or oral order for medication from a physician. See 28 Pa. Code § 211.3(a) (relating to oral and telephone orders). Regulations pertaining to general and special hospitals authorize both an RN and LPN to accept an oral order for medication or treatment "under urgent circumstances when it is impractical for the orders to be given in written manner by the responsible practitioner," and the medical staff bylaws specify the RN or LPN as personnel qualified to accept the oral order. See 28 Pa. Code § 107.62 (relating to oral orders). Regulations pertaining to ambulatory surgical facilities authorize "personnel qualified by their professional license or certification issued by the Commonwealth and according to

medical staff bylaws or rules" to accept oral orders "under urgent circumstances when it is impractical for the orders to be given in written manner by the responsible practitioner." See 28 Pa. Code § 555.12 (relating to oral orders).

The Board does not encourage the use of oral orders, but wishes to remove unnecessary restrictions which may delay delivery of safe health care. To ensure that only an adequately instructed LPN will receive oral orders and make clear that the Board does not encourage any type of facility to unnecessarily broaden its use of oral orders, the Board proposes to add the requirements of § 21.145(b)(2)(ii)-(iv) so that an LPN may accept an oral order only if the LPN has been instructed in accepting oral orders in an educational program or in accordance with the policies and protocols of the facility and the policy of the facility and the regulations governing the facility permit an LPN to accept oral orders.

In October and November 1997, the Board solicited input from practical nursing education programs to determine the extent of LPN education in the area of pharmacology and the taking of oral orders. The Board found that practical nursing education programs in this Commonwealth gave instruction in pharmacology to practical nursing students which was the same as or similar to that received by professional nursing students. The instruction received by practical nursing students includes dose calculation, drug classification and usage and drug information sources; drug administration; and critical thinking. Pharmacology is taught both as a separate subject and is integrated into other academic and clinical subjects. The Board concluded that LPNs currently receive adequate instruction in pharmacology and critical thinking skills to render the prohibition against the receipt of oral orders other than in urgent circumstances outdated and a barrier to the delivery of safe, timely health care.

The proposed amendment to § 21.145(b)(3) also would require an LPN to question any order which is not clear or perceived as unsafe or contraindicated and take action in accordance with standards of practice and consistent with the protocols or policies of the facility. The purpose of this provision is to put licensees on notice that a nurse has a duty to attempt to resolve situations in which the nurse receives an apparently unclear, unsafe or contraindicated order, whether oral or written. In requiring an LPN to question unclear orders, the Board does not propose to grant the LPN a right, but rather would be codifying a professional obligation in the interest of patient safety. The obligation would not go beyond good nursing practice.

The Board declines to propose a single specific procedure for questioning an apparently unclear order. The particular situation itself may determine how an apparently unclear order might be clarified. Sometimes it might be necessary to contact the practitioner who issued the order. Sometimes an RN, director of nursing, pharmacist or other responsible health care practitioner might be able to resolve the situation. A facility may well have a protocol or policy which reflects its own structure or needs.

Nothing in this section suggests that anyone other than a physician will make the ultimate determination of whether an order is appropriate. It is the experience of the professional members of the Board that questions regarding orders can almost always be answered to the satisfaction of all parties, including the physician and nurse.

E. Fiscal Impact and Paperwork Requirements.

The proposed amendments will have no fiscal impact and will not impose additional paperwork on the private sector, the general public or the Commonwealth and its political subdivisions.

F. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2001, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

H. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Martha Brown, Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of the proposed amendments in the *Pennsylvania Bulletin*. Reference (16A-5115) Oral Orders when submitting comments.

K. STEPHEN ANDERSON, CRNA
Chairperson

Fiscal Note: 16A-5115. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

RESPONSIBILITIES OF THE REGISTERED NURSE

§ 21.14. Administration of drugs.

(a) **[Administering to a patient a drug ordered for that patient by a licensed doctor of the healing arts in the dosage prescribed is a procedure regulated by this section, and the function may not be performed by a person other than a licensed registered nurse, except that a licensed registered nurse, responsible for administering a drug, may supervise a nursing student in an approved pro-**

gram and a graduate nurse.] A licensed registered nurse or a licensed practical nurse who is acting in accordance with § 21.145(b) (relating to functions of the LPN) may administer a drug ordered for a patient in the dosage and manner prescribed.

(b) A licensed registered nurse, responsible for administering a drug, may supervise a graduate nurse or a nursing student in an approved nursing education program in the administration of the drug. In this section, [“supervision”] “supervise” means the licensed registered nurse is physically present in the area or unit where the student or unlicensed graduate is practicing. This definition [of “supervision”] is not intended to limit in any way the practice of practical nursing as defined in the Practical Nurse Law (63 P. S. §§ 651—667).

**Subchapter B. PRACTICAL NURSES
GENERAL PROVISIONS**

§ 21.145. Functions of the LPN.

* * * * *

(b) The LPN administers medication and carries out the therapeutic treatment prescribed or ordered for the patient in accordance with the following:

(1) The LPN [shall] may accept [only] a written [prescriptions] prescription or [orders] order for medication and therapeutic treatment from [the responsible] a practitioner [for medication and therapeutic treatment unless the urgency of the medical circumstances requires immediate medication or therapeutic treatment.] authorized by law and by facility policy to issue orders for medical and therapeutic measures.

(2) The LPN may [not] accept an oral prescription or order if the following conditions are met:

(i) The practitioner issuing the oral order is authorized by law and by facility policy to issue oral orders for medical and therapeutic measures.

(ii) The LPN has received instruction and training in accepting an oral prescription or order in an approved nursing education program or has received instruction and training in accepting an oral prescription or order in accordance with the established policies and protocols of the facility.

(iii) The policy of the facility permits an LPN to accept an oral prescription or order.

(iv) The regulations governing the facility permit an LPN to accept an oral prescription or order.

(3) The LPN shall question any prescription or order which is perceived as unsafe or contraindicated for the patient or which is not clear. If a prescription or order appears to be unclear, unsafe or contraindicated for the patient, the LPN shall raise the issue with the ordering practitioner or other responsible person consistent with the protocols or policies of the facility.

(4) The LPN may not accept an oral prescription or order [under this subsection] which is not within the scope of functions permitted by this [subsection] section or which the LPN does not understand.

(5) An oral prescription or order accepted by the LPN [under this subsection] shall be immediately tran-

scribed by the LPN in the proper place on the medical record of the patient. The transcription shall include the [name of the physician giving the order] prescriber’s name, the date, [and] the time of acceptance of the oral prescription or order and the full signature of the LPN accepting the oral prescription or order. [The countersignature of the physician shall be obtained in accordance with applicable regulations of the Department of Health governing the licensed facility.]

* * * * *

[Pa.B. Doc. No. 01-2126. Filed for public inspection November 30, 2001, 9:00 a.m.]

**STATE BOARD OF
PSYCHOLOGY**

[49 PA. CODE CH. 41]

Computerized Examinations

The State Board of Psychology (Board) proposes to amend §§ 41.41, 41.42 and 41.52 (relating to examinations; reexamination; and persons licensed in other states) to account for examination changes necessitated by the computerization of the National portion of the licensure examination.

Background and Purpose

Effective April 1, 2001, applicants for licensure have been able to take the National portion of the examination by computer, rather than paper and pencil. Due to the number of items in the item bank, applicants for this National examination are able to take the examination four times a year but must wait 60 days between administrations. Applicants from this Commonwealth, however, are precluded from taking these National portions of the examination as frequently due to limitations in current § 41.42.

The State portion of the examination is still a paper and pencil examination, however efforts are being made to computerize the examination. It is currently being given two times a year, however, the number of administrations will also increase once the examination is computerized.

Statutory Authority

The amendments are proposed under the authority of section 3.2(1) of the Professional Psychologists Practice Act (63 P. S. § 1203.2(1)).

Proposed Amendments

Current § 41.41(a) explains that the written examination was developed by the Association of State and Provincial Psychology Boards (ASPPB). Current subsection (b) explains that a professional testing organization administers the examination and current subsection (c) addresses the Boards policy to accommodate persons with handicapping conditions. The Board proposes to amend subsection (a) to clarify that the examination is composed of both a National and a State portion. The Board proposes to delete subsections (b) and (c) since these provisions are governed by the Third Party Testing Law (71 P.S. § 279.3a(a)) and the Equal Opportunity for Individuals with Disabilities Act (42 U.S.C.A. §§ 12101—

12213). The Board has also proposed to delete the reference to ASPPB from the regulations to save the Board from amending the regulations in the event that another association prepares the National examination.

Current § 41.42(a) contains the examination requirements for applicants who fail the examination two times. Subsection (b) contains the reexamination requirements for applicants who fail more than two times. Since the requirements in subsections (a) and (b) are substantially similar, in proposed form, the Board consolidated the reexamination requirement into subsection (a). Proposed subsection (d) would be amended to track an applicant's ability to take the National portion of the examination up to four times each year at 60-day intervals. As such, the Board proposes to delete the requirement in current subsection (b), that applicants wait for 1 year prior to being reexamined after a second failure and the requirement in subsection (d) that prohibited the applicant from taking the examination more than four times in 8 years.

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no fiscal impact and will not create additional paperwork on licensees, the private sector, the general public or political subdivisions.

Compliance with Executive Order 1996-1

In compliance with Executive Order 1996-1, the Board extended an invitation to the following boards, associations and interested licensees and educators to preliminarily review and comment on the Board's draft regulatory proposal: National Association of School Psychologists; Association of School Psychologists of Pennsylvania; Pennsylvania Mental Health Consumer's Association; Pennsylvania Psychological Association; North-western PA Psychological Association; Philadelphia Society of Clinical Psychologists; Philadelphia Neuropsychology Society; Northeastern PA Psychological Association; Mideast PA School Psychological Association; Lehigh Valley Psychological Association; Laurel Mountains Psychological Association; Lancaster/Lebanon Psychological Association; Harrisburg Area Psychological Association; Greater Pittsburgh Psychological Association; Delaware County Association of School Psychologists; Central Pennsylvania Psychological Association; Berks Area Psychological Society; Academy of Psychologists Engaged in Private Practice in the Lehigh Valley; Hospital and Healthsystem Association of Pennsylvania; and Philadelphia Society of Clinical Psychologists.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2001, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). In addition to submitting the proposed rulemaking, the Board has provided IRRC, SCP/PLC and HPLC with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)), if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the SCP/PLC and HPLC review period. The notification shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, of

objections by the Board, the General Assembly and the Governor prior to publication of the final-form regulations.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Judith Pachter Schulder, Counsel, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649; (717) 783-7200, www.state.pa.us., within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ALEX M. SIEGEL, J.D., Ph.D.,
Chairperson

Fiscal Note: 16A-6310. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY EXAMINATIONS

§ 41.41. Examinations.

[(a)] The **[Board has adopted the written]** examination **[developed by the Association of State and Provincial Psychology Boards, which]** is **composed of a National and State portion. [given at regularly scheduled times and places specified by the Board.]** Applicants shall obtain a passing score **[as established by the Board]** to qualify for licensure. Information about the content of the examination is available from the Board office.

[(b)] The Board reserves the right to direct the professional testing organization responsible for administering its examination to adopt alternative or additional examination procedures such as simulation techniques; other written examinations; essay or oral examinations; submission of work samples to demonstrate knowledge or skills in specified areas of psychology; and demonstration of familiarity with ethical, statutory or regulatory requirements bearing on the practice of psychology. The Board will exercise this right only in conformity with section 812.1 of the act of April 9, 1929 (P. L. 177, No. 175), known as the Third-Party Testing Law (71 P. S. § 279.3a(a)). Notice of substantive changes in the licensing examination will be given at least 6 months before the first administration of the new examination.

(c) It is the policy of the Board to accommodate persons with handicapping conditions who qualify to take the licensing examination.]

§ 41.42. Reexamination.

(a) After first-time failure, candidates may **[take a second examination]** be reexamined, upon filing an updated application and paying the reapplication **[and examination fees]** fee specified in § 41.21 (relating to fees) **[, but only after the expiration of 6 months and within 2 years following the first examination date].**

(b) **[After two unsuccessful examinations, applicants] Applicants** may reapply **[for admission to the licensing] to take any portion of the** examination, but shall satisfy conditions prevailing at the time of the reapplication, including administrative, education and experience requirements. **[The Board will permit applicants to retake the examination after a second failure only within 2 years after a 12-month interval has elapsed. The applicant shall file the verification of experience form included in the application packet and shall pay the reapplication and examination fees specified in § 41.12. After a third failure, applicants may retake the examination under the conditions in subsection (a).]**

* * * * *

(d) No applicant will be permitted to sit for more than four examinations in any **[8] 1-year period. Applicants shall wait at least 60 days between examinations.**

MISCELLANEOUS

§ 41.52. Persons licensed in other states.

* * * * *

(b) An applicant who has passed the **[written] National portion of the** examination **[prepared by the Association of State and Provincial Psychology Boards]** with a score equivalent to or higher than the passing score then prevailing in this Commonwealth will not be required to repeat this **portion of the** examination.

* * * * *

[Pa.B. Doc. No. 01-2127. Filed for public inspection November 30, 2001, 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 November 20, 2001.

BANKING INSTITUTIONS

Mutual Holding Company Reorganizations

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
11-13-01	PHS Bancorp, M.H.C. Beaver Falls Beaver County	Beaver Falls	Approved

Application represents the reorganization/conversion of the mutual holding company into a new Commonwealth stock holding company to be known as "PHSB Financial Corporation."

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-01	The Peoples State Bank, East Berlin, and Community Banks, N.A., Millersburg Surviving institution— The Peoples State Bank, East Berlin, with a change in corporate name and location to Community Banks, Millersburg	East Berlin	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-01	Royal Bank of Pennsylvania Narberth Montgomery County	1650 Grant Avenue Philadelphia Philadelphia County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-01	Fulton Bank Lancaster Lancaster County	Weaver's Market Routes 272 and 897 Adamstown Lancaster County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2128. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Casselman River Watershed Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Casselman River Watershed Conservation Plan (Plan) and is placing the Casselman River, the watershed and all tributaries covered in the Plan (in Somerset County, PA) on the Pennsylvania Rivers Conservation Registry (Registry).

The Somerset County Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Casselman River Watershed (Somerset County, PA) from the Pennsylvania/Maryland Stateline to its confluence with the Youghiogheny River—399 square miles.

2. All tributary streams within the Casselman River Watershed in this Commonwealth.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Somerset County Conservancy, P. O. Box 241, Somerset, PA 15501, (814) 445-4652 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Somerset County Conservancy.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2129. Filed for public inspection November 30, 2001, 9:00 a.m.]

Indian Creek Watershed River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Indian Creek Watershed River Conservation Plan (Plan) and is placing the Indian Creek, the watershed and all tributaries covered in the Plan, in Fayette and Westmoreland Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Mountain Watershed Association submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Indian Creek Watershed from its headwaters in Westmoreland County to its confluence with the Youghiogheny River in Fayette County—125 square miles.

2. All tributary streams within the Indian Creek Watershed.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Mountain Watershed Association, P. O. Box 408, Melcroft, PA 15462, (724) 455-4200 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Mountain Watershed Association office.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2130. Filed for public inspection November 30, 2001, 9:00 a.m.]

Lower Chartiers Creek River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Lower Chartiers Creek River Conservation Plan (Plan) and is placing the Lower Chartiers Creek, the watershed and all tributaries covered in the Plan, in Allegheny and Washington Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Chartiers Nature Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Lower Chartiers Creek Watershed from the confluence of Little Chartiers Creek and Chartiers Creek in Washington County to its confluence with the Ohio River in Allegheny County—139 square miles.

2. All tributary streams within the Lower Chartiers Creek Watershed.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Chartiers Nature Conservancy, P. O. Box 44221, Pittsburgh, PA 15205, (412) 922-0155 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Chartiers Nature Conservancy office.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2131. Filed for public inspection November 30, 2001, 9:00 a.m.]

Middle Youghiogheny River Corridor River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Middle Youghiogheny River Corridor River Conservation Plan (Plan) and is placing the Middle Youghiogheny River Corridor and all tributaries within the corridor in Fayette and Somerset Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Somerset County Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. A segment of the Middle Youghiogheny River extending from the Pennsylvania/Maryland Stateline (Fayette and Somerset Counties) northward to South Connellsville, Fayette County, PA—48 river miles.
2. A corridor extending outward approximately 1 mile from each riverbank.
3. The portion of all tributary streams within the river corridor.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Somerset County Conservancy, P. O. Box 241, Somerset, PA 15501, (814) 445-4652 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Somerset County Conservancy.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2132. Filed for public inspection November 30, 2001, 9:00 a.m.]

Scrubgrass Creek Watershed River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Scrubgrass Creek Watershed River Conservation Plan (Plan) and is placing the Scrubgrass Creek, the watershed and all tributaries covered in the Plan, in Venango and Butler Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Penn Soil Conservancy Charitable Trust submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Scrubgrass Creek Watershed from its headwaters in Butler County to its confluence with the Allegheny River in Venango County—39.7 square miles.

2. All tributary streams within the Scrubgrass Creek Watershed.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Penn Soil Resource Conservation and Development Council, 265 Holiday Inn Road, Suite 3, Clarion, PA 16214, (814) 226-6118 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Penn Soil Resource Conservation and Development office.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2133. Filed for public inspection November 30, 2001, 9:00 a.m.]

Spring Creek Study: A Rivers Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Spring Creek Study: A Rivers Conservation Plan (Plan) and is placing the Spring Creek, the watershed and all tributaries covered in the Plan, in Centre County, on the Pennsylvania Rivers Conservation Registry (Registry).

The ClearWater Conservancy submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Spring Creek Watershed in Centre County from its headwaters to its confluence with Bald Eagle Creek—175 square miles.
2. All tributary streams within the Spring Creek Watershed.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at ClearWater Conservancy, P. O. Box 163, State College, PA 16804, (814) 237-0400 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the ClearWater Conservancy office.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2134. Filed for public inspection November 30, 2001, 9:00 a.m.]

Upper Crooked Creek Watershed River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Upper Crooked Creek Watershed River Conservation Plan (Plan) and is placing the Upper Crooked and Plum Creeks, the watershed and all tributaries covered in the Plan, in Armstrong and Indiana Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Indiana County Office of Planning and Development submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of Upper Crooked and Plum Creek Creeks Watershed from their headwaters in Indiana County to their confluence in Armstrong County—195 square miles.

2. All tributary streams within the Upper Crooked Creek and Plum Creek Watersheds.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at Indiana County Office of Planning and Development, Indiana County Courthouse Annex, 801 Water Street, Indiana, PA 15701-3977, (724) 465-3870 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Indiana County Office of Planning and Development.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2135. Filed for public inspection November 30, 2001, 9:00 a.m.]

Upper West Branch Susquehanna River Conservation Plan

The Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation has approved the Upper West Branch Susquehanna River Conservation Plan (Plan) and is placing the Upper West Branch Susquehanna River, the watershed and all tributaries covered in the Plan, in Cambria, Centre, Clearfield, Clinton and Indiana Counties, on the Pennsylvania Rivers Conservation Registry (Registry).

The Cambria County Conservation & Recreation Authority submitted the Plan and other required information to gain Registry status.

After review of the Plan and other information, the DCNR has determined that the Keystone Rivers Conservation Program requirements have been satisfied and places the following on the Registry:

1. The watershed area of the Upper West Branch Susquehanna River from its headwaters in Cambria

County to the confluence of Sinnemahoning Creek in Clinton County—1,607 square miles.

2. All tributary streams in the Upper West Branch Susquehanna River watershed.

This action becomes effective, December 1, 2001. Projects identified in the Plan become eligible for additional planning, development or acquisition grant funding through the Keystone Rivers Conservation Program.

A copy of the final Plan is available for review at The Cambria County Conservation & Recreation Authority, 401 Candlelight Road, Suite 234, Ebensburg, PA 15931, (814) 472-2110 and Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th floor, Harrisburg, PA 17101, (717) 787-2316.

Maps and supporting data are on file at the Cambria County Conservation and Recreation Authority office.

JOHN C. OLIVER, III,
Secretary

[Pa.B. Doc. No. 01-2136. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Franklin and Marshall College for Approval of Amendment of Its Articles of Incorporation

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6504(a) (relating to fundamental changes), the Department of Education (Department) will consider the application of Franklin and Marshall College for a Certificate of Authority approving the amendment to and the restating of its Articles of Incorporation in their entirety.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Dr. Warren D. Evans, Chartering/Governance/Accreditation Specialist, (717) 787-7572; or Carol Gisselquist, Higher Education Specialist, (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or

other accommodation to participate, should contact Dr. Evans at (717) 787-7572 or Carol Gisselquist (717) 787-4448 to discuss how the Department may best accommodate their needs.

CHARLES B. ZOGBY,
Secretary

[Pa.B. Doc. No. 01-2137. Filed for public inspection November 30, 2001, 9:00 a.m.]

Individuals with Disabilities Education Act-Part B; Application for Federal Grant

Written public comment is invited regarding the Department of Education's (Department) proposed modifications to its policies and procedures under the Individuals with Disabilities Education Act-Part B (IDEA-B). The grant on file with the United States Department of Education describes the State's policies and procedures in effect to ensure the Department meets the Federal requirements to ensure that a free appropriate public education is made available to all children with a disability from 3 to 21 years of age. The policies and procedures on file with the United States Department of Education are available for viewing at www.pattan.k12.pa.us or from Dennis A. McLaughlin at (717) 783-6877.

The IDEA-B funds, received under the provision of 34 CFR 300.110, will be used to render services and programs to children with disabilities who are eligible for services under IDEA-B as well as training and technical assistance given to professional staff who render services to children with disabilities.

Copies of the proposed modifications are available by calling (717) 783-2311 or the TDD at (717) 787-7367. Alternative formats of the documents (such as Braille, large print or cassette tape) can be made available to members of the public upon request. Moreover, public comment is welcomed in alternative formats such as Braille, taped comments and telephone comments for the disabled. Persons who are disabled and wish to submit

comments by telephone, should contact Nancy Zeigler at (717) 783-6134.

Written comments will be received until February 2, 2002. The written comments should be directed to Dr. Dennis A. McLaughlin, Department of Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333.

Following receipt of comments, the Department will consider public comments and make necessary modifications to the policies and procedures before submission of the final proposal to the Secretary of the United States Department of Education by March 1, 2002.

Additionally, opportunity for public testimony will be held by the Department's Bureau of Special Education, for individuals wishing to present oral testimony on the proposed modifications. One written copy of oral testimony at the time of presentation would be appreciated. Presentations should be limited to 15 minutes.

Dates, locations and times for oral testimony on the modifications are as follows:

January 15, 2002 3 p.m. to 7 p.m. PaTTAN— King of Prussia 200 Anderson Road King of Prussia, PA	January 16, 2002 3 p.m. to 7 p.m. PaTTAN— Harrisburg Gateway Corporate Center 6340 Flank Drive Harrisburg, PA	January 17, 2002 3 p.m. to 7 p.m. PaTTAN— Pittsburgh 5347 William Flynn Highway Gibsonia, PA
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To schedule an opportunity to present testimony, contact Nancy Zeigler before January 9, 2002. Persons with a disability who wish to attend a public testimony and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Nancy Zeigler at the previous number.

CHARLES B. ZOGBY,
Secretary

[Pa.B. Doc. No. 01-2138. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III 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 office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments 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 comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay service at (800) 654-5984.

I. NPDES Renewal Applications

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0210285, Sewage, **James Newton SRSTP**, 350 Page Hollow Road, Warren, PA 16365. This proposed facility is located in Glade Township, **Warren County**.

Description of Proposed Activity: renewal for an existing discharge.

The receiving stream, unnamed tributary to Glade Run, is in watershed 16B and classified for: Warm Water Fishes, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is Emlenton Water Company on the Allegheny River located at Emlenton, approximately 90 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .0004 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
Fecal Coliform		200/100 ml as a geometric average	
Total Residual Chlorine	XX		XX
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0102326, Sewage, **Commonwealth of Pennsylvania—Department of Corrections—State Correctional Facility at Mercer**, 801 Butler Pike, Mercer, PA 16137. This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Activity: minor discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Beaver Falls Municipal Authority and the Beaver River located at River Mile 3.8, 33 miles below point of discharge.

The receiving stream, Neshannock Creek, is in watershed 20-A and classified for: trout stocked fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.15 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	18		36
(11-1 to 4-30)	25		50
Fecal Coliform		200/100 ml as a geometric average	
(5-1 to 9-30)		77,400/100 ml as a geometric average	
(10-1 to 4-30)			
Total Residual Chlorine	0.5		1.6
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA0036374, Sewage, **Eaglepointe Development Associates**, 55 Country Club Drive, Suite 200, Downingtown, PA 19335-3062.

This application is for renewal of an NPDES permit to discharge treated sewage from a nonmunicipal sewage treatment plant in Upper Uwchlan Township, **Chester County**. This is an existing discharge to an unnamed tributary to Marsh Creek.

The receiving stream is classified for the following uses: high quality trout stocking fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.015 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	0.5	1.0
(11-1 to 4-30)	1.5	3.0
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine	0.14	0.34
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

Other Conditions:

The EPA Waiver is in effect.

No. PA00512292, Industrial Waste, **Morrisville Borough Municipal Authority**, Ferry and River Roads, Morrisville, PA 19067.

This application is for renewal of an NPDES permit to discharge treated wastewater from Morrisville Water Filtration Plant in Morrisville Borough, **Bucks County**. This is an existing discharge to Delaware River (Zone 1E).

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.15 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Total Iron	2.0	3.0	4.0
Total Aluminum	4.0	6.0	8.0
pH	Within limits of 6.0—9.0 Standard Units at all times		
Total Manganese	1.0	1.5	2.0
Total Residual Chlorine	0.5		1.64

Other Conditions:

The EPA Waiver is in effect.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA#0064122, Industrial Waste, **Conectiv Bethlehem, Inc.**, P. O. Box 6066, Newark, DE 19714-6066. This proposed facility is located in City of Bethlehem, **Northampton County**.

Description of Proposed Activity: New NPDES permit to discharge noncontact cooling water from a proposed electric generating facility.

The receiving stream, Lehigh River, is in the State Water Plan watershed #2C—Lehigh River Basin and is classified for: WWF.

The nearest downstream public water supply intake for Keystone Water Company is located on Delaware River is over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 6.18 MGD:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
Zinc				Monitor
Total Chromium				0.20
pH			6—9	Standard Units
Free Available Chlorine				0.20
Temperature				110°F

Internal Monitoring Point 101:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
Total Suspended Solids	62.5	208.5		
Oil and Grease	31.3	41.7		

Outfalls 002 and 003: Stormwater only—no specific limitations.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

PA#0246450, CAFO, **Hostetter Management Company**, 120 Lake Street, P. O. Box 526, Ephrata, PA 17522-0526. This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Activity: MACH is an existing swine operation with a total AEUs of 707.7. Approximately 8,137 tons of swine manure is produced a year and stored in a manure lagoon and then land applied.

The receiving stream, UNT to Swatara Creek, is in the State Water Plan watershed 7-D and is classified for: WWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PA#0246468, CAFO, **Virgil Gutshall, Jr., Beaver Ridge Farm, Inc.**, R. D. 1, Box 932, Blain, PA 17006. This proposed facility is located in Jackson Township, **Perry County**.

Description of Proposed Activity: The Beaver Ridge Farm is an existing swine operation with a total AEUs of 412.55. Approximately 5,228 tons of swine manure is produced a year and then land applied.

The receiving stream, Shermans Creek, is in the State Water Plan watershed 7-A and is classified for: CWF.

The proposed effluent limits for the operation/activity include: except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; (412) 442-4000.

PA0216291, Industrial Waste, SIC, 4941, **Municipal Authority of the Borough of Carmichaels**, 104 N. Pine Street, Carmichaels, PA 15320. This application is for a new NPDES permit to discharge treated backwash water from Carmichaels Water Treatment Plant in Cumberland Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a WWF fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Southwestern Pennsylvania Water Company, located at approximately 3.5 miles downstream of discharge point.

Outfall 001: new discharge, design flow of 0.006 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	M&R	M&R			
Total Suspended Solids			30		60
Total Iron			2		4
Aluminum (T)			4		8
Manganese (T)			1		2
TRC			0.5		1.0
pH	Between 6.0 and 9.0 at all times				

The EPA waiver is in effect.

PA0218839, Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701. This application is for issuance of an NPDES permit to discharge treated sewage from Cherry Tree Sewage Treatment Plant in Burnside Township, **Clearfield County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as West Branch Susquehanna River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company at Milton on West Branch Susquehanna River.

Outfall 001: new discharge, design flow of 0.08 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform	200/100 ml as a geometric mean			
(5-1 to 9-30)	50,000/100 ml as a geometric mean			
(10-1 to 4-30)	not less than 6.0 nor greater than 9.0			
pH				

The EPA waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0027227, Sewage, **City of Farrell**, 500 Roemer Blvd., Farrell, PA 16121. This proposed facility is located in City of Farrell, **Mercer County**.

Description of Proposed Activity: renewal for an existing discharge of treated sewage.

The receiving stream, Shenango River, is in watershed 20-A and classified for: Warm Water Fishes, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Western PA Water Company, New Castle District intake on the Shenango River located in New Castle, approximately 20 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 3.57 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD ₅	744	1,191	25	40	50
Total Suspended Solids	893	1,340	30	45	60
NH ₃ -N					
(5-1 to 10-31)	491		16.5		33.0
(11-1 to 4-30)	XX		XX		
Fecal Coliform	200/100 ml as a geometric average				
(5-1 to 9-30)	7,700/100 ml as a geometric average				
(10-1 to 4-30)					
Total Residual Chlorine			0.5	1.6	
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The EPA Waiver is not in effect.

PA0026174, Sewage, **The General Authority of the City of Franklin**, City Hall, 430 Thirteenth Street, Franklin, PA 16323. This proposed facility is located the City of Franklin, **Venango County**.

Description of Proposed Activity: renewal for an existing discharge of treated sewage.

The receiving stream, Allegheny River, is in watershed 16-D and classified for: Warm Water Fishes, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Emlerton Water Company, on the Allegheny River located in Emlerton, approximately 30 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 5.0 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Weekly Average	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD ₅	1,042	1,668	25	40	50
Total Suspended Solids	1,251	1,876	30	45	60
Fecal Coliform	200/100 ml as a geometric average				
(5-1 to 9-30)	100,000/100 ml as a geometric average				
(10-1 to 4-30)					

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Weekly Average	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Residual Chlorine			0.5		1.6
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The EPA Waiver is not in effect.

**WATER QUALITY MANAGEMENT PERMITS
CONTROLLED INDUSTRIAL WASTE AND SEWAGE
WASTEWATER**

**APPLICATIONS UNDER THE CLEAN STREAMS
LAW**

PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments 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.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WQM Permit No. 1501421, Sewerage, **Westtown Township**, 1081 Wilmington Pike, Westtown, PA 19395. This proposed facility is located in Westtown Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a pump station to serve a proposed office building.

Southcentral Region: Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 0601411, Sewerage, **Amerada Hess Corporation**, One Hess Plaza, Woodbridge, NJ 07095-1229. This proposed facility is located in Richmond Township, **Berks County**.

Description of Proposed Action/Activity: Construction of an onsite sewage disposal system to serve the Hess Express Store at State Route 222 and State Route 662.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No 2001420, Sewerage, **University of Pittsburgh Livingston Road**, 3400 Forbes Avenue, Pittsburgh, PA 15260. This proposed facility is located in South Shenango, **Crawford County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 2501424, Sewerage, **John W. and Marcia A. Konopa**, 7951 Griffey Road, West Springfield, PA 16443. This proposed facility is located in Springfield Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 2001421, Sewerage, **Carol Ann Scott**, 217 Fourth Street, Aspinwall, PA 15215. This proposed facility is located in Summerhill Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

WQM Permit No 2501425, Sewerage, **Brett M. and Tricia M. Peterson**, 9841 Mark Road, Erie, PA 16509. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a Single Residence Sewage Treatment Plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into 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 conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III 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 appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. 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 Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit PAS10 D121, Stormwater, **Jonathan Brown**, 10305 Southwest 55th Avenue, Coral Gabels, FL,

has applied to discharge stormwater associated with a construction activity located in Solebury Township, **Bucks County** to Cuttalossa Creek (HQ, CWF).

NPDES Permit PAS10 D122, Stormwater, **Zaveta Construction Company, Inc.**, 4030 Sky Run Drive, Suite H, Doylestown, PA 18901, has applied to discharge stormwater associated with a construction activity located in Solebury Township, **Bucks County** to Paunacussing Creek (HQ, CWF).

NPDES Permit PAS10 D123, Stormwater, **Ashley Development Corporation**, 559 Main Street, Suite 300, Bethlehem, PA has applied to discharge stormwater associated with a construction activity located in Springfield Township, **Bucks County** to Cooks Creek (EV).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Fayette County Conservation District: 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.

NPDES Permit PAS10L025, Stormwater, **Nemacolin Woodlands Company**, 1001 Lafayette Drive, Farmington, PA 15437 has applied to discharge stormwater associated with a construction activity located in Wharton Township, **Fayette County** to Deadman Run/HQ-CWF.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>
PAS10L025	Nemacolin Woodlands Co. 1001 Lafayette Drive Farmington, PA 15437

<i>County & Municipality</i>	<i>Receiving Water/Use</i>
Fayette County Wharton Township	Deadman Run/ HQ-CWF

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment 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 after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3601518, Public Water Supply.

Applicant	East Cocalico Township Authority
Municipality	Ephrata
County	Lancaster
Responsible Official	S. Eugene Heft, Chairperson 102 Hill Road Denver, PA 17517
Type of Facility	Public Water Supply
Consulting Engineer	Randall L. Henne Camp Dresser & McKee 227 Granite Run Dr. Lancaster, PA 17601

Application Received Date October 16, 2001
 Description of Action Installation of a pump station and interconnection lines between the Ephrata Area Water Authority system and the East Cocalico Township system.

Permit No. 3101504, Public Water Supply.

Applicant **Mount Union Municipal Authority**
 Municipality Mount Union Borough
 County **Huntingdon**
 Responsible Official Thomas R. James, Chairperson
 P. O. Box 90, 9 W. Market Street
 Mount Union, PA 17066
 Type of Facility Public Water Supply
 Consulting Engineer Daniel J. Carbaugh, P.E.
 Keller Engineers, Inc.
 420 Allegheny Street
 Hollidaysburg, PA 16648
 Application Received Date October 12, 2001
 Description of Action Installation of a pump station and the use of Well No. 1 to augment the existing source of supply.

Permit No. 2101505, Public Water Supply.

Applicant **Pennsylvania American Water Company of PA**
 Municipality Hampden Township
 County **Cumberland**
 Responsible Official Richard C. Neubauer,
 Vice President Operations
 852 Wesley Drive
 Mechanicsburg, PA 17055-4475
 Type of Facility Public Water Supply
 Consulting Engineer Gene C Koontz, P.E.
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100
 Application Received Date October 29, 2001
 Description of Action Construction of the Whelan Crossing and Westbury booster pump stations.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1701504, Public Water Supply.

Applicant **Westover Municipal Authority**
 121 North Main Street
 P. O. Box 185
 Westover, PA 16692-0185
 Borough Westover Borough
 Responsible Official Gene Hagens, Secretary
 Westover Municipal Authority
 121 North Main Street
 P. O. Box 185
 Westover, PA 16692-0185
 Type of Facility Public Water Supply

Consulting Engineer Gwin, Dobson & Foreman, Inc.
 3121 Fairway Drive
 Altoona, PA 16602-4475

Application Received Date November 8, 2001

Description of Action Construction of a membrane filtration system to replace existing filter plant.

Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996505, Public Water Supply.

Applicant **3300 Artesian, Inc.**
 Township Bland, Virginia
 Responsible Official Delbert R. White
 Type of Facility Out of State Bottled Water System

Application Received Date November 6, 2001

Description of Action Applicant requesting Department approval to sell bottled water in this Commonwealth under the brand names 3300 Artesian Water and 3300 Distilled Water.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 2583502-T1-MA1, Minor Amendment.

Applicant **Fairview Township Water Authority**
 7485 McCray Road
 P. O. Box U
 Fairview, PA 16415-0821.
 Township or Borough Fairview Township, **Erie County**
 Responsible Official John Agnello, Manager
 Type of Facility PWS
 Consulting Engineer Consoer Townsend
 155 West 8th Street
 Erie, PA 16501.
 Application Received Date October 4, 2001
 Description of Action Master metering facility and waterline extension (Millfair Road and Route 5).

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth.

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WA 33-1001, Water Allocations, **Falls Creek Borough**, Falls Creek, **Jefferson County**. The Falls Creek Borough is requesting a water allocation permit to increase

withdrawal to 419,430 gpd from the Falls Creek Reservoir located in Washington Township, Jefferson County. This proposed allocation will provide adequate supply for current number of services and the projected growth over the 25-year request.

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—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office after which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordina-

tor 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 Notice(s) of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Former First National Bank, Westtown Township, **Chester County**. Mark Ellis, MEA, Inc., 201 Center St., Stockertown, PA 18083, on behalf of Westtown Township, 1081 Wilmington Pike, West Chester, PA, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on July 19, 2001.

PNC Bank Branch Office, East Vincent Township, **Chester County**. Robert R. Botterman, TolTest, Inc., 339 Haymaker Rd., Suite 1101, Monroeville, PA 15146-1435, on behalf of PNC Bank N.A., PNC Environmental Services Dept., 620 Liberty Ave., 19th Floor, Pittsburgh, PA 15222, Attn: Jerry DeRosa, has submitted a Notice of Intent to Remediate site groundwater contaminated with lead, BTEX, petroleum hydrocarbons and liquid phase hydrocarbons. The applicant proposes to remediate the site to meet Background Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pottstown Mercury* on October 29, 2001.

Towne Center Cleaner—Whiteland Associates, LTD Property, West Whiteland Township, **Chester County**. Craig Hopkins, RT Environmental Services, Inc., 510 Heron Drive, Suite 306, P. O. Box 521, Bridgeport, NJ 08014, on behalf of Whiteland Associates, LTD, c/o Daniel M. DuPree, 4393 Sentinel Post Road, NW, Atlanta, GA 30327, has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on September 21, 2001.

Binder Residence, Lower Moreland Township, **Montgomery County**. Andrew Dzedzic, Brinkerhoff Environmental Services, Inc., 133 Jackson Rd., Suite D, Medford, NJ 08055, on behalf of Lucy Binder, Huntingdon Valley, PA, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Montgomery County Record* in October, 2001.

Kurz-Hastings, Inc., City of Philadelphia, **Philadelphia County**. J. Anthony Sauder, P.E., P.G., Pennonni Associates, Inc., 3001 Market St., Suite 200, Philadelphia, PA 19104-2897, on behalf of Kurz-Hastings, Inc., 10901 Dutton Rd., Philadelphia, PA 19154, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with volatiles. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on October 16, 2001.

Transit Aide—North American Street, City of Philadelphia, **Philadelphia County**. James G. Gallagher, P.E., Pennonni Associates, Inc., 3001 Market St., Philadelphia, PA 19104, on behalf of Transit Aide, Inc., 1602-44

North American St., Philadelphia, PA, has submitted a Notice of Intent to Remediate site soil contaminated with lead and groundwater contaminated with lead, MTBE, VOC and SVOC. The applicant proposes to remediate the site to meet special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on October 22, 2001.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

Applications Received under the Solid Waste Management Act (35 P. S. §§ 6018.101— 6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 101606. Kline's Services, Inc., 5 Holland Street, Salunga, PA 17538, East Hempfield Township, **Lancaster County.** The application is for the Radiation Protection Plan for the Septage Treatment Facility. The application was determined to be administratively complete by Southcentral Regional Office on November 13, 2001.

Comments concerning the application should be directed to Keith Kerns, Program Manager, Waste Management Program, Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4704. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit Application No. 101534. Laurel Highlands Landfill, Inc., 260 Laurel Ridge Road, Johnstown, PA 15909. Laurel Highlands Landfill, 260 Laurel Ridge Road, Johnstown, PA 15909. An application for a major permit modification for the addition of GCL to Liner System, a Leachate Recirculation Plan and a Radiological Monitoring Plan at a municipal waste landfill in Jackson Township, **Cambria County** was received in the Regional Office on November 13, 2001.

AIR QUALITY

**NOTICE OF PLAN APPROVAL AND OPERATING
PERMIT APPLICATIONS**

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (DEP) 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 DEP, 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.

DEP has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the DEP Regional Office within 30 days of the date of this notice and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the DEP providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with DEP 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 DEP schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified. TDD users may contact DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242

15-0069A: Champion Recycling, Inc. (575 Trestle Place, Downingtown, PA 19335) for modification/installation of a trommel screen for sorting construction/demolition waste and for reduction of the hours of operation of a Maxigrind crusher at the waste processing facility. The trommel screen will be powered by 60 kW diesel engine.

A 343KW Caterpillar diesel engine powers the Maxigrind crusher. This minor facility is located in East Calm Township, **Chester County.** There is no emission increase expected as a result of this modification. The Plan Approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

40-313-030D: KAMA Corp. (600 Dietrich Avenue, Hazleton, PA 18201) for installation and operation of a new extrusion line (R-2) which will be controlled by the use of a cyclone in Hazleton, **Luzerne County.** The new

line will have VOC emissions of 0.047 lbs./hr. (0.21 TPY). Also, Polymerization Plant #1 will increase the production rate from 5,100 lbs/hr to 6,250 lbs/hr. The increase in production will increase the VOC emissions by 0.15 TPY. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has an Operating Permit 40-313-030C.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

06-5037C: McConway and Torley Corp. (230 Railroad Street, Kutztown, PA 19530) for modification of the automatic core making machine controlled by a wet scrubber in Kutztown Borough, **Berks County**. This foundry is a non-Title V (State only) facility. The modification will result in the potential emissions of 0.27 ton per year of particulate, 13.0 tons per year of VOC and 0.24 ton per year of HAP. The applicant will be limited in the amounts of sand used, VOC content and HAP content. The applicant will be required to record the usage of materials used in the manufacturing process and the monthly emissions. The approval will include monitoring, recordkeeping and reporting requirements designed to keep the source operating within the applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

65-00354A: Sunoco, Inc. (1801 Market Street, 15/10 PC, Philadelphia, PA 19103) for their Delmont Bulk Gas Terminal in Salem Township, **Westmoreland County**. The facility currently has a Title V Operating Permit No. TV-65-00354. The provisions of this plan approval will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval Application No. 65-00354A is to allow the replacement of a vapor refrigeration unit with a vapor combustion unit. Emissions from this unit will be limited to a maximum of 20.12 tpy CO, 8.05 tpy NO_x, 88.5 tpy VOC and 3.0 tpy HAP. Visible emissions from the vapor combustion unit shall not equal or exceed 10% opacity. Gasoline throughput at the facility shall not exceed 483,296,354 gallons in any consecutive 12-month period. The vapor combustion unit shall be maintained and operated to achieve a control efficiency of not less than 96% at all times that gasoline products are being loaded. The vapor combustion unit shall emit no more than 0.00029 lb (35 mg/l) of VOC are emitted to the atmosphere for every gallon of gasoline loaded. Record keeping will be required for daily site inspections, preventative maintenance inspections and gasoline throughputs. Stack testing will be required to verify compliance with emission limitations. Further details on the conditions and the reasons for their inclusion are available upon request.

PUBLIC HEARINGS

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

49-00024A: Sunbury Property, LLC, owner and **Knight-Celotex, LLC**, operator (P. O. Box 267, Sunbury, PA 17801) for modification of a fiberboard laminating operation by increasing its allowable volatile organic compound emission rate from 3 pounds per hour, 15

pounds per day and 2.7 tons in any 12 consecutive month period to 8 pounds per hour, 96 pounds per day and 10 tons in any 12 consecutive month period at its fiberboard manufacturing facility in the City of Sunbury, **Northumberland County**. The respective facility is a major facility, which has been issued a Title V Operating Permit (49-00024).

As the existing allowable volatile organic compound emission rate of 3 pounds per hour, 15 pounds per day and 2.7 tons in any 12 consecutive month period was established under the Reasonably Available Control Technology (RACT) provisions of 25 Pa. Code §§ 129.91—129.95, the respective plan approval application also constitutes a request to amend a previously-submitted RACT plan, a previously-established RACT determination and the Pennsylvania State Implementation Plan (SIP).

The Department's review of the information contained in the application indicates that the proposed modification will meet all applicable air quality requirements including the RACT requirements specified in 25 Pa. Code §§ 129.91—129.95. Based on this finding, the Department of Environmental Protection (Department) has preliminarily determined that it intends to approve the plan approval application (as well as the associated amendment of the previously-submitted RACT plan, the revision of the previously-established RACT determination and the respective amendment to the SIP) and issue a plan approval for the modification of the fiberboard laminating operation. If issued, this plan approval will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the SIP. Additionally, if the Department determines that the fiberboard laminating operation is operating in compliance with all applicable plan approval conditions and regulatory requirements, the conditions established in the plan approval will be incorporated into Title V Operating Permit 49-00024 via administrative amendment under 25 Pa. Code § 127.450.

The respective modification will result in an increase of up to 7.3 tons per 12 consecutive month period in the amount of volatile organic compound emissions allowed from the fiberboard laminating operation.

The following is a summary of the RACT determination and conditions the Department proposes to place in the plan approval to be issued:

1. Under the RACT provisions of 25 Pa. Code §§ 129.91—129.95, the volatile organic compound emissions from the fiberboard laminating operation shall not exceed 8 pounds per hour, 96 pounds per day and 10 tons in any 12 consecutive month period.

2. Under 25 Pa. Code § 129.95, for each separate day of operation of the fiberboard laminating operation, a record shall be maintained of the identity, volatile organic compound content and amount of each volatile organic compound-containing material used as well as the amount of volatile organic compounds emitted. This information shall be submitted to the Department on a quarterly basis.

A public hearing will be held for the purpose of receiving comments on the proposed plan approval issuance, RACT revision and SIP revision. The hearing will be held on January 15, 2002, at 1 p.m. at the Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street—Suite 101, Williamsport, PA 17701. The public is invited to comment on the proposed issuance/revision. Persons interested in commenting are invited to appear at the public hearing.

Persons wishing to present testimony at the hearing should contact Daniel Spadoni at (570) 327-3659 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 per individual and two written copies of the testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Daniel Spadoni at (570) 327-3659 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 wishing to comment, should provide written comments to David Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street—Suite 101, Williamsport, PA 17701. Comments must be received by the Department by no later than January 30, 2002, to be considered.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Leif Ericson, Program Manager, (717) 705-4702.

21-05005: Department of Corrections, SCI Camp Hill (Camp Hill, PA 17001-0598) for construction of a #2 oil or natural gas fired boiler (50,000 lb/hr steam) to replace a coal fired boiler (70,000 lb/hr steam) located in Lower Allen Township, **Cumberland County**. This Plan Approval shall not result in an increase of the facility emissions. The administrative amendment to Title V operating permit 21-05005 shall incorporate Plan Approval 21-05005B for this boiler and Plan Approval GP1-21-05005C for a gas or #2 oil fired boiler (15,000 lb/hr steam). The facility's major sources of emissions include two other boilers and two engines which primarily emit NOx and SOx. The Title V operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Leif Ericson, Program Manager, (717) 705-4702.

36-05119: Signature Custom Cabinetry Inc. (434 Springville Road, Ephrata, PA 17522) for operation of a wood cabinet manufacturing facility and paint booths in Ephrata Township, **Lancaster County**. The facility VOC emissions shall be kept at less than 50 tons per year. The Synthetic Minor Operating Permit shall contain additional monitoring, record keeping and reporting designed to keep the facility operating within all applicable air quality requirements.

38-05020: G & H Fortyniners, Inc, dba Keystone Protein Co. (P. O. Box 37, Fredericksburg, PA 17026) for operation of the boilers and rendering system in Bethel Township, **Lebanon County**. The facility SOx and NOx emissions shall be kept at less than 100 tpy each. The

Synthetic Minor Operating Permit shall contain additional monitoring, record keeping and reporting designed to keep the facility operating within all applicable air quality requirements.

PUBLIC HEARINGS

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

16-0133: Clarion Bathware (44 Amsler Avenue, Shippenville, PA 16254) to accept testimony concerning the Department's decision to approve, with conditions, the Reasonably Available Control Technology (RACT) plan to meet the requirements under 25 Pa. Code §§ 129.91—129.95, concerning emissions of oxides of nitrogen (NOx) and volatile organic compounds (VOC), from various air contamination sources in Shippenville, **Clarion County**.

The facility currently has a Title V Operating Permit (No. 16-00133). This RACT determination will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

The Department will conduct a public hearing on February 15, 2002, beginning at 1 p.m. in the Air Quality Conference Room of the Department Regional Office Building located at 230 Chestnut Street, Meadville, PA 16335-3407.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in the RACT approval for the facility to comply with current regulations.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); the Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to 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 before 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 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. 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 previous, 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 previously-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.

Coal Applications Received

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63850111. Twilight Industries (Division of US Natural Resources, Inc., 212 State Street, Belle Vernon, PA 15012-1158). Renewal application received for reclamation only of a bituminous surface mine located in Somerset Township, **Washington County**, affecting 29.5 acres. Receiving streams: unnamed tributary to the North Branch of Pigeon Creek to the Monongahela River, classified for the following use: warm water fishery. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: November 9, 2001.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.

32841307. NPDES Permit # 0092193, Tanoma Coal Co., Inc. (R. R. 1, Box 594, Marion Center, PA 15759), to revise the permit for the Tanoma Mine in Rayne Township, **Indiana County**, post mining land use change, Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Application received: September 18, 2001.

11860701. NPDES Permit # PA0214981, Cooney Brothers Coal Co. (Box 246, Cresson, PA 16630), to renew the permit for the Sonman Coal Refuse Disposal Area in Portage Township, **Cambria County**, renewal of existing 87 acre site Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Dis-

posal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Application received: September 21, 2001.

30841320. NPDES Permit # PA00213861, Dana Mining Co. of PA, Inc. (P. O. Box 1209, Morgantown, WV 26507), to revise the permit for the Dooley Run Mine in Dunkard Township, **Greene County**, revision to add 9 acres underground and 51.4 acres SCP. Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Application received: October 2, 2001.

04991601. NPDES Permit # n/a, Colona Transfer, L.P. (P. O. Box 311, Portersville, PA 16051), to transfer the permit for the Colona Dock in Monaca Borough, **Beaver County** to transfer permit from Quality Aggregates Inc. t/d/b/a Colona Terminal Services, Inc., Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Application received: October 19, 2001.

32901603. NPDES Permit # n/a, Tipple Four J, Inc. (P. O. Box 194, Shelocta, PA 15774), to renew the permit for the Tipple Four J in Armstrong Township, **Indiana County**, renewal, Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, Crooked Creek, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is n/a. Application received: November 6, 2001.

26961602. NPDES Permit #PA0214892, Bullsken Tipple Co. (200 College Drive, Lemont Furnace, PA 15456), to renew the permit for the Bullsken Tipple in Connellsville Township, **Fayette County**, renewal, Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres proposed n/a, CRDA Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Application received: November 9, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

61970101. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Renewal of an existing bituminous surface strip and limestone removal operation in Irwin Township, **Venango County** affecting 66.5 acres. Receiving streams: Four unnamed tributaries to Scrubgrass Creek, classified for the following uses: State-wide water uses; CWF. No public water supplies are within 10 miles downstream of this proposed operation. Application received: November 13, 2001.

33920101. Strishock Coal Company (220 Hillcrest Drive, DuBois, PA 15801). Renewal of an existing bituminous surface strip in Pine Creek Township, **Jefferson County** affecting 56.3 acres. Receiving streams: Four unnamed tributaries to Little Mill Creek and one unnamed tributary to Mill Creek, classified for the following uses: CWF. No public water supplies are within 10 miles

downstream of this proposed operation. Application for reclamation only. Application received: November 15, 2001.

Noncoal Applications Received

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

53012801, Fessenden Construction Co., Inc. (94 Main Street, P. O. Box 271, Roulette, PA 16746), commencement, operation and restoration of a Small Industrial Minerals (Sand, Gravel, Topsoil), located in Roulette Township, **Potter County** affecting 4 acres. Receiving streams: unnamed stream in wetland, tributary to Allegheny River. Application received: October 19, 2001.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03010407. Stitt Coal Company, Inc. (R. D. 1, Box 197A, Ford City, PA 16226). Application for commencement, operation and reclamation of a noncoal surface mine located in Kittanning Township, **Armstrong County**, affecting 86.3 acres. Receiving stream: Garretts Run, classified for the following use: warm water fishery. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: November 8, 2001.

**NOTICE OF PROJECTS UNDER
THE ENVIRONMENTAL GOOD SAMARITAN ACT**

The Environmental Good Samaritan Act (27 Pa.C.S. §§ 8001—8114) provides certain protections and immunities from civil liability for landowners and persons who voluntarily undertake reclamation and abatement projects to address land and water adversely affected by mining or oil or gas extraction or exploration for natural resources and left in an unreclaimed condition or left discharging water pollution. In order for landowners and persons to qualify for immunity, the projects must be approved by the Department.

The following project proposals have been received by the Department. A copy of the proposals are available for inspection at the office indicated before the proposals.

Written comments or objections may be submitted by any person or any office 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.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the proposal identification number; and a statement of sufficient detail to inform the Department of the basis of the comment or objection and the relevant facts upon which it is based.

Project Proposals Received

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

EGS 32003, Blacklick Creek Watershed Association, Inc., 297 Sarah Street, Homer City, PA 15748. A project to collect and passively treat the abandoned Cherryhill Deep Mine acid mine discharge along State Route 403 approximately 1.5 miles southeast of the village of Clymer with treatment facilities located on the Dennis J. Richards, Sr. property in Cherryhill Township, **Indiana County**. Receiving stream: Two Lick Creek. Project Received: November 1, 2001.

EGS 32002, Blacklick Creek Watershed Association, Inc., 297 Sarah Street, Homer City, PA 15748. A

project to collect, transport and passively treat the abandoned July 14 Deep Mine acid mine discharge along State Route 954 approximately 1 mile east of the village of Tide with treatment facilities located on Pennsylvania State Game Lands No. 273 in Brushvalley and Center Townships, **Indiana County**. Received stream: Yellow Creek. Project Received: November 1, 2001.

**FEDERAL WATER POLLUTION
CONTROL ACT, SECTION 401**

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality 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 Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment 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 before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15-675. AT&T Corporation, 1200 Peach Street, Atlanta, GA 30309, Pennsburys and Kennett Townships, **Chester County**, ACOE Philadelphia District.

To install and maintain six 1-1/2 inch high-density polyethylene (HDPE) conduits associated with phase II of

the Nexgen Project. The conduits will cross the following watercourses and associated wetlands (PEM):

1. Ring Run (WWF, MF)
2. Springrun Creek (WWF, MF)
3. Unnamed tributary to Ring Run (WWF, MF)
4. Unnamed tributary to Bennett's Run (WWF, MF)
5. Unnamed tributary to Craig's Mill Run (WWF, MF)
6. Unnamed tributary to Shadowbrook Pond (WWF, MF)

This project is a segment of the Arlington Network Fiber Optic Project, which will be installed along public rights-of-way of roads and highways. The project will extend from the PA/NJ Border at the Delaware River in Philadelphia County to the Delaware state line in Chester County. In this Commonwealth, this project will extend through Philadelphia, Delaware and Chester Counties. Wetland and watercourse crossings will be either by directional bore or will be attached to the existing bridges. In Chester County, this linear project will extend from the border of Delaware and Chester Counties (Wilmington North, DEL-PA USGS Quadrangle N: 22.1 inches, W: 13.5 inches) to the PA/DE Border (Kennett Square, PA USGS Quadrangle N: 14.8 inches, W: 0.3 inch).

E23-416. AT&T Corporation, 1200 Peach Street, Atlanta, GA 30309, Various Municipalities, **Chester, Delaware and Philadelphia Counties**, ACOE Philadelphia District.

To install and maintain six 1-1/2 inch high-density polyethylene (HDPE) conduits associated with phase II of the Nexgen Project. The conduits will cross watercourses and associated wetlands (PEM) in the following watersheds:

1. Darby Creek (WWF, MF and TSF, MF)
2. Crum Creek (WWF)
3. Ridley Creek (HQ, TSF)
4. Chester Creek (TSF, MF)
5. Harvey Run (WWF, MF)
6. Wetlands (PEM)

This project is a segment of the Arlington Network Fiber Optic Project, which will be installed along public rights-of-way of roads and highways. The project will extend from the PA/NJ border at the Delaware River in Philadelphia County to the PA/DE state border in Chester County. In this Commonwealth, this project will extend through Philadelphia, Delaware and Chester Counties. Wetland and watercourse crossings will be either by directional bore or will be attached to the existing bridges. In Delaware County, this linear project will extend from the border of Delaware and Philadelphia Counties (Philadelphia, PA-NJ USGS Quadrangle N: 15.9 inches, W: 17.2 inches) to the border of Delaware and Chester Counties (Wilmington North, DEL-PA USGS Quadrangle N: 22.1 inches, W: 13.5 inches) and traverses Upper Darby, Haverford, Marple, Springfield, Nether Providence, Upper Providence, Middletown, Concord and Chadds Ford Townships and Milbourne, Swarthmore, Media, Chester Heights and Lansdowne Boroughs.

E51-196. AT&T Corporation, 1200 Peach Street, Atlanta, GA 30309, City and **County of Philadelphia**, ACOE Philadelphia District.

To install and maintain six 1-1/2 inch high-density polyethylene (HDPE) conduits associated with phase II of the Nexgen Project. The conduits will cross the following watercourses:

1. Delaware River (WWF, MF)
2. Schuylkill River (WWF, MF)
3. Cobbs Creek (WWF, MF).

This project is a segment of the Arlington Network Fiber Optic Project, which will be installed along public rights-of-way of roads and highways. The project will extend from the PA/NJ border at the Delaware River in Philadelphia County to the PA/DE State Border in Chester County. In this Commonwealth, this project will extend through Philadelphia, Delaware and Chester Counties. Wetland and watercourse crossings will be either by directional bore or will be attached to the existing bridges. In Philadelphia County, this linear project will extend from the PA/NJ border (Philadelphia, PA-NJ USGS Quadrangle N: 14.2 inches, W: 1.4 inches) to the border of Philadelphia and Delaware Counties (Philadelphia, PA-NJ USGS Quadrangle N: 15.9 inches, W: 17.2 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E40-503A. Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. Wilkes-Barre Township, City of Wilkes-Barre and Dennison Township, **Luzerne County**, ACOE Baltimore District.

To amend Permit No. E40-503, which authorizes the permittee to: (1) place fill or excavate in 0.53 acre of wetlands; (2) construct and maintain a stream enclosure of Coal Brook, consisting of approximately 373 linear feet of 10.0-foot by 6.0-foot precast concrete box culvert; (3) construct and maintain a channel change in Coal Brook, extending approximately 255 feet upstream of the proposed stream enclosure, consisting of an R-7 riprap-lined trapezoidal channel having a bottom width of 10 feet; (4) modify and maintain a stream enclosure of a tributary to Coal Brook, consisting of the extension of the existing 60-inch CMP stream enclosure, using 105 linear feet of 60-inch RCP upstream and 13 linear feet of 60-inch CMP downstream of the existing section; and (5) construct and maintain a stream enclosure of a tributary to Spring Run, consisting of approximately 320 linear feet of 90-inch RCP. The purpose of the project is to construct the Highland Park Boulevard Interchange (formerly known as Interchange 46) of Interstate 81 (S.R. 0081, Section 393) and related improvements to Highland Park Boulevard and Mundy Street (Wilkes-Barre East, PA Quadrangle N: 20.5 inches; W: 14.3 inches).

The permittee is required to provide 0.53 acre of replacement wetlands. As originally permitted, the wetland replacement was to be provided at a location known as the Cospitt site, approximately 0.5 mile east of the Susquehanna River, in Duryea Borough. The amendment proposes an alternative wetland replacement site, located along the south side of S.R. 0080, approximately 1,000 feet east of the Nescopeck Township/Dennison Township boundary, in Dennison Township, Luzerne County (Freeland, PA Quadrangle N: 10.6 inches; W: 5.7 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E06-559. David Coult, 446 Main Street, Virginville, PA 19564 in Pike Township, **Berks County**, ACOE Philadelphia District.

To construct and maintain a stream restoration project within the Pine Creek Watershed (EV-Wild Trout) for the purposes of stream bank stabilization, improved sediment

transport, creating additional wetlands, establishment of riparian buffers and improved aquatic habitat while implementing a natural stream channel design approach consisting of the following construction activities; channel relocation, stream and floodway excavation and filling, installation of rock vanes, cross vanes and J-hooks, riprap, root wad and log spur placement, ford improvements and cattle crossing installations beginning with the initial project phases to be located at a point or points along Heiligs School Road beginning at the intersection of Long Lane and Heilig School Road and proceeding southward (Manatawny, PA Quadrangle N: 8.4 inches; W: 11.6 inches) in Pike Township, Berks County.

E31-179. Dr. Robert Hartnett, SR HC1 Brecc Lane, Spruce Creek, PA 16883 in Franklin Township, **Huntingdon County**, ACOE Baltimore District.

To maintain 327 feet of timber retaining wall with limestone backfill along the channel of Spruce Creek (HQ-CWF) at a point approximately 1,500 feet downstream of Franklinville (Franklinville, PA Quadrangle N: 2.7 inches; W: 12.7 inches) in Franklin Township, Huntingdon County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-362. Bradford Township, P. O. Box 79, Woodland, PA 16881. T-210 Bridge over Millstone Run, in Bradford Township, **Clearfield County**, ACOE Baltimore District (Lecontes Mills, PA Quadrangle N: 9.2 inches; W: 12.3 inches).

To complete the construction of a public road crossing, operate and maintain a single corrugated metal culvert pipe to carry T-210 across Millstone Run (Cold Water Fishery). The road crossing shall be constructed, operated and maintained with a single corrugated arch culvert pipe that has a minimum span of 19.17-feet and a minimum rise of 11.75-feet. Construction of the road crossing Millstone Run shall also include installation of gabion basket wingwalls. The project will not impact wetlands while impacting 45-feet of waterway. The project is located along the eastern right-of-way of SR 0970 approximately 2,250-feet east of T-210 and SR 0970.

E41-491. Charles S. Lowry, 512 Cemetery Hill Road, Montgomery, PA 17752. Water Obstruction and Encroachment Joint Permit Application, in Brady Township, **Lycoming County**, ACOE Susquehanna River Basin District (Muncy, PA Quadrangle N: 1.0 inch; W: 6.1 inches).

To place and maintain 100 cubic yards of shale for a boat launch and associated driveway, construct and maintain a 250 square foot dock as well as dredge 350 square feet along the proposed dock all of which is located along the West Branch of the Susquehanna River. This project proposes to have a minimal impact on the Susquehanna River, which is designated a Warm Water Fishery and does not propose to impact any jurisdictional wetlands.

E53-366. Harrison Township, 205 East Main Street, P. O. Box 92, Harrison Valley, PA 16927. Harrison Valley Wastewater Collection and Treatment Facility, in Harrison Township, **Potter County**, ACOE Baltimore District (Harrison Valley, PA Quadrangle N: 12.1 inches; W: 3.8 inches).

To construct, operate and maintain 50,000-feet of sanitary sewer line, treatment facility and outfall structure within the Cowanesque River watershed (Cold Water Fishery) for the treatment of municipal wastewater. Construction of the sanitary sewer lines will require the 25 stream crossings that are as follows:

<i>Stream Name</i>	<i>Number of Crossings</i>	<i>Total Length of Crossings</i>
North Branch-Cowanesque River	4	165-feet
Unnamed tributaries-North Branch	5	90-feet
Cowanesque River	4	140-feet
Unnamed tributaries-Cowanesque	10	130-feet
Dodge Hollow Run	1	40-feet
Marsh Creek	1	30-feet

Sewer line crossings shall be constructed with a minimum of 3-feet of cover with concrete encasement beneath the waterways. Trench plugs or clay dikes shall be used at every sewer line crossing a waterway to ensure the hydrology of the streams is not altered. Construction of the wastewater treatment facility will require the placement of fill in the 100-year floodplain of the Cowanesque River. The placement of fill and the toe of fill slopes shall not encroach into the floodway or within 50-feet of the Cowanesque stream bank. The project will not impact wetlands while impacting 595-feet of waterway. The project is located along the eastern and western right-of-way of SR 0049 approximately 2.3-miles south and north of SR 1019 and SR 0049 intersection.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E26-240 A1. Redstone Township Board of Supervisors, R. D. 1, Box 211, Grindstone, PA 15442. Redstone Township, **Fayette County**, ACOE Pittsburgh District.

To amend Permit E26-240 to include removal of the center pier of an abandoned railroad bridge in Dunlap Creek (WWF), located approximately 300 feet northeast of the Bridge Street (T-613) in the Village of Fairbank, Redstone Township. The permit E26-240 authorized the construction and maintenance of a flood protection project in and along 1,200 feet of Dunlap Creek consisting of sediment removal and fill placement (New Salem, PA Quadrangle N: 12.1 inches; W: 14.3 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E24-218, Albert Prechtl, 1300 Bruxelles Street, St. Marys, PA 15857. Albert Prechtl Bridge, in St. Marys, **Elk County**, ACOE Pittsburgh District (St. Marys, PA Quadrangle N: 11.9 inches; W: 7.4 inches).

The project includes the construction of a private drive and bridge across the North Branch of Elk Creek (CWF) and the installation of two 6 foot culverts in the stream. The project is located off of Washington Road, approximately 1 mile north of SR 1001 in the City of St. Marys, Elk County.

ACTIONS

**FINAL ACTIONS TAKEN UNDER THE
CLEAN STREAMS LAW AND THE
FEDERAL CLEAN WATER
ACT—NPDES AND WQM PART II
PERMITS
INDUSTRIAL WASTE AND
SEWERAGE WASTEWATER**

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 of 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.

**I. Municipal and Industrial Permit Actions under
The Clean Streams Law (35 P. S. §§ 691.1—
691.1001).**

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA-0061506, Sewage, **George F. Maxson**, Route 370, P. O. Box 2, Preston Park, PA 18455-0002. This proposed facility is located in Preston Township, **Wayne County**.

Description of Activity: to renew permit to discharge treated sewage to an unnamed tributary to Shehawken Creek.

NPDES Permit No. PA-0061450, Sewage, **Elmhurst Township Sewer Authority**, P. O. Box 204, Elmhurst, PA 18416-0204. This proposed facility is located in Elmhurst Township, **Lackawanna County**.

Description of Proposed Action: to renew NPDES permit to discharge treated sewage into Roaring Brook Creek.

WQM Permit No. 5401404, Sewerage, **Cass Township**, R. D. 2, 1209 Valley Road, Pottsville, PA 17901. This proposed facility is located in Cass Township, **Schuylkill County**.

Description of Proposed Action/Activity: Granted approval for construction of a sewage collection system and pump station for Cass Township and a portion of New Castle Township.

WQM Permit No. 4001406, Sewerage, **CANDO, Inc.**, One South Church Street, Hazleton, PA 18202. This proposed facility is located in Hazle Township, **Luzerne County**.

Description of Proposed Action/Activity: Construction of a sewage pump station and associated collection system.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0030171, Sewage, **Llewellyn's Mobile Home Court, Inc.**, 4550 Bull Road, Dover, PA 17315. This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT of Little Conewago Creek in Watershed 7-F.

NPDES Permit No. PA0082082, Sewage, **Jerry Millard Bolyard**, 309 Bear Gap Road, Clearville, PA 15535-9110. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT to Lost Run in Watershed 13-A.

WQM Permit No. 0101407, Sewage, **Steven R. and Susan K. Heidel**, 1055 Mummasburg Road, Gettysburg, PA 17325. This proposed facility is located in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Construction/operation of sewage treatment facilities and outfall.

WQM Permit No. 2191403, Amendment 01-1, Sewerage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17055. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Modifications to the construction/operation of plant headworks screening and pump stations.

WQM Permit No. 2200402, Sewerage, **Kathryn S. Watkins**, 124 Armor Drive, Hershey, PA 17033. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Permit Transfer.

NPDES Permit No. PA0009326, Industrial Waste, **Mott's, Inc.**, 45 Aspers-North Road, P. O. Box 68, Aspers, PA 17304. This proposed facility is located in Menallen Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to Opossum Creek in Watershed 7-F.

NPDES Permit No. PA0088889, CAFO, **Graywood Farms LLC**, 225 Mason Dixon Road, Peach Bottom, PA 17563. This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,210-AEU Dairy Concentrated Animal Feeding Operation in Watershed 7-K.

WQM Permit No. 3601203, CAFO, **Graywood Farms LLC**, 225 Mason Dixon Road, Peach Bottom, PA 17563. This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization for the construction and operation of a 4.5 million gallon manure storage lagoon with a 12" clay liner underneath a leak detection system.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0023434. Sewerage. **Koppel Borough**, P. O. Box 1, Arthur Street and Third Avenue, Koppel, PA 16136 is authorized to discharge from a facility located at Koppel Borough Wastewater Treatment Facility, Koppel Borough, **Beaver County** to receiving waters named Beaver River.

NPDES Permit No. PA0205737. Sewerage. **Dominion Transmission**, 175 Sheffield Drive, Suite 100, Delmont, PA 15626 is authorized to discharge from a facility located at South Oakford Station Sewage Treatment Plant, Hempfield Township, **Westmoreland County** to receiving waters named unnamed tributary of Brush Creek.

NPDES Permit No. PA0217514. Sewerage. **The Alta Group**, 195 Hartzell School Road, Fombell, PA 16123-9518 is authorized to discharge from a facility located at Alta Sewage Treatment Plant, Marion Township, **Beaver County** to receiving waters named Connoquenessing Creek.

NPDES Permit No. PA0218995. Sewerage. **John McClatchey**, 107 Osage Path, Stoystown, PA 15563 is authorized to discharge from a facility located at McClatchey Single Residence STP, Indian Lake Borough, **Somerset County** to receiving waters named Indian Lake.

Permit No. 3200406. Sewerage. **Blacklick Valley Municipal Authority**, P. O. Box 272, Twin Rocks, PA 15960. Construction of sanitary sewers, three pump stations, force mains and sewage treatment plant located in Buffington Township, **Indiana County** to serve a portion of Blacklick Township and Vintondale Borough in Cambria County.

Permit No. 5601406. Sewerage. **John McClatchey**, 107 Osage Path, Stoystown, PA 15563. Construction of Single Residence Sewage Treatment Plant located in Indian Lake Borough, **Somerset County** to serve McClatchey SRSTP.

Permit No. 5601407. Sewerage. **Dwane Yoder**, 922 Conley Drive, Mechanicsburg, PA 17055. Construction of Single Residence Sewage Treatment Plant located in Jenner Township, **Somerset County** to serve Yoder Single Residence STP.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 1601403, Sewerage, **Charles R. Renninger, Jr.**, Box 94, Callensburg, PA 16213. This proposed facility is located in Highland Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for a Single Residence.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

<i>NPDES Permit</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS101026	SPTN-PA, LLC P. O. Box 910 Newton, NC 28658	Cambria County Cambria Township	Stewarts Run/HQ-CWF

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent (NOIs) for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the 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 Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

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 permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

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 Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
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 (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved
PAG-8	General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

Southwest Region: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Cambria County Cambria Township	PAR101078	H. F. Lenz Company 1407 Scalp Avenue Johnstown, PA 15904	South Branch Blacklick Creek/CWF	Cambria County Conservation District (814) 472-2120
Crawford County City of Titusville	PAR102319	James Allyn Titusville Redevelopment Authority P. O. Box 425 Titusville, PA 16354-0425	Oil Creek (CWF)	Crawford Conservation District (814) 724-1793
Mercer County Pine Township	PAR104366	Filer Plumbing, Heating & Construction, Inc. 504 North Broad Street Grove City, PA 16127	Barmore Run Tributary (CWF)	Mercer Conservation District (724) 662-2242

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
City of Philadelphia Philadelphia County	PAR120003	Pepsi Cola Bottling Group 11701 Roosevelt Blvd. Philadelphia, PA 19154	UNT to Poquessing Creek-3J Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Bristol Township Bucks County	PAR800083	Waste Management of Delaware Valley 1224 Hayes Blvd. Bristol, PA 19007	Magnolia Lake- 2E Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Upper Merion Township Montgomery County	PAR120017	HJ Heinz Co., LP 250 Hansen Access Rd. King of Prussia, PA 19406	Abrams Run- 3F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
City of Philadelphia Philadelphia County	PAR800111	Atlantic Aviation Corp. 131 Continental Dr. Suite 409 Newark, DE 19713	Eagle Creek- 3G Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
York County Spring Garden Township	PAR213532	York Building Products Co., Inc. P. O. Box 1708 York, PA 17405	Mill Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Sadsbury Township	PAR223509	Lapp Lumber Company 1640 Mine Road Paradise, PA 17562	Buck Run	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Spring Garden Township	PAR213522	Standard Concrete Products Company 700 North Sherman Street York, PA 17402	Mill Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Manchester Township	PAR323507	The York Group, Inc. York Casket Co. 2880 Blackbridge Road York, PA 17402	Codorus Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Southampton Township	PAR123551	Wenger's Feed Mill Inc. Shippensburg Plant 101 W. Harrisburg Ave. Rheems, PA 17570	UNT Conodoguinet Creek/WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
<i>General Permit Type—PAG-4</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Bedford County Liberty Township	PAG043526	Fred E. Weimert, Jr. 575 Carberry Road Saxton, PA 16678	UNT to Ravers Run 11-D	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Jenner Township Somerset County	PAG046231	Dwane Yoder 922 Conley Drive Mechanicsburg, PA 17055	UNT to Pine Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
Farmington Township Warren County	PAG048417	Teddy R. Babcock 35 North State Street North Warren, PA 16365	Unnamed tributary to Rhine Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Worth Township Mercer County	PAG048427	Gerald C. Fleet 1066 Jackson Center Polk Road Stoneboro, PA 16153	Unnamed tributary South Sandy Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
LeBoeuf Township Erie County	PAG048429	Winfield S. and Retha V. McGahen 13031 McGahen Road Waterford, PA 16441	Unnamed tributary of French Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Telephone No.</i>
Point Marion Borough Fayette County	PAG086107	Point Marion Municipal Authority 426 Morgantown Street Point Marion, PA 15474		Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-9 (SSN)

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Telephone No.</i>
Hempfield Township Westmoreland County	PAG096102	Larry Smith d/b/a A Septic Tank Service 1406 Rolling Acres Road Latrobe, PA 15650	Hillis Farm T-748 and SR 2010 Hempfield Township Westmoreland County	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Juniata County Fayette Township	PAG123523	Hershey Ag. Lost Creek Farm 138 Airport Road, Box 68 Marietta, PA 17547-0068	Lost Creek/WWF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

PUBLIC WATER SUPPLY PERMITS

The Department of Environmental Protection (Department) has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days from the date of issue of the *Pennsylvania Bulletin* 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 of 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.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 3601509, Public Water Supply.

Applicant	Penny Farm Mobile Home Park
Municipality	Drumore Township
County	Lancaster
Type of Facility	The addition of new Well Nos. 1A and 2 to supply an existing mobile home park and the installation of a nitrate removal system.
Consulting Engineer	James R. Fisher, P.E. Fisher Engineering Inc. 18 C S 7th Street Akron, PA 17501
Permit to Construct Issued:	November 6, 2001

Permit No. 3601510, Public Water Supply.
 Applicant **Solanco School District Little Britain Elementary School**
 Municipality Little Britain
 County **Lancaster**
 Type of Facility Installation of a nitrate treatment system to address high nitrate levels in the source water and the addition of corrosion control treatment to address the aggressive nature of the source water.
 Consulting Engineer Thomas J. Whitehill, P.E.
 Whitehill Consulting Engineers
 763 Conowingo Rd.
 Quarryville, PA 17566
 Permit to Operate Issued: November 6, 2001

Permit No. 3601512, Public Water Supply.
 Applicant **Getty Properties Corp.—Lunch Basket Water Supply**
 Municipality Leacock Township
 County **Lancaster**
 Type of Facility Installation of a GAC system to remove MTBE from the source water.
 Consulting Engineer Stephen R. Morse, P.E.
 Skelly and Loy, Inc.
 2601 North Front Street
 Harrisburg, PA 17110-1185
 Permit to Construct Issued: October 30, 2001

Permit No. 3801509 MA, Minor Amendment, Public Water Supply.
 Applicant **Crystal Spring Water Company**
 Municipality Millcreek Township
 County **Lebanon**
 Type of Facility Installation of a UV light disinfection system to replace the existing ozone systems at the Arrowhead and Sandstone Spring facilities.
 Consulting Engineer Gary J. Toplak, P.E.
 Crouse & Company
 400 Penn Center Blvd.
 Pittsburgh, PA 15235
 Permit to Construct Issued: November 14, 2001

Permit No. 3601514, Public Water Supply.
 Applicant **Magic Chef Mobile Home Park**
 Municipality Mt. Joy Township
 County **Lancaster**

Type of Facility Installation of a nitrate treatment facility to reduce nitrate levels below the MCL.
 Consulting Engineer James R. Fisher, P.E.
 Fisher Engineering Inc.
 18 C S 7th Street
 Akron, PA 17501
 Permit to Construct Issued: October 22, 2001

Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Permit No. Emergency Permit, Public Water Supply.
 Applicant **Pennsylvania American Water Company**
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033-0888
 Borough Philipsburg Borough
 County **Centre**
 Type of Facility Public Water Supply—Temporary approval for use of Trout Run wells #1 and #2 due to drought conditions.
 Consulting Engineer Bruce Juergens, PE
 Pennsylvania American Water Company
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033-0888
 Permit to operate Issued: November 15, 2001

Permit No. 1401501, Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033-0888
 Township Rush Township
 County **Centre**
 Type of Facility Public Water Supply—Construction of the Moshannon Industrial Development park booster pump station.
 Consulting Engineer Gwin Dobson and Foreman, Inc.
 3121 Fairway Drive
 Altoona, PA 16002-4475
 Permit to construct Issued: November 09, 2001

Permit No. 1498505, Public Water Supply.

Applicant **College Township Water Authority**
 1481 East College Avenue
 State College, PA 16801

Township College Township
 County **Centre**
 Type of Facility Public Water Supply—Permit to operate the Spring Creek Park Well with chlorination and sequestration.
 Consulting Engineer ENTECH Engineers Inc.
 4 South Fourth Street
 P. O. Box 32
 Reading, PA 19603
 Permit to operate Issued November 15, 2001

Permit No. 1401503, Public Water Supply.

Applicant **The Pennsylvania State University**
 Office of Physical Plant
 University Park, PA 16802-1118
 Township College Township
 County **Centre**
 Type of Facility Public Water Supply—Construction of VOC blending facilities for treatment of existing well #35.
 Consulting Engineer Robert Cooper, PE
 The Pennsylvania State University
 Office of Physical Plant
 University Park, PA 16802-1118
 Permit to construct Issued November 15, 2001

Permit No. 1401503, Public Water Supply.

Applicant **The Pennsylvania State University**
 Office of Physical Plant
 University Park, PA 16802-1118
 Township College Township
 County **Centre**
 Type of Facility Public Water Supply—Operation of VOC blending facilities for treatment of existing well #35.
 Consulting Engineer Robert Cooper, PE
 The Pennsylvania State University
 Office of Physical Plant
 University Park, PA 16802-1118
 Permit to operate Issued November 15, 2001

Permit No. Minor Amendment, Minor Amendment. Public Water Supply.

Applicant **Consumers PA Water Company**
 Roaring Creek Division
 204 East Sunbury Street
 Shamokin, PA 17872-4849

Township Coal Township
 County **Northumberland County**
 Type of Facility Public Water Supply—Replaced Lime with Caustic soda and replaced Sodium Poly Phosphate with Zinc-Ortho Phosphate.
 Consulting Engineer CET Engineering Services
 321 Washington Street
 Huntingdon, PA 16652
 Permit to Construct Issued November 14, 2001

Permit No. Minor Amendment, Minor Amendment. Public Water Supply.

Applicant **Consumers PA Water Company**
 Roaring Creek Division
 204 East Sunbury Street
 Shamokin, PA 17872-4849
 Township Conyngham Township
 County **Columbia County**
 Type of Facility Public Water Supply—Operation of Rehabilitated Aristes finished water storage tank.
 Consulting Engineer CET Engineering Services
 321 Washington Street
 Huntingdon, PA 16652
 Permit to Operate Issued November 14, 2001

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit #2590505-MA2 issued to: Millcreek Township Water Authority, 3608 West 26th Street, Erie, PA 16506, Millcreek Township, **Erie County** on November 13, 2001.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

PROSPECTIVE PURCHASER AGREEMENT UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT AND THE HAZARDOUS SITES CLEANUP ACT

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.A. §§ 9601—9675), among other statutes, has entered into a Prospective Purchaser Agreement with Omega Wood Recycling, Inc. (Omega) related to the East Tenth Street HSCA Site in Marcus Hook, Delaware County, PA.

Under the terms of the Prospective Purchaser Agreement, Omega will make a contribution towards the Department's response costs at the Site and agrees not to exacerbate any existing contamination attributable to the East Tenth Street Site in exchange for a covenant not to sue and contribution protection from the Department.

Copies of the full Prospective Purchaser Agreement are maintained in the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428 and may be viewed or obtained by

contacting April Flipse at (610) 832-5937 or Anderson Lee Hartzell at (610) 832-6300 during normal business hours. A 60 day period of public comment will follow the date of publication of this Notice and the Department has reserved the right to withdraw from the Prospective Purchaser Agreement in the event that comments submitted during the comment period disclose facts or considerations which indicate, in the Department's discretion, that the Prospective Purchaser Agreement is inappropriate, improper or not in the public interest. Interested parties may submit comments in writing to April Flipse at the Department's Southeast Regional Office.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where 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 analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department 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 Region: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Rybas Property, Bensalem Township, Bucks County. Darryl Schmitt, Brinkerhoff Environmental Services, Inc., 133 Jackson Rd., Suite D, Medford, NJ 08055, on behalf of John, Jr., Mary C., Walter G., David J., Barbara J. and Joan C. Rybas, 888 Frankford Ave., Philadelphia, PA, has submitted a Final Report concerning remediation of site groundwater contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Schutte & Koerting Facility, Bensalem Township, Bucks County. Bruce Middleman, Jacques Whitford, Inc., 450 S. Graver Rd., Suite 105, Plymouth Meeting, PA 19462, on behalf of Schutte & Koerting, 2215 State Rd., Bensalem, PA 19020, has submitted a Final Report concerning remediation of site soil contaminated with

lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons and site groundwater contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Former First National Bank, Westtown Township, Chester County. Mark Ellis, MEA, Inc., 201 Center St., Stockertown, PA 18083, on behalf of Westtown Township, 1081 Wilmington Pike, West Chester, PA, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

PNC Bank Branch Office, East Vincent Township, Chester County. Robert R. Botterman, TolTest, Inc., 339 Haymaker Rd., Suite 1101, Monroeville, PA 15146-1435, on behalf of PNC Bank N.A., PNC Environmental Services Dept., 620 Liberty Ave., 19th Floor, Pittsburgh, PA 15222, Attn: Jerry DeRosa, has submitted a Final Report concerning remediation of site groundwater contaminated with lead, BTEX, petroleum hydrocarbons and liquid phase hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Former Schuylkill Valley Oil Company Property, Pottstown Borough, Montgomery County. John G. Cannon, React Environmental Services, Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of Estate of Benjamin Longaker, 275 Willowbrook Dr., Portola Valley, CA 94028, has submitted a Final Report concerning remediation of site soil contaminated with naphthalene and groundwater contaminated with naphthalene, BTEX, Ethylene dibromide and MTBE. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Former SPS Technologies, Inc., Upper Dublin Township, Montgomery County. William D. Zimmerman, P.G., Environmental Strategies Corp., 11911 Freedom Drive, Suite 900, Reston, VA 20190, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with solvents and BTEX. The report is intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances

in environmental media; benefits of refuse 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 of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department 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 received the following final reports:

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Agway Petroleum, Inc., 511 West Grant Street, City of New Castle, **County of Lawrence**, has submitted a Baseline Environmental Report concerning remediation of soil and groundwater. The site has been found to be contaminated with Benzene. The report is intended to document remediation of the site to meet the Special Industrial Standard.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

HAZARDOUS WASTE TRANSPORTER LICENSE ISSUED

Vexor Technology, Inc., 955 W. Smith Road, Medina, OH 44256. License No. **PA-AH 0685**. Effective November 7, 2001.

Curbside, Inc., 1605 N. Spurgeon Street, Santa Ana, CA 92701. License No. **PA-AH 0684**. Effective November 7, 2001.

HAZARDOUS WASTE TRANSPORTER LICENSE RENEWED

Skowf, Inc., P. O. Box 12327, Columbia, SC 29211. License No. **PA-AH 0620**. Effective November 5, 2001.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE RENEWED

Genesis Environmental, Ltd., 380 Locust Street, McKeesport, PA 15132. License No. **PA-HC 0203**. Effective November 5, 2001.

Geisinger System Services, 100 North Academy Avenue, Danville, PA 17822. License No. **PA-HC 0141**. Effective November 5, 2001

AIR QUALITY

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

23-0027: Dyneon LLC (50 Milton Drive, Aston, PA 19014) on November 9, 2001, for operation of a thermal oxidizer in Chester Township, **Delaware County**.

23-0058: Haverford College (370 Lancaster Avenue, Haverford, PA 19041) on November 14, 2001, for operation of a three 1,000 kW Peak Generators in Haverford Township, **Delaware County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

48-309-113: Keystone Cement Co. (P. O. Box A, Bath, PA 18014) on November 9, 2001, for construction of a packing operation and associated air cleaning device in East Allen Township, **Northampton County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

23-0004: American Ref-Fuel Co. of DV, L.P. (10 Highland Avenue, Chester, PA 19013) on November 9, 2001, for operation of a mass burn resource recovery factory in City Of Chester, **Delaware County**.

23-0063: Dept. of Corrections—SCI Chester (500 E. Fourth Street, Chester, PA 19013) on November 9, 2001, for operation of a boiler/generators in City of Chester, **Delaware County**.

09-320-049: Fres-Co Systems USA, Inc. (3005 State Road, Telford, PA 18969) on November 14, 2001, for operation of a flexographic press in West Rockhill Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

67-05016D: R. H. Sheppard Co., Inc. (P. O. Box 877, Hanover, PA 17331-0877) on November 10, 2001, for operation of two Tundish Ladles controlled by a fabric collector at its Plant No. 3 in Hanover Borough, **York County**. This plan approval has been extended.

67-317-033B: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402) on October 21, 2001, for operation of coffee roaster 2A (Scolari Engineering) controlled by a cyclone and catalytic afterburner at its York Roasting Plant in East Manchester Township, **York County**. This plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

03-026A: Eljer Plumbingware, Inc. (1301 Eljer Way, Ford City, PA 16226) on November 8, 2001, for construction of Tunnel Kiln #1 at Ford City Plant in Burrell Township, **Armstrong County**. This plan approval was extended.

04-313-053B: Envirotrol, Inc. (P. O. Box 61, Sewickley, PA 15143) for their Darlington Plant in Darlington Township, **Beaver County**. On October 19 modified this plan approval. This modification serves to revise the minimum required afterburner temperature of 1,800 to 1,550°F as stated in special condition No. 6. This modification will not change or increase any existing allowable emission limitations required of this facility.

11-498A: Pets After Life Services (316 Allen Street, Portage, PA 15946) on October 5, 2001, for construction of crematory in Portage Township, **Cambria County**. This plan approval was extended.

30-131A: Foree Oil Company (8235 Douglas Avenue, Suite 402 LB 27, Dallas, TX 75225) on October 19, 2001, for construction of combustion engines/gas heated dehydrator at Foree Compressor Station in Franklin Township, **Greene County**. This plan approval was extended.

32-040B: Reliant Energy Seward, LLC (1001 Broad Street, Johnstown, PA 15907) on October 18, 2001, modified plan approval to include transfer of 72 tpy of VOC credits from Rexam Beverage Can Company to Reliant Energy Seward, LLC and revised the ERC registry to reflect this transaction. These ERCs are available for use by Reliant Energy Seward, LLC in accordance with the requirements of 25 Pa. Code Chapter 127.

32-297B: Creps United Publications (1163 Water Street, P. O. Box 746, Indiana, PA 15701) on August 8, 2001, for construction of printing press at Christy Park Drive Facility in White Township, **Indiana County**. This plan approval was extended.

32-00297C: Creps United Publications (1163 Water Street, P. O. Box 746, Indiana, PA 15701) on October 16, 2001, for construction of offset press at Christy Park Drive Facility in White Township, **Indiana County**. This plan approval was extended.

32-349A: 1-22 Processing, Inc. (One Energy Place, Suite 2200, Latrobe, PA 15650) on October 16, 2001, for

construction of coal transloading facility at I-22 Yard in Burrell Township, **Indiana County**. This plan approval was extended.

32-354A: Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) on October 19, 2001, for construction of portable coal preparation plant in Rayne Township, **Indiana County**. This plan approval was extended.

63-906A: Lane Construction Corporation (1 Rutgers Road, Second Floor, Pittsburgh, PA 15205) on October 22, 2001, for revised special conditions for construction of Drum-Mix Asphalt Plant in Donora Borough, **Washington County**. This plan approval was revised.

65-858A: American Video Glass Company (777 Technology Drive, Mt. Pleasant, PA 15666) on October 19, 2001, for construction of Line 22 Lehr at New Stanton Plant in Mt. Pleasant Township, **Westmoreland County**. This plan approval was extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00166: PBS Coals, Inc. (1576 Stoystown Road, P. O. Box 260, Friendens, PA) on November 8, 2001, for the Shade Creek Preparation Plant in Shade Township, **Somerset County**. The facility is used in the processing of coal, which is thermally dried and the emissions are controlled by a Venturi Scrubber. The facility is major for nitrogen oxides (NOx), carbon monoxide (CO) and particulate matter. The main source of emissions is from the thermal dryer.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-0022: Cleveland Steel Container Corporation (350 Mill Street, PA 18951-1398) administrative amended for operation of its pail line in Quakertown Township, **Bucks County**. On August 17, 2000, the Title V Operating Permit was administratively modified to allow emergency oven fume release due to power outages. Additional recordkeeping and reporting requirements were added into the permit.

23-0014A: Kimberly-Clark Corp. (Front and Avenue of the States, Chester, PA 19013) on November 13, 2001, for two emergency diesel generators in City of Chester, **Delaware County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

24-00123: Superior Greentree Landfill (635 Toby Road, Kersey, PA 15846) administratively amended November 6, 2001, to include conditions from Plan Approval 24-123B (Enclosed Flare—C101A) for their facility in Fox Township, **Elk County**. The original Title V Operating Permit was issued March 10, 1999.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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 and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application 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).

Coal Permits Actions

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17000109 and NPDES Permit No. PA0242985. Kenneth K. Rishel & Sons, Inc., 1229 Turnpike Avenue, Clearfield, PA 16830, commencement, operation and restoration of a bituminous surface mine permit in Lawrence Township, **Clearfield County** affecting 20 acres. Receiving streams: unnamed tributary #2 to Orr's Run to the West Branch of the Susquehanna River. Application received: September 12, 2000. Permit issued: November 9, 2001.

17010105 and NPDES Permit No. PA 0243078. Moravian Run Reclamation Co., Inc., 605 Sheridan Drive, Clearfield, PA 16830, commencement, operation and restoration of a bituminous surface mine permit in Knox Township, **Clearfield County** affecting 29.9 acres. Receiving streams: unnamed tributary to Potts Run. Application received: June 15, 2001. Permit issued: November 15, 2001.

Greensburg District Mining Office: Armbrust Building, R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

02010101 and NPDES Permit PA0200751. Olszewski Contracting Co., Inc. (117 Route 30 West, Imperial, PA 15126). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Findlay Township, **Allegheny County** affecting 63.0 acres. Receiving streams: North Fork of Montour Run. Application received: January 22, 2001. Permit issued: November 8, 2001.

GFCC No. 30-00-02, NPDES No. PA0202983. Mather Recovery Systems LLC (1620 Locust Avenue, Fairmont, WV 26554). Government financed construction contract issued for remining and reclamation activities, specifically the reclamation of portions of the Mather coal refuse pile, at a site formerly disturbed by mining activities on the Pittsburgh seam, located in Morgan Township, **Greene County**, affecting 60.5 acres. Receiving streams: unnamed tributary to South Fork of Tenmile Creek, Browns Run to South Fork Tenmile Creek. Application received: October 30, 2000. Contract issued: October 31, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32010101 and NPDES Permit No. PA0248916, Opal Industries, Inc., P. O. Box 980, Latrobe, PA 15650, commencement, operation and restoration of a bituminous surface mine and for existing discharge of a treated mine discharge, in Conemaugh Township, **Indiana County**, affecting 77.0 acres. Receiving streams: unnamed tributary to Kiskiminetas River and unnamed tributary to Blacklegs Creek classified for the following uses: warm water fishery and cold water fishery (WWF/CWF). There are no potable water supply intakes within 10 miles downstream. Application received: January 18, 2001. Permit issued: November 7, 2001.

56900109 and NPDES Permit No. PA0598887, PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for continued operation of a bituminous surface mine and for existing discharge of treated mine drainage, in Quemahoning and Somerset Townships, **Somerset County**, affecting 48.2 acres. Receiving streams: Wells Creek classified for the following use: cold water fishery. The first downstream potable water supply intake from the point of discharge is the Hooversville Water Authority intake on Stony Creek. Application received: July 30, 2001. Permit issued: November 1, 2001.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.

32831602. NPDES Permit #PA0214515, Reliant Energy Northeast Management Co. (1001 Broad St., P. O. Box 1050, Johnstown, PA 15907), to transfer the permit for the Florence Central Preparation Plant in West Wheatfield Township, **Indiana County** to transfer the existing Florence Central Preparation Plant Permit to Reliant Energy Northeast Management Co., Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Permit issued: November 13, 2001.

63733706. NPDES Permit #n/a, Maple Creek Mining, Inc. (981 Route 917, Bentleyville, PA 15314), to renew the permit for the Ginger Hill CRDA I in Carroll and Nottingham Townships, **Washington County** to renew permit, Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Permit issued: November 13, 2001.

56773707. NPDES Permit # PA0215775, PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541), to renew the permit for the Cambria Fuel CRDA in Stonycreek Township, **Somerset County**, for reclamation only, Surface Acres Proposed n/a, Underground Acres Proposed n/a, SCP Acres Proposed n/a, CRDP Support Acres Proposed n/a, CRDP Refuse Disposal Acres Proposed n/a, no additional discharges, classified for the following uses: n/a. The first downstream potable water supply intake from the point of discharge is n/a. Permit issued: November 13, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

37840106. Kerry Coal Company (R. R. 2, Box 2139, Portersville, PA 16051), Renewal of an existing bituminous strip, auger and tipple refuse disposal operation in Perry Township, **Lawrence County** affecting 278.0

acres. This renewal is issued for reclamation only. Receiving streams: Camp Run and two unnamed tributaries to Camp Run. Application received: September 17, 2001. Permit issued: November 13, 2001.

16880102. C & K Coal Company (P. O. Box 69, Clarion, PA 16214), Renewal of an existing bituminous strip and tippel refuse disposal operation in Licking and Toby Townships, **Clarion County** affecting 380.5 acres. This renewal is issued for reclamation only. Receiving streams: Three unnamed tributaries of Cherry Run to Cherry Run. Application received: September 14, 2001. Permit issued: November 5, 2001.

10930103. Kerry Coal Company (R. R. 2, Box 2139, Portersville, PA 16051), Renewal of an existing bituminous strip and auger operation in Jackson Township, **Butler County** affecting 75.0 acres. This renewal is issued for reclamation only. Receiving streams: unnamed tributary to Connoquenessing Creek. Application received: September 14, 2001. Permit issued: November 5, 2001.

Noncoal Permits Actions

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

08010815. Robin Long, commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Wilmot Township, **Bradford County** affecting 5 acres. Receiving streams: Sugar Run Creek, tributary to Susquehanna River. Application received: July 9, 2001. Permit issued: November 13, 2001.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

05014005. New Enterprise Stone & Lime Company, P. O. Box 77, New Enterprise, PA 16664). Blasting activity permit issued for road construction in Snake Spring Township, **Bedford County**. Specifically on Route 30 near the Bedford Hospital to the town of Bedford. Expected duration of blasting is approximately 1 1/2 years. Permit Issued: November 7, 2001.

29014001. Brubacher Excavating, 825 Reading Road, Bowmansville, PA 17507. Blasting activity permit issued for a terminal in the south central business park in McConnellsburg, PA, Ayr Township, **Fulton County**. Expected duration of blasting is 1 year. Permit Issued: November 15, 2001.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a differ-

ent time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)).

Except as otherwise noted, the Department of Environmental Protection certifies that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514 and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 of 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 for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) 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: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Permits Issued and Actions on 401 Certifications:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15.661. French Creek Golf Club, L.P., 55 Country Club Drive, Downingtown, PA 19335-3062, East Nantmeal, West Nantmeal and Warwick Townships, **Chester County**, ACOE Philadelphia District.

To perform the following activities associated with the proposed French Creek Golf Club and Village:

1. To construct and maintain a 370-foot long by 10-foot wide elevated boardwalk over the South Branch of French Creek (EV-CWF) and impacting 0.08-acre of adjacent wetlands (PFO) associated with Hole No. 3.

2. To construct and maintain a 180-foot long by 10-foot wide elevated boardwalk impacting 0.05-acre of wetlands (PEM) associated with Tee No. 4.

3. To construct and maintain a 500-foot long by 10-foot wide elevated boardwalk over the South Branch of French Creek (EV-CQF) and impacting 0.11-acre of wetlands (PEM) associated with Hole No. 9.

4. To modify and maintain the existing farm road to include a 6-inch irrigation pipe, an 8-inch water main and a 6-inch sanitary sewer force main across an unnamed tributary to South Branch of French Creek (EV-CWF) and impacting 0.01 acre of wetlands (PEM) associated with Hole No. 10.

5. To construct and maintain two approximately 12-foot long elevated pedestrian paths connecting to uplands and impacting 0.01-acre of wetlands (PEM) associated with Tee No. 14.

6. To construct and maintain a 260-foot long by 10-foot wide elevated boardwalk impacting 0.06-acre of wetlands (PEM) associated with Hole No. 15.

7. To construct and maintain a 330-foot long by 10-foot wide elevated boardwalk impacting 0.08-acre of wetlands (PEM) associated with Hole No. 16.

8. To install and maintain an 8-inch water main, a 6-inch sanitary sewer force main, electric line, telephone line and cable TV line within an existing access road under an existing 48-inch culvert pipe across South Branch of French Creek (EV-CWF).

9. To install and maintain an 8-inch water main and a 6-inch sanitary sewer force main across the South Branch of French Creek (EV-CWF) on the north side of the Conestoga Road (S.R. 0401) (Elverson, PA USGS Quadrangle N: 4.45 inches; W: 8.3 inches).

10. To install and maintain an 8-inch water main and a 6-inch sanitary sewer force main under a wetland (PEM) on the north side of Conestoga Road (S.R. 0401) (Elverson, PA USGS Quadrangle N: 4.4 inches; W: 9.95 inches).

11. To install and maintain an 8-inch water main across an unnamed tributary of the South Branch of French Creek (EV-CWF) on the north side of Conestoga Road (S.R. 0401) (Elverson, PA USGS Quadrangle N: 4.3 inches; W: 9.94 inches).

12. To install and maintain an 8-inch water main under a wetland (PEM) on the north side of Conestoga Road (S.R. 0401) (Elverson, PA USGS Quadrangle N: 4.3 inches; W: 10.2 inches).

The site is located just northwest of the intersection of Conestoga Road (S.R. 0401) (Elverson, PA USGS Quadrangle N: 4.5 inches; W: 7.8 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E40-571. John A. Yenason, R. R. 2, Box 319, Dallas, PA 18612. Lake Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To excavate in 0.17 acre of wetlands for the construction of a pond. Issuance of this permit also constitutes approval of the Environmental Assessment for a nonjurisdictional dam. The project includes the conversion of approximately 0.25 acre of previously existing open water to wetlands as part of the wetland mitigation plan. The permittee is required to provide 1.0 acre of replacement wetlands. The project is located along the south side of S.R. 1049 (Outlet Road), approximately 1.5

miles northwest of the intersection of S.R. 1049 and S.R. 0118 (Harveys Lake, PA Quadrangle N: 14.6 inches; W: 6.3 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E05-295. Monroe Township, P. O. Box 38, Clearville, PA 15535 in Monroe Township, **Bedford County**, ACOE Baltimore District.

To remove an existing structure and to construct and maintain a 25-foot by 7-foot precast box culvert in the channel of East Branch Sidelings Hill Creek (EV) and to relocate 165 feet of an unnamed tributary to the East Branch Sidelings Hill Creek (EV) at a point at T-354 (Amaranth, PA Quadrangle N: 16.5 inches; W: 9.2 inches) in Monroe Township, Bedford County

E21-319. Clyde Backert, 50 Market Street, Lemoyne, PA 17043 in the City of Harrisburg, **Dauphin County**, ACOE Baltimore District.

To construct and maintain: (1) 1,410 square feet of a 45-boat capacity marina, constructed with two 150-foot lengths of floating dock and connected by two 35 foot lengths of bridge, 70 feet parallel to the west bank of the Susquehanna River (WWF); (2) a previously constructed 8-foot long, 176 square foot concrete slab handicap access ramp; (3) a previously constructed 24-inch diameter, 57 foot long corrugated metal stormwater outfall pipe in a stormwater drainage channel; and (4) about 500 square feet of 6 to 8 inch size rock riprap in a stormwater drainage channel all located just south of the Market Street Bridge in the channel and floodway/floodplain of the Susquehanna River (WWF) (Lemoyne, PA Quadrangle N: 22.2 inches; W: 1.9 inches) in the City of Harrisburg, Dauphin County.

E22-430. Dauphin County Commissioners, P. O. Box 1295, Harrisburg, PA 17108 in Washington Township, **Dauphin County**, ACOE Baltimore District.

To remove an existing county Bridge No. 42 and to construct and maintain a single span reinforced concrete spread box beam bridge having a clear span of 80.5 feet and an underclearance of 13.29 feet across Wiconisco Creek (WWF) located on Matterstown Road (T-595) about 0.2 mile west of its intersection with LR 22037 (Elizabethville, PA Quadrangle N: 9.85 inches; W: 12.35 inches) in Washington Township, Dauphin County.

E67-703. Andrew Spear, PPL Corporation—Brunner Island, P. O. Box 221 Wargo Road, York Haven, PA 17370 in East Manchester, **York County**, ACOE Baltimore District.

To improve an existing collection pond by raising the earthen dike 6 feet, extending the pond's barrel pipe outlet and install a riser/skimmer outlet pipe along the Susquehanna River (WWF) (York Haven, PA Quadrangle N: 17.5 inches; W: 9.5 inches) in East Manchester, York County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E14-364. Centre Regional Recreation Authority, 131 South Fraser Street, State College, PA 16801. Millbrook Marsh Nature Center Boardwalk and Marsh Nature Center, in College Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 12.0 inches; W: 12.0 inches).

To construct and maintain: 1) 1,200 linear feet of wooden boardwalk in wetlands that include: a) a wooden bank-to-bank bridge with a 25-foot span and a 4-foot

underclearance across Thompson Run; b) a wooden bank-to-bank bridge with a 25-foot span and a 4-foot underclearance across Slab Cabin Run; c) a wooden bank-to-bank bridge with a span of 5-foot and a 0.5 foot underclearance across Bathgate Spring Run; and 2) 300 linear feet of wooden bikeway fill in wetlands that includes a wooden bank-to-bank bridge with a span of 5-foot and a 0.5 foot underclearance across an unnamed tributary to Bathgate Spring Run; all of which are located within 600 feet of the confluence of Thompson Run with Slab Cabin Run.

E17-357. Pennsylvania Department of Transportation, Engineering District 2-0, P. O. Box 342, Clearfield, PA 16830. SR 0219, Section A03, Bridge Replacement, in Sandy Township and the City of DuBois, **Clearfield County**, ACOE Pittsburgh River Basin District (DuBois, PA Quadrangle N: 20.2 inches; W: 2.7 inches).

To remove two existing structures; realign the stream channel; construct, operate and maintain a single cell precast concrete box culvert for the construction of a three span steel bridge to carry SR 0219, Section A09, across Pentz Run to improve public highway safety. The realignment and reconfiguration of Pentz Run shall be limited to 820-feet. The realignment and reconfiguration work shall include protective rock linings, vegetative stabilization and rock deflectors. The concrete box culvert shall be constructed with a minimum span of 24-feet, rise of 5.9-feet, stream channel depression of 0.5-feet and a skew of 55-degrees. The project not permanently impact wetlands while impacting 820-feet of Pentz Run and 20-feet of an unnamed tributary to Pentz Run. This permit also authorizes temporary stream and riparian corridor impacts for the construction, operation, maintenance and removal of temporary road crossings and stream diversions to accommodate construction activities.

E18-316. Ralph and Cheri Aungst, P. O. Box 402, Avis, PA 17721, 60 foot stream enclosure in Avis Borough, **Clinton County**, ACOE Baltimore District (Jersey Shore, PA Quadrangle N: 10.8 inches; W: 9.3 inches).

To construct and maintain a 42 inch high, 60 inch wide by 60 foot long culvert extension of an existing culvert under Reed Street in a tributary to Oak Grove Run. The project is located approximately 90 feet southeast of the intersection of Reed Street with Fox Street in Avis Borough, Clinton County.

E18-326. Dominion Transmission, Inc., Northern Area Headquarters, Route 3, Box 24T, Westfield, PA 16950. Gas Pipeline, in Leidy Township, **Clinton County**, ACOE Baltimore District (Tamarack, PA Quadrangle N: 7.5 inches; W: 11.75 inches).

To temporarily disturb 0.08 acre of palustrine emergent (PEM) exceptional value (EV) wetlands for the installation of a drip line and blowdown stack along the existing LP-601 gas pipeline. The wetlands will be completely restored upon completion of the project. The project is located on the east side of SR 144 approximately 6.7 miles north of the SR120 intersection in Leidy Township, Clinton County (Tamarack, PA Quadrangle N: 7.5 inches, W: 11.75 inches).

E41-489. Loyalsock Township, 2501 East Third Street, Williamsport, PA 17701. Water Obstruction and Encroachment Permit application, in Loyalsock Township, **Lycoming County**, ACOE Susquehanna River Basin District (Montoursville North, PA Quadrangle N: 2.28 inches; W: 11.39 inches).

To operate and maintain a flood control project consisting of 490 linear feet of 18' x 6' reinforced concrete box culvert from Edercrest Road to the south side of SR 0220, 260 feet of channel improvement from the inlet of the box culvert upstream, 570 feet of channel improvement and rip-rap protection downstream of the box culvert in Bull Run, all of which are located in Loyalsock Township, Lycoming County.

E49-252. Shamokin Township Supervisors, R. R. 1, Box 459, Paxinos, PA 17860. Culvert Work, in Shamokin Township, **Northumberland County**, ACOE Baltimore District (Shamokin, PA Quadrangle N: 17.3 inches; W: 14.4 inches).

To remove two 4 foot diameter corrugated metal pipe culverts and to construct and maintain twin corrugated metal pipe arches both having a span of 6.42 feet and a rise of 4.33 feet by 30 feet long with R5 riprap inlet and outlet bank protection depressed 6-inches in Lick Creek on T-758 about 4,000 feet from the intersection of T-758 with Route 61 near Meadowview in Shamokin Township, Northumberland County. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E60-150. Union County Industrial Railroad Company, 356 Priestley Avenue, Northumberland, PA 17857. Maintenance permit for Culverts, in White Deer Township, **Union County**, ACOE Baltimore District (Milton, PA Quadrangle N: 3.19 inches; W: 15.97 inches).

The permit application proposes to obtain a maintenance permit for a 12-foot stone arch enclosure with a distance of 465 linear feet and a 60 inch corrugated plastic pipe enclosure measuring 250 linear feet on an unnamed tributary to the West Branch of the Susquehanna River.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-776-A1. Kasko Enterprises, Incorporated, 136 Bunola Road, Monongahela, PA 15063. Forward Township, **Allegheny County**, ACOE Pittsburgh District.

To amend Permit No. E02-776 to remove the existing boat docking facility and to construct and maintain a new boat docking facility approximately 983.0 feet in length with a maximum width of 233.0 feet in the channel of and along the right bank of the Monongahela River and to perform perpetual maintenance dredging. The project is located near Mile Point 32.1 at the Monterey Restaurant and Marina (Monongahela, PA Quadrangle N: 14.1 inches; W: 6.2 inches).

E02-1177-A1. Leetsdale Industrial Corporation, 100 Leetsdale Industrial Drive, Leetsdale, PA 15056. Leetsdale Borough, **Allegheny County**, ACOE Pittsburgh District.

To amend Permit No. E02-1177 to include the construction and maintenance of a 48-inch diameter reinforced concrete stormwater outfall pipe to the Ohio River (Ambridge, PA Quadrangle N: 11.5 inches; W: 13.0 inches).

E26-281. Geno M. Tiberi and Michael A. Lewis, 1399 McClellandtown Road, McClellandtown, PA 15458. Masontown Borough, **Fayette County**, ACOE Pittsburgh District.

To construct and maintain a floating boat dock, having a total length of 203 feet and a width of 38 feet and a 70 feet long by 12 feet wide boat launch in Monongahela River (WWF). The project is located on the east bank, 60

feet downstream from the S.R. 0021 Bridge (Masontown, PA Quadrangle N: 18.75 inches; W: 7.12 inches).

E26-286, Duke Energy Fayette, LLC, 5400 Westheimer Court, Houston, TX 77056-5310. German Township, **Fayette County**, ACOE Pittsburgh District.

To construct and maintain: 1) a raw water intake and a wastewater outfall structures in the right bank of the Monongahela River (WWF) located at River Mile 78; 2) two pipe line stream crossings under the channel bed of an unnamed tributary to Monongahela River (WWF); 3) two stream enclosures totaling 410 linear feet and utility line crossings in another unnamed tributary to the Monongahela River for an access road and utility service. Also, to place and maintain fill in 0.05 acre of wetland. The purpose of the project is to construct and operate an electrical generation facility (Masontown, PA Quadrangle N: 21.25 inches; W: 7.73 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-341, Northwest Savings Bank, 108 Liberty Street, Warren, PA 16365. Northwest Savings Bank Retaining Wall Along Tributary to Little Buffalo Creek, in Buffalo Township, **Butler County**, ACOE Pittsburgh District (Freeport, PA Quadrangle N: 13.5 inches; W: 13.0 inches).

To construct and maintain a retaining wall, having a maximum height of 12 feet and associated fill within the left 50-foot floodway of a tributary to Little Buffalo Creek and a de minimis area (0.02 acre) of adjacent wetland, extending a total of approximately 250 feet downstream from S.R. 356, south of S.R. 2015 for construction of a Northwest Savings Bank building, associated driveway, parking lot, stormwater detention basin outfall and emergency spillway.

E20-505, Pennsylvania Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. S.R. 4012, Segment 0140, Offset 0000 Across Conneaut Creek in Spring Township, **Crawford County**, ACOE Pittsburgh District (Beaver Center, PA Quadrangle N: 11.9 inches; W: 1.7 inches).

To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear, normal span of 100 feet and a maximum underclearance of 14.9 feet across Conneaut Creek on S.R. 4012, Segment 0140, Offset 0000 approximately 0.5 mile west of S.R. 18.

E20-510, Pennsylvania Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. I-79 across a tributary to French Creek, in Union Township, **Crawford County**, ACOE Pittsburgh District (Geneva, PA Quadrangle N: 16.7 inches; W: 6.3 inches).

To remove the existing three span bridges and to construct and maintain prestressed concrete I-beam bridges across a tributary to French Creek on I-79 approximately 3 miles north of S.R. 285. The northbound structure has two bearing-to-bearing spans of 47.24 meters (155 feet) and an underclearance of 14.63 meters (48 feet). The southbound structure has two bearing-to-bearing spans of 44.96 meters (147.5 feet) and an underclearance of 14.63 meters (48 feet).

E33-204, Brockway Borough, 501 Main Street, Brockway, PA 15824. Little Toby Creek Stream Restoration Project, in Brockway Borough, **Jefferson County**, ACOE Pittsburgh District (Falls Creek, PA Quadrangle N: 21.0 inches; W: 4.6 inches).

To construct and maintain a stream bank restoration project in/along a total reach of approximately 2,000 feet of Little Toby Creek (CWF) extending downstream from the confluence of Rattlesnake Creek including the following:

1. Remove three gravel bars having a total combined length of approximately 510 feet.

2. Install root wad and live stake bank protection at nine areas having a total combined length of approximately 1280 feet.

3. Regrade the bank and install live stake bank stabilization at one location measuring approximately 80 feet in length.

Install woody debris and rock riprap as backfill at two locations.

ENVIRONMENTAL ASSESSMENTS

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

EA02-006SW, U. S. Steel, LLC, 600 Grant Street, Pittsburgh, PA 15219-2749. West Mifflin Borough, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a Passive Water Quality Restoration Treatment System for acid mine discharges and slag leachate, in and along an unnamed tributary of Streets Run in the Borough of West Mifflin, Allegheny County, has been reviewed by the Department. The system consists of a slag-lined basin, a mixing area and two constructed treatment wetlands which will disturb approximately 0.21 acre of wetlands and 300 feet of stream channel. The project is located along and unnamed tributary of Streets Run on the U. S. Steel North Taylor landfill property. The wetland replacement obligation for 0.21 acre of wetland impact has been met by a monetary contribution in the amount of \$2,500 to the National Fish and Wildlife Foundation (Glassport, PA Quadrangle N: 19.4 inches; W: 10.2 inches).

SPECIAL NOTICES

Request for Proposals for Municipal Solid Waste Capacity

Mifflin County Solid Waste Authority and Mifflin County Planning and Development Department

Solicitation of Interest for Municipal Solid Waste Disposal Services

The following notice is placed through the Department of Environmental Protection (DEP) as required by section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act (35 P. S. § 4000.502).

In accordance with section 272 of the Pennsylvania Solid Waste Rules and Regulations (as amended), the County of Mifflin is required to ensure sufficient disposal capacity for municipal solid waste (MSW), including construction/demolition (C/D) waste and sewage sludge for at least 10 years. The County's existing Barner Landfill is anticipated to reach permitted capacity in 2004. Therefore, the County has determined that alternative waste disposal capacity will be required following closure of the Barner Landfill for a minimum period of 8 years and a maximum of 10 years. The County is distributing this Solicitation of Interest to determine the regional disposal facilities interested in providing future services for disposal of Mifflin County generated municipal solid waste beginning in 2004.

There are two potential disposal alternatives for Mifflin County in this solicitation. The first alternative is disposal of MSW, including C/D waste and sewage sludge as delivered to the gate of the disposal facility. The second alternative includes both the disposal of and hauling of MSW, including C/D waste and sewage sludge from a centrally located open-top transfer station near Lewistown, PA. Capital and operating costs for this proposed transfer facility are not included in the scope of this solicitation; however this alternative should include capital and operating costs of the open-top transfer tractors and trailers. Both alternatives could also include residual waste disposal services.

Copies of the Solicitation of Interest package will be provided upon request. Copies will be provided free-of-charge on or after November 1, 2001, by the Mifflin County Planning and Development Department, County Courthouse, 20 North Wayne Street, Lewistown, PA, (717) 242-0887.

Returned Solicitation of Interest packages will be received by the Mifflin County Solid Waste Authority and the Mifflin County Planning and Development Department at the Mifflin County Courthouse, 20 North Wayne Street, Lewistown, PA 17044 until 4 p.m., December 3, 2001. Information obtained from the distribution of and response to this solicitation will be used to gauge the number of eligible disposal facilities that are willing to accept MSW from Mifflin County. Responses from each disposal facility will be reviewed to assist in the solid waste management planning efforts for long-term solid waste disposal assurance for the County as required by DEP and Act 101 for the Solid Waste Management Plan Update for Mifflin County.

Envelopes containing the Solicitation of Interest package must be clearly labeled to show the name and address of the responding disposal facility and be addressed to Mifflin County Planning and Development Department, Mifflin County Courthouse, 20 North Wayne Street, Lewistown, PA 17044, Attention: William Gomes, Planning Director.

Contact Terry Keene of Gannett Fleming, the consultant assisting Mifflin County on this project, at (717) 763-7211 extension 2499 with specific questions regarding this solicitation.

Submission Deadline for Application for Reimbursement for Certified Host Municipality Inspectors under Act 101 and Act 108

The Department of Environmental Protection (Department) hereby announces the submission deadline for 2001 Host Municipality Inspector Program Reimbursement Applications as April 1, 2002. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) (Act 101) and the Hazardous Sites Cleanup Act (35 P. S. §§ 6019.1—6019.6) (Act 108). Municipalities include cities, boroughs, incorporated towns, townships and home rule municipalities.

Reimbursements are allocated from the Recycling Fund authorized under Act 101 for municipal waste facilities or from the Hazardous Sites Cleanup Fund under Act 108 for hazardous waste facilities. Reimbursements are available to any municipality that has a municipal waste landfill, resource recovery or commercial hazardous waste storage, treatment and disposal facilities located within its geographic borders. Upon application from any host municipality, the Department shall award reimbursements for authorized costs incurred for the salary and

expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50% of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If the municipality does not receive, but requires an application, or needs to ask questions, contact the Program Development Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870.

The deadline for submitting applications is 4:30 p.m. on April 1, 2002. Applications received by the Department after the deadline will not be considered.

[Pa.B. Doc. No. 01-2139. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Sewickley Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Sewickley Valley Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission topography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2140. Filed for public inspection November 30, 2001, 9:00 a.m.]

Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under the Pennsylvania Cancer Control, Prevention, and Research Act at 35 P. S. § 5633, will hold a meeting via conference call on November 26, 2001, from 2 p.m. to 3:30 p.m. at the Department of Health, Room 1011, Health and Welfare Building, Harrisburg, PA. This meeting is a continuation of the meeting that was held on September 13, 2001.

For additional information contact Susan F. George, Program Manager, Department of Health, Cancer Control Program, Room 1011 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5251.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Susan F. George at (717) 787-5251, V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2141. Filed for public inspection November 30, 2001, 9:00 a.m.]

Rate Adjustment

Under 42 Pa.C.S. § 6152 (relating to subpoena of records) the Secretary of Health is directed to adjust annually the amounts which may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charges or records. Under 42 Pa.C.S. § 6152.1 (relating to limit on changes), the Secretary is directed to make a similar adjustment to the flat fee which may be charged by a health care facility or health care provider for the expense of reproducing medical charts or records where the request is: (1) for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or State financial needs based benefit program; or (2) made by a district attorney.

The Secretary is directed to base these adjustments on the most recent changes in the consumer price index reported annually by the Bureau of Labor Statistics of the United States Department of Labor. For the annual period of October 30, 2000, through October 30, 2001, the consumer price index was 2.1%.

Accordingly, the Secretary provides notice that, effective January 1, 2002, the following payments may be charged by a health care facility or health care provider for production of records in response to subpoena or request:

Search and retrieval of records:	Not to exceed \$16.24
Amount charged per page for pages 1-20 \$ 1.09
Amount charged per page for pages 21-60 \$.82
Amount charged per page for pages 61-end \$.28
Amount charged per page for microfilm copies	... \$ 1.62

Flat fee for production of records to support claims under Social Security Act or claims under other Federal or State financial needs based benefit programs \$20.57

Flat fee for supplying records requested by a District Attorney \$16.24

In addition to the amounts listed previously, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

Questions or inquiries concerning this notice should be sent to: James T. Steele, Jr., Deputy Chief Counsel, Room 825 Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2142. Filed for public inspection November 30, 2001, 9:00 a.m.]

Requests for Exception for Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Brethern Home Community
2990 Carlisle Pike
P. O. Box 128
New Oxford, PA 17350-0128

ManorCare Health Services—Jersey Shore
1008 Thompson Street
Jersey Shore, PA 17740

These requests are on file with the Department. Persons may receive a copy of the request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, e-mail address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2143. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF REVENUE

Revised Revenue-Neutral Reconciliation Rate Notice

Section 2810(a) of 66 Pa.C.S. provides "It is the intention of the General Assembly that the restructuring of the electric industry be accomplished in a manner that allows Pennsylvania to enjoy the benefits of competition, promotes the competitiveness of Pennsylvania's electric utilities and maintains revenue neutrality to the Commonwealth. This section is not intended to cause a shift in proportional tax obligations among customer classes or individual electric distribution companies. It is the intention of the General Assembly to establish this revenue replacement at a level necessary to recoup losses that may result from the restructuring of the electric industry and the transition thereto."

Section 2810(c) of 66 Pa.C.S. requires the Secretary of Revenue to publish the rate of the revenue-neutral reconciliation (RNR) tax in the form of a notice in the *Pennsylvania Bulletin* by December 1, 1998, and each October 1 thereafter until and including October 1, 2002. The tax rate established in 66 Pa.C.S. § 2810(c) shall be imposed upon gross receipts as provided in 66 Pa.C.S. § 2810(b) for the period beginning the next January 1. In the event the RNR tax rate is negative, a credit is provided under 66 Pa.C.S. § 2810(c)(5). This credit is available only to a taxpayer upon which tax is imposed under 66 Pa.C.S. § 2810(b).

This notice is a revision of the original RNR tax rate calculation for tax year 2002 of +0.016 that was published at 31 Pa.B. 5507 (September 29, 2001). The revision was necessary for two reasons. First, the Pennsylvania Public Utility Commission submitted revised electric industry gross receipts data for calendar year 2000 to the Department of Revenue (Department) on November 8, 2001. Second, electric industry officials submitted additional information to the Department for consideration in calculating the RNR after the original publication of the RNR rate. Based on the industry information, the Department identified additional tax payments that should be included in the RNR calculation.

Based on the Department's revised calculation, the result of the RNR calculation provided in 66 Pa.C.S. § 2810 is +0.015 for tax periods beginning on or after January 1, 2002. Therefore, the combined utility gross receipts tax rate for electric distribution companies and electric generation suppliers is effectively 0.059 for tax periods beginning on or after January 1, 2002, rather than 0.044.

The utility gross receipts tax rate, however, remains 0.050 for all gross receipts taxable under section 1101(a) of the TRC (72 P. S. § 8101(a)).

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-2144. Filed for public inspection November 30, 2001, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Decentralized Certificate of Salvage Services

The purpose of this notice is to solicit letters of interest from salvage auctions to participate in the decentralized certificate of salvage services program.

The Department of Transportation (Department) is soliciting expressions of interest from salvage auctions for applications to provide decentralized certificate of salvage services to Department customers. This solicitation will expand the number of participants in an existing Department program for private sector, decentralized services for motor vehicle transactions.

For the certificate of salvage program, the Department will select up to two new sites for online messenger salvage auctions to provide certificates of salvage to customers by their connection to the Department's mainframe computer. The selected vendors will provide face-to-face services to customers at Department-approved locations. To be eligible for consideration, applicants must be authorized messenger services or be pending appointment at the time of application and shall not have been sanctioned by either the Department or the State Police since March 31, 1998.

The term of the contract resulting from this procurement will be 5 years, from April 1, 2002, to April 1, 2007. Interested salvage auctions may obtain a copy of the application procedures and program requirements by contacting Sue Wilson, 1101 South Front Street, 1st floor, Riverfront Office Center, Harrisburg, PA 17104, (717) 787-4291.

Prospective applicants must submit questions in writing to Sue Wilson by 4 p.m. on December 24, 2001. The Department will address all questions from prospective applicants at a meeting at 10 a.m. on January 7, 2002, on the 4th floor of the Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104. The Department must receive the completed applications by February 1, 2002. Mail applications to: Bureau of Motor Vehicles, Attn.: Sue Wilson, 1101 South Front Street, 1st floor, Riverfront Office Center, Harrisburg, PA 17104.

The Department will not consider applications received after February 1, 2002.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 01-2145. Filed for public inspection November 30, 2001, 9:00 a.m.]

PennDOT Toolbox for Development of a Wayfinding Signing Region

The Department of Transportation, Bureau of Highway Safety and Traffic Engineering has developed a set of procedures for a geographic region to become a Tourist Signing Region. The procedures, known as the PennDOT Toolbox for Development of a Wayfinding Signing Region, guide the geographic regions through both a preliminary planning process and a final design process.

Inquiries and requests for copies of the Toolbox should be directed to Mark Alexander in the Bureau of Highway Safety and Traffic Engineering, P. O. Box 2047, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17105-2047, (717) 783-6261, fax: (717) 783-8012. The Toolbox is also available on the Department's web page at www.dot.state.pa.us.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 01-2146. Filed for public inspection November 30, 2001, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, November 15, 2001, and took the following actions:

Regulations Approved:

Department of Corrections #19-5: Administration and State Correctional Institutions and Facilities (amends 37 Pa. Code Chapters 91, 93 and 94).

State Board of Education #6-273: Academic Standards and Assessment (amends 22 Pa. Code Chapter 4).

Environmental Quality Board #7-346: Solvent Quality Board (amends 25 Pa. Code § 121.1 and rewrites 25 Pa. Code § 129.63).

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
November 15, 2001

Department of Corrections—Administration and State Correctional Institutions and Facilities; Regulation No. 19-5

On May 1, 2001, the Commission received this proposed regulation from the Department of Corrections (Department). This rulemaking amends 37 Pa. Code Chapters 91, 93 and 94. The proposed regulation was published in the May 12, 2001, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 22, 2001.

The Department is modifying outdated regulations and deleting regulations that do not affect the public. The amendments relate to: inmate correspondence and publications; procedures for families or friends to purchase products for inmates; monitoring of telephone calls; religious activities; and definitions.

We have determined this regulation is consistent with the statutory authority of the Department (71 P. S. § 186) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
November 15, 2001

Environmental Quality Board—Solvent Cleaning Operations; Regulation No. 7-346

On August 17, 1999, the Commission received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends § 121.1 of 25 Pa. Code Chapter 121 and rewrites § 129.63 of 25 Pa. Code Chapter 129. The proposed regulation was published in the August 28, 1999, *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on September 21, 2001. The EQB, by letter received October 3, 2001, withdrew the regulation. The EQB resubmitted a revised final-form regulation on October 19, 2001.

This regulation updates equipment requirements for the operation of solvent cleaning machines to make them consistent with current technology. It also specifies improved operating practices and establishes specific volatility limits for solvents used in cold cleaning machines. The intent of the regulation is to reduce VOCs that are emitted from solvent cleaning operations as part of the Commonwealth's plan to achieve and maintain the National Ambient Air Quality Standards for ozone in this Commonwealth.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. § 4005) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held
November 15, 2001

State Board of Education—Academic Standards and Assessment; Regulation No. 6-273

On April 11, 2001, the Commission received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 4. The proposed regulation was published in the April 21, 2001, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 12, 2001.

The regulation establishes specific academic standards for the subject areas of Science and Technology and Environment and Ecology. The standards describe what students are expected to know by the end of the fourth, seventh, tenth and twelfth grades.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. § 26-2603-B(k)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory

Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-2147. Filed for public inspection November 30, 2001, 9:00 a.m.]

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Omit

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
12-61	Department of Labor and Industry Special Rules of Administrative Practice and Procedure before the Workers' Compensation Appeal Board; Special Rules of Administrative Practice and Procedure before the Workers' Compensation Judges	11/16/01

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-2148. Filed for public inspection November 30, 2001, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for a Certificate of Authority for a New Domestic Insurance Company

Lackawanna American Insurance Company has applied for a Certificate of Authority to operate as a domestic stock casualty insurance company in this Commonwealth. The initial filing was received on October 29, 2001, and was made under the requirements set forth under the Business Corporation Law of 1988 (15 Pa.C.S. § 1 et seq.). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority to the applicant are invited to submit a written statement to the Insurance Department (Department) within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Stephanie A. Ohnmacht, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120; fax (717) 787-8557; e-mail sohnmacht@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2149. Filed for public inspection November 30, 2001, 9:00 a.m.]

Disclosure of Departures from Codified Statutory Accounting Principles; Notice 2001-10

The National Association of Insurance Commissioners (NAIC) adopted codified statutory accounting principles in March 1998. By Insurance Department Notice Nos. 1998-04 and 2000-02, all types of domestic insurers were advised of the requirement to adhere to the NAIC's codified *Accounting Practices and Procedures Manual* (Manual) in preparing financial statements to be filed with the Insurance Department (Department) beginning with quarterly financial statements filed as of March 31, 2001. The Manual is not intended to preempt the legislative and regulatory authority of the states. It is intended to establish a comprehensive basis of accounting to be recognized and adhered to if not in conflict with the statutes or regulations of an insurer's domiciliary state (for example, state laws relating to permissible investments) or when the domiciliary state's statutes and regulations are silent.

This notice is to advise all domestic insurers that the Department has identified the following Commonwealth laws and regulations relating to statutory financial statement presentation that may require disclosure as a departure from the Manual in the notes to financial statements and CPA audit reports¹:

Commonwealth Laws and Regulations

31 Pa. Code Chapter 116 (relating to discounting of worker's compensation loss reserves)

31 Pa. Code Chapter 118 (relating to discounting of medical malpractice loss reserves)

NAIC Statements of Statutory Accounting Principles (SSAP) and Appendices

SSAP No. 55 Unpaid Claims, Losses and Loss Adjustment Expenses and SSAP No. 65 Property and Casualty Contracts

SSAP No. 55 Unpaid Claims, Losses and Loss Adjustment Expenses and SSAP No. 65 Property and Casualty Contracts

¹See SSAP No. 1, Disclosure of Accounting Policies, Risks & Uncertainties, and Other Disclosures in the Manual.

Commonwealth Laws and Regulations

31 Pa. Code Chapter 84a (relating to minimum reserve standards for individual and group health and accident insurance contracts)

31 Pa. Code § 73.138 (relating to financial statement reserves)

Section 320.1(b)(2) of The Insurance Company Law of 1921 (40 P. S. § 443.1(b)(2))

Sections 322.1 and 809 of The Insurance Company Law of 1921 (40 P. S. §§ 445.1 and 919) and 31 Pa. Code Chapter 105 (relating to advances made to companies other than Mutual Life)

Section 1405 of The Insurance Company Law of 1921 (40 P. S. § 991.1405)

31 Pa. Code §§ 89.901—89.921

Sections 714—716 of The Insurance Company Law of 1921 (40 P. S. §§ 910-14—910-16)

Order of the Insurance Commissioner dated April 18, 1996² (relating to prepaid premium taxes)

Section 661 of The Insurance Company Law of 1921 (40 P. S. § 832)

Section 1008 of The Insurance Company Law of 1921 (40 P. S. § 968)

31 Pa. Code § 161.8 (relating to credit for reinsurance ceded to alien nonaffiliated insurers which write no primary coverages in the United States)

Department Notice No. 94-14. Separate Account Modified Guaranteed Life Insurance

NAIC Statements of Statutory Accounting Principles (SSAP) and Appendices

SSAP No. 54 Individual and Group Accident and Health Contracts and Appendix A-010 Minimum Reserve Standards for Individual and Group Health Insurance Contracts

SSAP No. 59 Credit Life and Accident and Health Insurance Contracts

SSAP No. 25 Accounting for and Disclosures about Transactions with Affiliates and Other Related Parties

SSAP No. 41 Surplus Notes

Appendix A—440 Insurance Holding Companies

Appendix A—641 Long-Term Care Insurance

SSAP No. 57 Title Insurance and Appendix A-628 Title Insurance

SSAP No. 20 Nonadmitted Assets³

SSAP No. 55 Unpaid Claims, Losses and Loss Adjustment Expenses and SSAP No. 65 Property and Casualty Contracts

SSAP No. 53 Property Casualty Contracts—Premiums

SSAP No. 62 Property and Casualty Reinsurance

Appendix A—588 Modified Guaranteed Life Insurance

The laws and regulations referenced in this notice are not intended to be an all-inclusive list. This notice is intended only to provide general guidance in the review of Commonwealth laws and regulations for purposes of required disclosures in financial statements and CPA audit reports. Questions concerning this notice may be directed to Stephen J. Johnson, CPA, Deputy Insurance Commissioner, Office of Regulation of Companies, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 783-2142, fax: (717) 787-8557, e-mail: stjohanson@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

²See the Department's Financial Statement Filing Instructions on the Department's website for the Note related to prepaid premium taxes.

³The NAIC working group charged to maintain the Manual will be reconsidering the nonadmissibility of prepaid premium taxes.

[Pa.B. Doc. No. 01-2150. Filed for public inspection November 30, 2001, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional offices in Harrisburg, Pittsburgh and Philadelphia, PA. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Rhonda Slusser and Floyd Stephenson; file no. 56-167-1030; Progressive Insurance Company; doc. no. P01-11-013; January 2, 2002, at 1:30 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Sarah R. Lang; file no. 01-308-72939; GE Auto & Home Assurance Company; doc. no. PI01-11-014; January 3, 2002, at 1 p.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Ignacio Setien; file no. 01-182-06675; Halcyon Insurance Company; doc. no. PH01-11-010; April 16, 2002, at 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring

documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (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 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 may be 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. 01-2151. Filed for public inspection November 30, 2001, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurers have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Keystone Insurance Company; file no. 01-182-06951; Joseph Elie; doc. no. PH01-11-009; April 16, 2002, at 1 p.m.

Appeal of Keystone Insurance Company and AAA Mid-Atlantic Insurance Company; file no. 01-182-06876; Jack and Joe Elie; doc. no. PH01-11-008; April 16, 2002, at 2 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's

case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (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 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 may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-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. 01-2152. Filed for public inspection November 30, 2001, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insureds' policies. These administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by the appellants to appear at the scheduled hearings may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Manuel Rosa; file no. 01-182-07658; State Farm Fire Casualty Company; doc. no. P01-11-012; December 12, 2001, at 1 p.m.

Appeal of Donald E. Snively; file no. 01-181-07253; American Motorists Insurance Company; doc. no. P01-11-011; December 27, 2001, at 1 p.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Doris J. Love; file no. 01-182-06766; State Farm Fire and Casualty Insurance Company; doc. no. PH01-10-047; April 15, 2002, at 3 p.m.

Appeal of Richard and Claire Cairns; file no. 01-265-03690; Shelby Insurance Company; doc. no. PH01-10-049; April 16, 2002, at 3 p.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.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (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 may be 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. 01-2153. Filed for public inspection November 30, 2001, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insured's policies. The administrative hearing will be held in the Insurance Department's regional offices in Philadelphia, PA. Failure by the appellants to appear at the scheduled hearings may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of White Hall Mutual Insurance Company; file no. 01-182-06971; David and Tracy Toma; doc. no. PH01-10-046; April 15, 2002, at 1 p.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.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (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 may be 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. 01-2154. Filed for public inspection November 30, 2001, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Philadelphia County, Wine & Spirits Shoppe #9105, 4600 Lancaster Avenue, Philadelphia, PA 19131.

Lease Expiration Date: March 31, 2002

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within a 1/4 mile radius of the intersection of Lancaster Avenue and 46th Street, Philadelphia.

Proposals due: December 21, 2001, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: James M. Bradley, (215) 482-9673

Lehigh County, Wine & Spirits Shoppe #3920, East Penn Plaza, 1325 Chestnut Street, Emmaus, PA 18049-1918.

Lease Expiration Date: March 31, 2004

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,400 to 5,400 net useable square feet of new or existing retail commercial space along Route 29 within a 1/4 mile radius of the intersection of Chestnut Street and Green Drive, Emmaus Borough.

Proposals due: December 21, 2001, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661.
Contact: Ronald Hancher, Jr., (717) 657-4228

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 01-2155. Filed for public inspection November 30, 2001, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Request for Proposals

The Pennsylvania Infrastructure Investment Authority (PENNVEST) is requesting proposals to provide full financial advisory services over a 4-year period for all of

PENNVEST's drinking water, wastewater and stormwater financing programs, including the State Revolving Funds set up under the Title VI of the Clean Water Act and the Drinking Water Act, as amended. The request for proposals will be available on December 1, 2001, and can be obtained from Elaine Keisling, Director of Administrative Services, (717) 783-4498, PENNVEST, 22 South Third Street, Harrisburg, PA 17101. PENNVEST is an equal opportunity employer. Contractor will be required to comply with all applicable equal employment opportunity laws and regulations.

Department: Pennsylvania Infrastructure Investment Authority
Location: 22 South Third Street, Harrisburg, PA 17101
Duration: Four years
Contact: Elaine Keisling/Jerry Allen, (717) 783-4494

PAUL K. MARCHETTI,
Executive Director

[Pa.B. Doc. No. 01-2156. Filed for public inspection November 30, 2001, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications

A-311066F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Direct2Internet Corporation. Joint Petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Direct2Internet Corporation for approval of a master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Direct2Internet Corporation filed on November 9, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Direct2Internet Corporation Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2157. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-310478F7001. Verizon North Inc. and Advanced Telephone Systems, Inc. d/b/a HTC Communications. Joint Petition of Verizon North Inc. and Advanced Telephone Systems, Inc. d/b/a HTC Communications for approval of executed MFN adoption of replacement interconnection, resale and unbundling agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North Inc. and Advanced Telephone Systems, Inc. d/b/a HTC Communications filed on November 15, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Advanced Telephone Systems, Inc. d/b/a HTC Communications Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2158. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-310738F7001. Verizon North Inc. and D&E Systems, Inc. Joint Petition of Verizon North Inc. and D&E Systems, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and D&E Systems, Inc. filed on November 7, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and D&E Systems, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2159. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-310403F7001. Verizon North Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All (Telefonos Para Todos). Joint Petition of Verizon North Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All (Telefonos Para Todos) for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All (Telefonos Para Todos) filed on November 5, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All (Telefonos Para Todos) Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2160. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-311148F7000. Verizon Pennsylvania Inc. and Network Services, LLC. Joint Petition of Verizon Pennsylvania Inc. and Network Services, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Network Services, LLC filed on November 8, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Network Services, LLC Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2161. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-311149F7000. Verizon Pennsylvania Inc. and NPCR, Inc. d/b/a Nextel Partners. Joint Petition of Verizon Pennsylvania Inc. and NPCR, Inc. d/b/a Nextel Partners for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and NPCR, Inc. d/b/a Nextel Partners filed on November 13, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and NPCR, Inc. d/b/a Nextel Partners Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2162. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-310403F7000. Verizon Pennsylvania Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All. Joint Petition of Verizon Pennsylvania Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All for approval of an interconnection agreement replacing the resale agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All filed on November 7, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Preferred Carrier Services, Inc. d/b/a Phones for All Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2163. Filed for public inspection November 30, 2001, 9:00 a.m.]

Telecommunications

A-310706F7000. Verizon Pennsylvania Inc. and Z-Tel Communications, Inc. Joint Petition of Verizon Pennsylvania Inc. and Z-Tel Communications, Inc. for approval of a replacement interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Z-Tel Communications, Inc. filed on November 9, 2001, at the Pennsylvania Public Utility Commission (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. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Z-Tel Communications, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2164. Filed for public inspection November 30, 2001, 9:00 a.m.]

STATE BOARD OF EDUCATION

Petitions to Approve Sponsorship and Withdraw Sponsorship of the Community College of Beaver County

The State Board of Education (Board) has received two petitions regarding the sponsorship of the Community College of Beaver County (College). Both petitions seek action by the Board under section 1910-A of the Public School Code of 1949 (24 P. S. § 19-1910-A). The petitions have been submitted to the Board in concert and inherently can be disposed of by the Board only as one matter.

In accordance with Article XIX-A of the Public School Code of 1949 (24 P. S. §§ 19-1901-A—19-1913-A), the College is currently sponsored locally by 11 school districts in Beaver County (County) under certain Articles of Agreement. Those school districts—each of which now seeks the Board's approval to withdraw its sponsorship of the College—are the School District of Aliquippa, the Ambridge Area School District, the School District of Big Beaver Falls, the School District of Center, the School District of Freedom, the Hopewell Area School District, the School District of Midland, the School District of Monaca, the School District of New Brighton, the School District of Riverside and the School District of Western Beaver. As approved by the Board, the school districts collectively act as the local sponsor of the College through certain Articles of Agreement.

In their petitions to withdraw sponsorship, the school districts have asked the Board to approve their with-

drawal of sponsorship under section 1910-A of the Public School Code of 1949. The school districts' indicate in their petitions that, with County and the College, they have entered into an Assumption of Sponsorship Agreement under which, effective July 1, 2002 (assuming Board approval), the County will assume the role of sole legal sponsor of the College and the school districts will relinquish their role and authority to act as local sponsor of the College. In addition, the school districts state the County and the College have entered into Articles of Agreement governing the County's sponsorship of the College effective July 1, 2002. The school districts assert that the change of sponsorship will continue and enhance the mission, goals, philosophy, operation and continuity of the College. Each of the 11 school districts, all acting under resolutions adopted by their respective boards of school directors, have made their petitions to withdraw sponsorship contingent upon the submission and approval of petitions to withdraw by all of the school districts and the approval of the petition for sponsorship submitted by the County.

In its Petition to Approve Sponsorship, the County has indicated that it has announced its intention to become the local sponsor of the College by Resolution No. 062801-52 (dated June 28, 2001). The County also cites to the Assumption of Sponsorship Agreement and the new Articles of Agreement in support of their contention that the Board's approval of the County as the sole local sponsor of the College will continue and enhance the mission, goals, philosophy, operation and continuity of the College. In its petition to approve sponsorship, the County represents that "[t]he plan for the continuing operation of the College will be as it existed in the past, implemented and enhanced by the plans for the transition to new sponsor as presented to [the] Board and as embodied in the Assumption of Sponsorship Agreement and Articles of Agreement . . ." Petition to Approve Sponsorship, at ¶ 9. Like the school districts' petitions to withdraw sponsorship, the County's petition to approve sponsorship is contingent upon the submission and approval of petitions to withdraw by all of the school districts.

The Board plans to take action on the petitions at its next public meeting, January 17, 2002. The Board will take action on the petitions at its next public meeting unless it should receive a timely written request for public hearing, along with a notice of intervention, a petition to intervene or protest, filed in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—25.32 (relating to intervention). Interested persons are also invited to submit written comments regarding the petitions to the Board. Copies of the Petition to Approve Sponsorship and the Petitions to Withdraw Sponsorship can be obtained from Dr. Peter Garland.

Public comment, requests for public hearing, petitions to intervene and protests must be filed with the Board within 14 days of publication of this notice in the *Pennsylvania Bulletin* and should be addressed to Dr. Peter H. Garland, Executive Director, State Board of Education, First Floor, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787.

Persons with disabilities who wish to attend the Board meeting, or hearing if one is held, and require an

auxiliary aid, service or other accommodations to participate should contact Dr. Garland to discuss how the Board might best accommodate their needs.

PETER H. GARLAND,
Executive Director

[Pa.B. Doc. No. 01-2165. Filed for public inspection November 30, 2001, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Engineering or Construction Management Firm

Construction Inspection/Project Management Services for the Replacement of the Susquehanna River Bridge and Approach Roadway Reconstruction York and Dauphin Counties

Reference No. 3-146

The Turnpike Commission (Commission) will retain an Engineering or Construction Management firm for constructability analysis, construction inspection, management, administration and documentation for the Replacement of the Susquehanna River Bridge and approach Roadway Reconstruction between approximate Mileposts 245.00 and 247.50 in York and Dauphin Counties. The selected firm will be expected to provide extensive coordination efforts between several construction contracts during construction as well as providing coordination with respect to constructability during the development and design of this project. The Commission will retain the designer of the segmental structure under separate contract for technical assistance, site and plant inspection, and consultation of the precast segmental structure during construction.

Construction will include the replacement of the existing structure crossing the Susquehanna River at Milepost 245.72 with dual precast concrete segmental structures. The estimated total lengths of the replacement structures are approximately 5,765 feet each. The out-to-out deck width of each of the dual structures will be approximately 55 feet. The new river crossing will be on a new alignment, north of the existing alignment, extending from the west shore of the Susquehanna River to the east of S.R. 0230. Construction will also include reconstruction of the roadway on a new alignment, north of the existing alignment. Additional work includes the replacement of the mainline structure over S.R. 3001 (Eisenhower Boulevard), replacement of the ramp bridge at the Harrisburg-East Interchange and lengthening of the reinforced concrete box culvert over Laurel Run at Milepost 246.97. The total estimated cost of this construction is approximately \$100,000,000. The Consultant Agreement is anticipated to start in April 2002 and terminate in June 2007. Actual construction is anticipated to start in the summer of 2003.

Wrap-up insurance is expected to be utilized on this project. The Construction Management Firm will participate and be included under this insurance program.

The selected firm will be required to provide a approximately eight full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. The selected firm will be expected to participate in design and project development meetings. The selected

firm will be required to attend the prebid meeting and preconstruction conference, write all project correspondence and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Commission's Construction Documentation System to document the construction progress. The selected firm will also be expected to prepare current and final estimates for payment to contractors, prepare change orders, conduct monthly job conferences, monitor monthly progress, provide liaison with affected utilities and railroads, communities and the press, conduct semifinal and final inspections and determine the final quantities for each contract item. The Construction Management team will also be expected to handle public relation activities for the project, which would include but may not be limited to, development and maintenance of a project website, press conferences, answering customer questions, informational brochures and other duties as required.

It should be noted that the Commission may assign its field inspection personnel to this project as an addition to the Construction Management Firm's staff or in lieu of Construction Management's inspection staff on a temporary or permanent basis throughout the life of this project. The Construction Management Firm will be required to make any and all accommodations for Commission personnel.

Eighty percent of the inspection staff assigned to this Commission constructed project must meet the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies as a Transportation Engineering Technician—Construction Level 2 or higher.
2. Be registered as a professional engineer by the Commonwealth with 1 year highway inspection experience acceptable to the Commission.
3. Be certified as an Engineer-in-Training by the Commonwealth with 2 years of highway inspection experience acceptable to the Commission.
4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.
5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

Education—Graduation from high school or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for high school graduation.

Experience—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

The Commission reserves the right to place Commission personnel on the project to assist the Construction Manager with various Construction Management duties.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The Team must clearly demonstrate an ability to coordinate multiple construction contracts, completing the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Workload of the prime consultant and subconsultants for all Department of Transportation (Department) and Commission projects.

e. Other factors, if any, specific to the project.

The Commission is committed to the inclusion of disadvantaged, minority and women firms in contracting opportunities. The minimum participation level for DBE/MBE/WBEs in this contract will be 10% total. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in this contract, in their letter of interest. If the selected firm does not meet the minimum requirement for DBE/MBE/WBE participation, they will be required to demonstrate good faith efforts to achieve the required level. Proposed DBE/MBE/WBE firms must be certified by the Department at the time of the submission of the letter of interest. If further information is desired concerning DBE/MBE/WBE participation, direct inquiries to the Commission's Contracts Administration office by calling (717) 939-9551 Ext. 4241.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551 Ext. 5210 or by e-mail at mwagner@paturnpike.com. Contractual questions should be directed to George M. Hatalowich at (717) 986-8737 or by e-mail at ghatalow@paturnpike.com.

General Requirements and Information

Firms interested in providing the previous work and services are invited to submit a Statement of Interest with the required information. The Statements of Interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. If the firm has multiple offices, the location of the office performing the work must be identified.

2. A three-page statement of interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for this project and provide explanation of the technical approach, stressing the Team's ability to coordinate several construction contracts that were designed by different design consultants.

3. An organization chart for the Project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultant's listed in the statement of interest will require written approval from the Commission.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for all Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and attached to the back of the statement of interest (subconsultants to follow prime consultant):

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, either not more than 1 year old as of the date of the advertisement.

- Resumes of key personnel expected to be involved in the project (limit to two 8 1/2 x 11 pages, per person). Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.

- A copy of the Department's DBE/WBE Certification, if applicable.

If a Joint Venture responds to a project advertisement, the Commission will not accept separate statements of interest from joint venture constituents. A firm will not be permitted to submit a statement of interest on more than one 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 subconsultant to another firm that responds to the same project advertisement. Multiple responses under any of the forgoing situations will cause the rejection of all responses of the firm or firms involved. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the previous services are invited to submit a statement of interest and required information to George M. Hatalowich, Engineering Contract Manager, Turnpike Commission Administration Building located at 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The statement of interest and required information must be received by 12 p.m., Friday, December 21, 2001. Statements of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable statements of interest received in response to these solicitations, one firm will be selected for this project. The order of

preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Commission. Technical Proposals will not be requested prior to the establishment of the final ranking.

The Commission reserves the right to reject all statements of interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Chairperson

[Pa.B. Doc. No. 01-2166. Filed for public inspection November 30, 2001, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division
 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

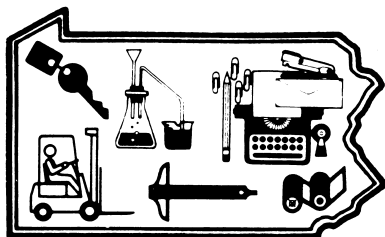
GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**

Pennsylvania State Treasury
Room G13 Finance Building
Harrisburg, PA 17120
717-787-2990
1-800-252-4700

BARBARA HAFER,
State Treasurer



Commodities

1135111 Rebid Mattress Ticking. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Dallas, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

E7890 12 ton capacity tandem axle, tilt bed trailer. To be an Etnyre CHP12TPS or approved equal.

Department: Conservation and Natural Resources
Location: Coudersport, Pennsylvania
Duration: One time purchase.
Contact: Deborah Kauffman, (717) 783-1896

State Bid #228 Paragon 3 Meter Ladder at rear of Diving Tower

Department: General Services
Location: Pennsylvania State University, Behrend College at Penn State, University Park, PA 16802
Duration: Due 12-3-01
Contact: Steven Blazer, (814) 865-5418

9550-10 Posts and Accessories. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: General Services
Location: All Using Agencies of the Commonwealth, PA
Duration: Contract Period 01/01/02 - 12/31/03
Contact: Vendor Services, (717) 787-2199

1167341 System of Interface Equipment. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: PA Public TV Network
Location: Hershey, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

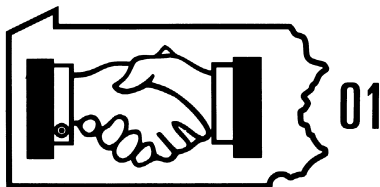
8540-01 Paper Towels and Tissues. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: General Services
Location: All Using Agencies of the Commonwealth
Duration: Contract Period 11/01/01 - 10/31/02
Contact: Vendor Services, (717) 787-2199

6515-06 Rebid in Part #1 Medical Gloves. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: All Using Agencies of the Commonwealth, PA
Duration: 11/01/00 - 10/31/02
Contact: Vendor Services, (717) 787-2199

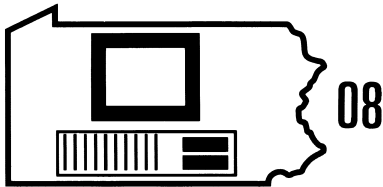
SERVICES



Advertising

350R12 The Department of Transportation is issuing a Request for Proposals to solicit contractors interested in providing "Public Information and Education-Related Services for Highway Safety and Traffic Mobility." Public information and education-related services may include, but are not limited to, defining and researching customer needs, behaviors, and problem areas; addressing identified areas via successful advertising campaigns, newsletters, brochures, posters, billboards, and computer-based presentations; and researching and evaluating the effectiveness of public information and education-related products/services/materials/campaigns. Interested contractors may request a copy of the RFP by FAXING their name, company name, address, telephone number, and FAX number to Vikki Mahoney at (717) 783-7971. Please reference RFP #350R12 on your request.

Department: Transportation
Location: Throughout the Commonwealth of Pennsylvania
Duration: 5 years
Contact: Darlene Greenawald, (717) 705-6476



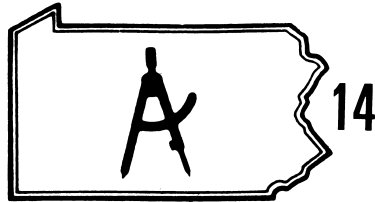
Computer Related Services

RFP No. 01-R-002 Design, development and implementation of a Statewide Uniform Registry of Electors.

Department: State

Location: Department of State, Bureau of Commissions, Elections & Legislation, Room 210, North Office Building, Harrisburg, PA 17120

Contact: Judith Holjes, (717) 787-3945



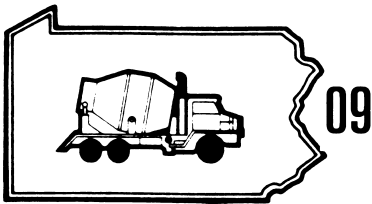
Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation

Location: Various

Contact: www.dot2.state.pa.us



Construction & Construction Maintenance

DGS A 1576-10 PROJECT TITLE: Replace Fire Alarm and Security Panels. **BRIEF DESCRIPTION:** Replace selected fire alarm and security panels in the facility and connect to the existing headend equipment. **ESTIMATED RANGE:** \$100,000.00 to \$200,000.00. **Electrical Construction. PLANS DEPOSIT:** \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid WEDNESDAY, December 19, 2001 AT 1 p.m.

Department: General Services

Location: State Correctional Institution, Frackville, Schuylkill County, PA

Duration: 150 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE.

Contact: Contract and Bidding Unit, (717) 787-6556

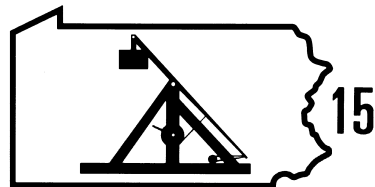
DGS 948-35 PHASE 4 PART A PROJECT TITLE: Main Switchgear Replacement. **BRIEF DESCRIPTION:** The work of this phase includes, without limiting, the removal and replacement of the Primary and Secondary Switchgear in the Forum Building. **ESTIMATED RANGE:** \$1,000,000.00 to \$2,000,000.00. **Electrical Construction. PLANS DEPOSIT:** \$50.00 per set payable to: BRINJAC ENGINEERING, INC. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$15.00 per set or provide your express mail account number to the office listed below. Mail requests to: Brenda Engineering, Inc., 114 N. 2nd Street, Harrisburg, PA 17110. Tel: (717) 233-4502. Bid WEDNESDAY, December 19, 2001 at 2 p.m. A Pre-Bid Conference has been scheduled for Thursday, November 29, 2001 at 10 a.m. in Room 512 of the Forum Building, Harrisburg, PA. Contact: Tim Werner with Reynolds Construction Management, Tel: (717) 230-8367. There will be a walk through immediately following the Pre-Bid Conference. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference and Walk Through.

Department: General Services

Location: Forum Building, Harrisburg, Dauphin County, PA

Duration: SEPTEMBER 26, 2002

Contact: Contract and Bidding Unit, (717) 787-6556



Environmental Maintenance Service

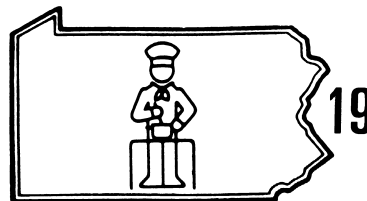
BF 458-101.1 Abandoned Mine Land Reclamation, Morcoal Company involves approximately 114,200 c.y. grading, and 20 acres seeding. Federal funds are available for this project from the Pennsylvania 2000 \$29.1 million AML Grant. This project issues November 30, 2001; payment in the amount of \$10.00 must be received before bid documents will be sent.

Department: Environmental Protection

Location: North Huntingdon Township, Westmoreland County

Duration: 250 calendar days after notice to proceed

Contact: Construction Contracts Section, (717) 783-7994



Food

5309 Misc. frozen foods to be delivered quarterly.

Department: Public Welfare

Location: Dietary Receiving, Torrance State Hospital, S.R. 1014, Torrance, PA 15779

Duration: April thru June, 2002

Contact: Nancy E. Byers, (724) 459-4677

5308 Meat & meat products to be delivered quarterly.

Department: Public Welfare

Location: Dietary Receiving, Torrance State Hospital, S.R. 1014, Torrance, PA 15779

Duration: April thru June, 2002

Contact: Nancy E. Byers, (724) 459-4677

5310 Poultry and poultry products to be delivered quarterly.

Department: Public Welfare

Location: Dietary Receiving, Torrance State Hospital, S.R. 1014, Torrance, PA 15779

Duration: April thru June, 2002

Contact: Nancy E. Byers, (724) 459-4677

11062 Milk and Cream Products

Department: Military Affairs

Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, Pa 16512-6239

Duration: January 1, 2002 thru December 31, 2002

Contact: Jenny Nowacinski, (814) 878-4930

1381021042 Provide emergency and routine repair for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 143 S Tulpehocken St., Pine Grove, PA 17963-1028
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021043 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 826 Crane Ave., Pittsburgh, PA 15216-3012
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021044 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 324 Emerson St., Pittsburgh, PA 15206-4298
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021045 Provide emergency and routine repair for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 747 W. Main St., P. O. Box 130, Plymouth, PA 18651-0130
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021046 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 747 W. Main St., P. O. Box 130, Plymouth, PA 18651-0130
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021017 Provide emergency and routine repair for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, R. D. 2, Box 152-B, Tamaqua, PA 18252-9683
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021021 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, Smythe Park, Mansfield, PA 16933-1596
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021025 Provide emergency and routine repair for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 490 E Main St., Nanticoke, PA 18634-1817
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021009 Provide emergency and routine repair for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 271 Washington St., East Stroudsburg, PA 18301-0343
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021011 Provide emergency and routine repair for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 108 Valley View Dr., Ford City, PA 16226-1219
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021013 Provide emergency and routine repair for roof repairs. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 14th & Calder Sts., Harrisburg, PA 17103-1297
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021006 Provide emergency and routine repair work for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 504 Cavalry Rd., Carlisle, PA 17013-1699
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021001 Provide emergency and routine repair work for air conditioning system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 1501 Allen St., Allentown, PA 18102-2098
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021003 Provide emergency and routine repair work for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, P. O. Box 483, 201 Pine St., Berwick, PA 18603-0483
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021005 Provide emergency and routine repair work for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 38 Barbour St., Bradford, PA 16701-1917
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021007 Provide emergency and routine repair work for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 1010 Lincoln Way, West Chambersburg, PA 17201-1912
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021008 Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 108 W. Washington Ave., Connellsville, PA 15425-4453
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021010 Provide emergency and routine repair for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 108 Valley View Dr., Ford City, PA 16226-1219
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021012 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 51 W. Clearview Rd., Hanover, PA 17331-1612
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021014 Provide emergency and routine repair for air conditioning system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 1720 E. Caracas Ave., Hershey, PA 17033-1195
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021015 Provide emergency and routine repair for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2392 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, R. D. 2, Box 152-B, Tamaqua, PA 18252-9683
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021016 Provide emergency and routine repair for electric system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

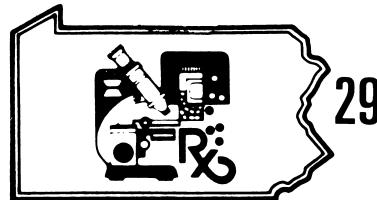
Department: Military Affairs
Location: PAARNG Armory, R. D. 2, Box 152-B, Tamaqua, PA 18252-9683
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021002 Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, P. O. Box 483, 201 Pine St., Berwick, PA 18603-0483
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579

1381021004 Provide emergency and routine repair work for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board and can be obtained by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, P. O. Box 483, 201 Pine St., Berwick, PA 18603-0483
Duration: 1 July 2002 - 30 June 2005
Contact: Vicky Lengel, (717) 861-8579



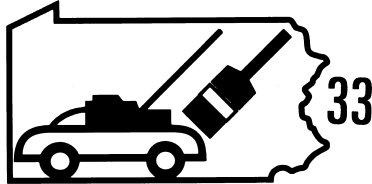
Medical Services

113-500 CONTRACTOR SHALL PROVIDE RENTAL OF OXYGEN THERAPY EQUIPMENT SUCH AS LIQUID OXYGEN PORTABLES, ON AN AS NEEDED BASIS FOR SOUTHWESTERN VETERANS CENTER. SPECIFICATIONS AVAILABLE UPON REQUEST.

Department: Military Affairs
Location: SOUTHWESTERN VETERANS CENTER, 7060 HIGHLAND DR., PITTSBURGH, PA 15206
Duration: 7/01/02-6/30/05
Contact: Ken Wilson, (412) 665-6727

113-0499 Contractor to provide basic life support and advance life ambulance services as required by Southwestern Veterans Center. Specifications available upon request.

Department: Military Affairs
Location: Southwestern Veterans Center, 7060 Highland Dr., Pittsburgh, PA 15206
Duration: 7/1/02-6/30/05
Contact: Ken Wilson, (412) 665-6727



Property Maintenance

1381021097 Provide emergency and routine repair work for roof repairs. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 229 Walnut St., Columbia, PA 17512-1021; PAARNG Armory, 438 N. Queen St., Lancaster, PA 17603-3099
Duration: 1 July 2002 - 30 Jun 2005
Contact: Vicky Lengel, (717) 861-8579

1381021098 Provide emergency and routine repair work for roof repairs. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

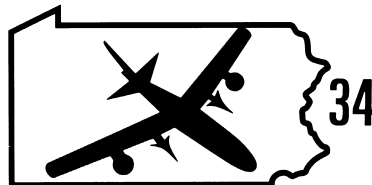
Department: Military Affairs
Location: PAARNG Armory, R. D. #1 Rte. 664, Lock Haven, PA 17745; PAARNG Armory, 1307 Grove St., Williamsport, PA 17701-2497
Duration: 1 July 2002 - 30 Jun 2005
Contact: Vicky Lengel, (717) 861-8579

1381021099 Provide emergency and routine repair work for roof repairs. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from State Armory Board by faxing a request to (717) 861-2932 or via e-mail to vlengel@state.pa.us.

Department: Military Affairs
Location: PAARNG Armory, 520 N. Centre St., Pottsville, PA 17901-1702; PAARNG Armory, P. O. Box B, US Rte. 209E, Williamstown, PA 17098-0091
Duration: 1 July 2002 - 30 Jun 2005
Contact: Vicky Lengel, (717) 861-8579

080S84 This service bid contract is for providing mowing and general landscape maintenance at PENNDOT Engineering District 8-0's Roadside Rest Area/Welcome Center, Site J, I-83 Northbound, Shrewsbury Twp, York County. Bid packages can be requested via Fax, 717-772-0975 or by telephone at (717) 787-6408. All requests must include the Contractor's Company Name, address, phone number, E.I.N#, Fax number, if applicable and a name of a contact person.

Department: Transportation
Location: I-83, Northbound, Shrewsbury Twp., York County, Site J
Duration: 1 year contract with four (1) year renewals.
Contact: William Tyson, (717) 787-7600



Railroad/Airline Related Services

SP 3810051 Services required of a contractor to provide helicopter service for wildfire suppression throughout Pennsylvania during the 2002 wildfire season (months of March through May, 2002). Helicopter must be capable of carrying a minimum of 90 gallons or more of fire retardant (liquid). Pilots must be fully qualified to conduct air attacks against wildfires.

Department: Conservation and Natural Resources
Location: Throughout Pennsylvania. Plane will be based in Blair, Blair County.
Duration: Through June 30, 2002 with 2 year renewable option.
Contact: Corinna Walters, (717) 783-0733

SP 3810053 Services required of a contractor to provide airtanker services for wildfire suppression throughout Pennsylvania during the 2002 wildfire season (months of March through May, 2002). Aircraft must be capable of carrying a minimum of 800 gallons or more of fire retardant (liquid). Pilots must be fully qualified to conduct air attack flights against wildfires.

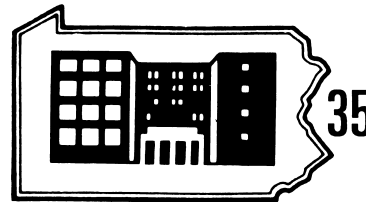
Department: Conservation and Natural Resources
Location: Throughout Pennsylvania. Plane will be based in Moshannon, Centre County Midstate Airport.
Duration: Through June 30, 2002 with a 2 year renewable option.
Contact: Corinna Walters, (717) 783-0733

SP 3810050 Services required of a contractor to provide helicopter service for wildfire suppression throughout Pennsylvania during the 2002 wildfire season (months of March through May, 2002). Helicopter must be capable of carrying a minimum of 90 gallons or more of fire retardant (liquid). Pilots must be fully qualified to conduct air attacks against wildfires.

Department: Conservation and Natural Resources
Location: Throughout Pennsylvania. Plane will be based in H.B. Rowland Air Attack Base, Monroe County.
Duration: Through June 30, 2002 with 2 year renewable option.
Contact: Corinna Walters, (717) 783-0733

SP 3810052 Services required of a contractor to provide helicopter services for wildfire suppression throughout Pennsylvania during the 2002 wildfire season (months of March through May, 2002). Helicopter must be capable of carrying a minimum of 90 gallons or more of fire retardant (liquid). Pilots must be fully qualified to conduct air attacks against wildfires.

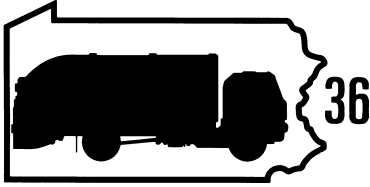
Department: Conservation and Natural Resources
Location: Throughout Pennsylvania. Plane will be based in Ohioport, Fayette County.
Duration: Through June 30, 2002 with a 2 year renewable option.
Contact: Corinna Walters, (717) 783-0733



Real Estate Services

93345 787-0725. LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Public Welfare with 4,927 useable square feet of office space with a minimum parking for eight (8) vehicles, (in areas where street or public parking is not available, an additional three (3) parking spaces are required) within the Borough of McConnellsburg or starting at the intersection of Great Cove Rd. (Rte. 522) and Lincoln Way (Old Rte. 30) West on Lincoln Way to the intersection of Lincoln Way (Old Rte. 30) and the Rte. 30 by-pass; South on Great Cove Rd. to the intersection of Crossroads Rd.; East on Lincoln Way East to the intersection of Cito Rd. and South on Cito Rd. to the intersection of Crossroads Rd.; East on Lincoln Way East and East on Buchanan Trail (Rte. 16) to Water Tank Lane; East on Lincoln Way East to the intersection of the Lincoln Highway (Rte. 30 by-pass); North on Great Cove Rd. (Rte. 522) to the intersection of Norman's Lane, McConnellsburg, Fulton County. Downtown locations will be considered. For more information on SFP #93345 which is due on January 22, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

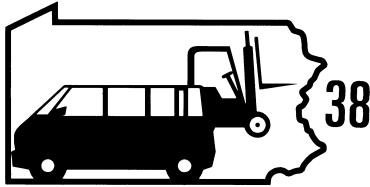
Department: Public Welfare
Location: 505 North Office Building Harrisburg, PA 17125
Contact: Mrs. Cynthia T. Lentz, (717) 787-0952



Sanitation

113-1000 CONTRACTOR TO PROVIDE TRASH REMOVAL SERVICES FOR SOUTHWESTERN VETERANS CENTER. SPECIFICATIONS AVAILABLE UPON REQUEST

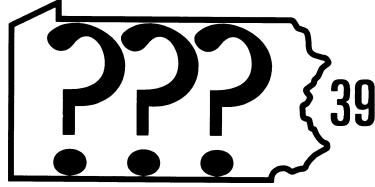
Department: Military Affairs
Location: SOUTHWESTERN VETERANS CENTER, 7060 HIGHLAND DR., PITTSBURGH, PA 15206
Duration: 9/01/02-8/31/05
Contact: Ken Wilson, (412) 665-6727



Vehicle, Heavy Equipment and Powered Machinery Services

PROVIDE A VEHICLE WASH FACILITY LOCATED WITHIN FIVE MILES OF THE PA DEPARTMENT OF TRANSPORTATION GARAGE LOCATED IN GREENSBURG PA. ONE VEHICLE WASH WILL CONSIST OF A TIMED WASH APPROXIMATELY SIXTEEN MINUTES IN LENGTH. NO MANPOWER IS REQUIRED UNDER THIS CONTRACT. ESTIMATE 2000 WASHES PER YEAR CONTRACTOR SHALL COMPLY WITH ALL EXHIBITS UPON MUTUAL CONSENT OF BOTH PARTIES THIS CONTRACT MAY BE RENEWED FOR THREE ONE YEAR PERIODS.

Department: Transportation
Location: PA DEPARTMENT OF TRANSPORTATION, MAINTENANCE DISTRICT 12-5, P. O. BOX 189, GREENSBURG, PA 15601
Duration: THREE- ONE YEAR PERIODS UPON MUTUAL CONSENT OF BOTH PARTIES
Contact: Keith Howard, (724) 832-5387 EXT 220



Miscellaneous

113-1001 CONTRACTOR TO PROVIDE ALL PARTS AND LABOR AND EXPERTISE TO MAINTAIN SIMPLEX 4100 FIRE ALARM SYSTEM. SPECIFICATIONS OF SERVICE AVAILABLE UPON REQUEST

Department: Military Affairs
Location: SOUTHWESTERN VETERANS CENTER, 7060 HIGHLAND DR., PITTSBURGH, PA 15206
Duration: 7/1/02-6/30/05
Contact: Ken Wilson, (412) 665-6727

LBLA-1280 Pill Cavities and Medication Cards (Fax request for bid information to 570-372-5675)

Department: Public Welfare
Location: Selinsgrove Center, 1000 US Highway 522, Selinsgrove, PA 17870
Contact: Arletta K. Ney, Purch. Agt., (570) 372-5670

RFP 00-07-01 The Department of Health is making funding available to primary contractors to facilitate Comprehensive Tobacco Control Programs in no more than 67 service areas. Copies of the RFP are available by contacting the Division of Tobacco Prevention and Control at (717) 783-6600 or from the Department of Health's website at www.health.state.pa.us. Applicants are required to submit 12 copies of their proposal.

Department: Health
Location: Statewide
Duration: 3 years
Contact: Judy Ochs, Div. of Tobacco Prevention & Control, (717) 783-6600

[Pa.B. Doc. No. 01-2167. Filed for public inspection November 30, 2001, 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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KELLY LOGAN,
Acting Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1105111-01	11/16/01	Pan American Leathers	149,000.00	7314720-01	11/16/01	Westgate Chevy/dba Apple Chevrolet	43,444.00
1116151-01	11/16/01	Audio Innovators/ dba Pro- Com Sys- tems	38,358.00	8149020-01	11/16/01	Energy Ab- sorption Systems	49,135.00
1176141-01	11/16/01	Kenny Ross Chevy/ Buick North	31,983.00	8251060-01	11/16/01	Plasterer Equipment	143,376.92
1177211-01	11/16/01	Telecommuni- cations Sys- tems Mgmt.	207,969.40	8251370-01	11/16/01	Five Star In- ternational LLC	204,432.00
1487110-01	11/16/01	Motor Coach Industries	346,028.00	8251380-01	11/16/01	River's Truck Center	62,378.00
7284370-01	11/16/01	Vector Busi- ness Sys- tems	202,812.00	8251390-01	11/16/01	River's Truck Center	98,454.00
				8506060-01	11/16/01	Crane America Services	34,755.00

KELLY P. LOGAN,
Acting Secretary

[Pa.B. Doc. No. 01-2168. Filed for public inspection November 30, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA.CODE CH. 245]

Storage Tank and Spill Prevention

The Environmental Quality Board (Board) by this order amends Chapter 245 (relating to administration of the storage tank and spill prevention program). This final-form rulemaking mainly concerns amendments to Subchapter D (relating to corrective action process for owners and operators of storage tanks and storage tank facilities and other responsible parties). This subchapter is commonly known as the "Corrective Action Process regulation" (CAP regulation). The CAP regulation was originally adopted at 23 Pa.B. 4033 (August 21, 1993). This final-form rulemaking contains changes necessary to update the CAP regulation because of several developments since its adoption in 1993. This final-form rulemaking also adds, modifies or deletes several definitions in Subchapter A (relating to general provisions) and makes a minor technical change in Subchapter E (relating to technical standards for underground storage tanks).

This order was adopted by the Board at its meeting of September 18, 2001.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. Contact Persons

For further information contact Charles Swokel, Chief, Storage Tanks and Hazardous Sites Corrective Action Section, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 783-7509; or Kurt E. Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. Statutory Authority

This final-form rulemaking is being made under the authority of section 106 of the Storage Tank and Spill Prevention Act (Storage Tank Act) (35 P. S. § 6021.106), which authorizes the Board to adopt rules and regulations governing aboveground and underground storage tanks to accomplish the purposes and carry out the provisions of the Storage Tank Act; sections 301(a)(5) and 501(a)(5) of the Storage Tank Act (35 P. S. §§ 6021.301(a)(5) and 6021.501(a)(5)), which direct the Department to adopt regulations governing corrective action by responsible parties for releases from aboveground and underground storage tanks, respectively; sections 301(a)(6) and 501(a)(6) of the Storage Tank Act, which direct the Department to adopt regulations governing reporting of releases and corrective actions taken in response to releases from aboveground and

underground storage tanks, respectively; section 501(a)(2) and (3) of the Storage Tank Act, which directs the Department to adopt regulations concerning release detection system operation and recordkeeping for underground storage tanks; section 501(a)(13)—(15) of the Storage Tank Act, which directs the Department to adopt regulations concerning the handling of soil and subsurface material affected by a release of a regulated substance; section 5(b)(1) of The Clean Streams Law (35 P. S. § 691.5(b)(1)), which authorizes the Department to formulate, adopt and promulgate rules and regulations that are necessary to implement the provisions of that act; section 105(a) of the Solid Waste Management Act (35 P. S. § 6018.105(a)), which requires the Board to adopt the rules and regulations of the Department to accomplish the purposes and carry out the provisions of that act; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations that may be determined by the Board to be for the proper performance of the work of the Department.

D. Background and Purpose

Releases of regulated substances have occurred from thousands of storage tanks in this Commonwealth. These releases have resulted in substantial quantities of regulated substances entering the environment, including contamination of numerous public and private water supplies. The CAP regulation establishes a process under which these releases are to be reported and remediated.

As noted, the CAP regulation was originally promulgated over 8 years ago. Since that time, several developments have occurred which necessitated amending these regulations. First and foremost is the passage in 1995 of the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.909) (Act 2), and the promulgation of regulations under that statute in 1997, codified in Chapter 250 (relating to administration of land recycling program). See 27 Pa.B. 4181 (August 16, 1997). Act 2's environmental remediation standards expressly apply to the remediation of releases under section 106(a) of Act 2 (35 P. S. § 6026.106(a)). Therefore, changes to the CAP regulation were needed to harmonize the two programs' approach to remediation of releases.

It should be noted, however, that section 904(c) of Act 2 (35 P. S. § 6026.904(c)) states:

The environmental remediation standards established under this act shall be used in corrective actions undertaken pursuant to the [Storage Tank Act]. However, *the procedures in the [Storage Tank Act] for reviewing and approving corrective actions shall be used in lieu of the procedures and reviews required by this act.* (emphasis added).

Because of this provision in Act 2, the final-form rulemaking amends the CAP regulation to harmonize its provisions with those of Act 2, while maintaining a separate procedural system for corrective actions at regulated storage tank facilities.

Additional changes to the CAP regulation were identified by the Department as necessary as part of its review of all regulations under the commands of the Department's Regulatory Basics Initiative (RBI) and Executive Order 1996-1. Because there are counterpart Federal regulations regarding corrective actions for releases from regulated underground storage tanks at 40 CFR Part 280

(relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), the Department reviewed the CAP regulation for consistency with those provisions, along with the other factors identified in the Executive Order and the RBI. Several of the changes reflect the conclusions of that review.

Third, several changes to the CAP regulation were required to harmonize the CAP regulation with Legislative changes to the Storage Tank Act (primarily the act of June 26, 1995 (P. L. 79, No. 16) (Act 16 of 1995)).

Finally, several changes in this rulemaking are simply the result of the experience of carrying out the corrective action program in this Commonwealth over the past 8 years. As the program has matured, the Department and the regulated community have worked on overcoming obstacles and identifying opportunities for improving the operation of the corrective action program. Several of these changes reflect that experience.

Comments received on the proposed rulemaking and draft final regulatory language were reviewed by the Storage Tank Advisory Committee (STAC) at its meetings on March 6, 2001, and June 6, 2001, and reviewed by a subcommittee of STAC at meetings on April 30, 2001, and May 11, 2001. STAC, which was established by section 105 of the Storage Tank Act, consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. As required by section 105 of the Storage Tank Act, STAC has been given the opportunity to review and comment on these final-form regulations. Following its June 2001 meeting, STAC prepared a report indicating its support of this final-form rulemaking. A list of members of STAC may be obtained from the agency contacts identified in Section B of this Preamble.

E. Summary of Regulatory Requirements and Changes to the Proposed Rulemaking

A brief description of the rulemaking is as follows:

Subchapter A. General Provisions

1. Section 245.1. Definitions.

The final-form regulations add, modify or delete several definitions. Definitions for the terms "background," "cleanup or remediation," "contaminant," "property," "remediation standard" and "risk assessment" have been added as those terms are defined in either Act 2 or Chapter 250. Definitions for the terms "aquifer," "free product," "groundwater," "site" and "survey" have been modified to match the definitions for those terms in Act 2 or Chapter 250. The Board is deleting the term "groundwater degradation," as the term is no longer necessary after the passage of Act 2.

The definition of the term "reportable release" is modified to match the Federal definition of the term in 40 CFR Part 280, in accordance with the Department's RBI and Executive Order 1996-1. Although there is no direct definition for the term in 40 CFR 280.12 (relating to definitions), the substance of the term is outlined in 40 CFR 280.53(a)(1) (relating to reporting and cleanup of spills and overfills). The final-form regulations replace the hierarchical approach to spill or overfill amounts requiring reporting with a straight 25 gallon cutoff for petroleum releases and the CERCLA reportable quantity for hazardous substance releases. It should be noted that these amounts do not apply to underground releases, which must be reported regardless of the amount released. Also, for all releases from regulated storage tanks,

the requirements of § 245.305(a) (relating to reporting releases) supersede the requirements of § 91.33 (relating to incidents causing or threatening pollution).

Two new definitions have been added in the final-form regulations at the suggestion of STAC. "Environmental media" is defined as soil, sediment, surface water, groundwater, bedrock and air. Because of multiple uses of the term in § 245.305, efficiencies of space are achieved by defining and using this single term rather than listing each environmental medium separately. This term is necessary because of the enhanced reporting requirements that have been added to the final-form rulemaking. These are discussed in this Preamble at § 245.305. The term "potential to be affected" is used in §§ 245.306 and 245.309 (relating to interim remedial actions; and site characterization) in connection with water supplies that might be impacted by a release. The term has been defined to clarify the intended target population of water supplies, and the factors that should be evaluated in identifying these water supplies for sampling during both the interim remedial action and site characterization phase of the corrective action.

Finally, the term "responsible party" is revised in accordance with amendments made to the Storage Tank Act by Act 16 of 1995. Section 503(b) of the Storage Tank Act (35 P. S. § 6021.503(b)) originally held any person who filled an unregistered storage tank potentially liable for a release from that tank. Act 16 of 1995 amended this section by limiting this "delivery liability" to tanks that never held a valid registration in any prior year. Section 303(b) of the Storage Tank Act (35 P. S. § 6021.303(b)) contains a similar provision regarding "delivery liability" for filling aboveground tanks that do not possess a current valid registration; that section was not changed by Act 16.

Subchapter D. Corrective Action Process for Owners and Operators of Storage Tanks and Storage Tank Facilities and Other Responsible Parties

1. Section 245.304. Investigation of suspected releases.

The amendments clarify subsection (c) to indicate that in addition to "reporting" a reportable release, corrective action must be initiated.

2. Section 245.305. Reporting releases.

Subsection (a) currently requires the owner or operator to verbally notify the Department of a reportable release as soon as practicable but in no case more than 2 hours after confirming a release. At 40 CFR 280.50 (relating to reporting of suspected releases), the Federal regulation allows 24 hours to notify, but requires reporting of both suspected and confirmed releases. In accordance with the RBI and Executive Order 1996-1, this subsection is modified to conform to the Federal requirement for timely reporting of releases and requires owners and operators to verbally notify the Department of reportable releases as soon as practicable but in no case more than 24 hours after the release is confirmed. For these tank releases, the requirements of § 245.305(a) supersede the requirements of § 91.33(a). The Department believes that 24 hours is a reasonable time for the initial report of a confirmed release, and does not believe that this change will result in environmental harm since interim remedial actions must be initiated immediately upon release confirmation.

In subsection (c), the phrase ". . . the contamination of surface water, groundwater, soil or sediment . . ." has been replaced with the term "affected environmental media." Environmental media is now defined in § 245.1 as "soil,

sediment, surface water, groundwater, bedrock and air.” Subsection (c) has been revised to require reporting of affected environmental media and also to require reporting of impacts to water supplies, buildings, sewer or other utility lines. Impacts to water supplies and buildings, sewer or other utility lines were not specifically identified in the existing regulation. These important impacts of a release, if identified, must now be reported in the verbal and subsequent written notifications.

Subsection (d) has been modified in the final-form regulations to indicate that the initial written notification that is due within 15 days of the release confirmation must be sent to each municipality in which impacts of the release have been identified, not just the Department and the municipality in which the release itself occurred, as was previously the case.

Subsection (e) has been added to the final-form regulations and requires the responsible party to notify the Department and impacted municipality, in writing, upon discovery of a new impact. The notification is required within 15 days of discovery of the new impact. The Department’s experience is that not all impacts of a release are known or evident within 15 days of the verbal notification when the initial written notification is due. The purpose of this subsection is to assure that the Department and municipal officials in impacted municipalities are updated on a more continuous basis about the impacts of a release that become known during the interim remedial action and site characterization phases of the corrective action. Only the first occurrence of an impact to a specific environmental medium, water supply, building, sewer or other utility line in each municipality needs to be reported. For example, if contamination of groundwater is discovered in a monitoring well drilled in a municipality, the Department and that municipality must be notified, in writing, of the impact to groundwater. If another well is drilled in that municipality and contaminated groundwater is also discovered, additional notification that groundwater is impacted in that particular municipality is not required. The Department is planning to revise form 2530-FM-LRWM0082 to facilitate compliance with the new reporting requirements. The revised form will be available on the Department’s website or can be obtained from the persons listed in Section B of this Preamble.

Subsection (f) has been modified to indicate that each written notification required by § 245.305 must include the same information as required by subsection (c).

Subsection (g) is a new section in the final-form rulemaking and provides for an additional mechanism to assure that details of releases that pose an immediate threat to public health and safety are communicated to the general public. The dissemination of information concerning the release may, at a minimum, take the form of a notice in a newspaper of general circulation serving the area or may involve other means of keeping the public informed on a regular basis depending on the level of severity and general public interest in details of the release. The Department could undertake this public notice, or the Department could work with the responsible party to provide this notice.

Existing subsections (e) and (f) are renumbered in the final-form rulemaking as (h) and (i), respectively.

3. *Section 245.306. Interim remedial actions.*

A new subsection (a)(4) has been added to this section of the final-form rulemaking. This subsection requires that the identification and sampling of affected water

supplies and water supplies with the potential to be affected be initiated immediately as an interim remedial action. In the existing regulation, this activity is listed as an element of the site characterization. Initiation of this activity was subject to unnecessary delay until well into the site characterization phase of the corrective action. By including initiation of this activity as an interim remedial action, the identification and sampling of affected water supplies and water supplies with the potential to be affected is elevated to a more appropriate level of urgency and importance. This section also requires that a copy of the sample results must be provided to the Department and the water supply owner within 5 days of receipt by the responsible party, and emphasizes that all water supplies determined to be affected or diminished must be restored or replaced in accordance with § 245.307 (relating to affected or diminished water supplies). A definition of the term “potential to be affected” has been added to § 245.1 to help clarify how wells with the potential to be affected are defined and identified.

Act 16 of 1995 amended the Storage Tank Act to add the requirement that the Department develop regulations regarding the proper handling of soil and subsurface material affected by a release. The final-form rulemaking amends § 245.306 to reflect those statutory amendments.

First, section 501(a)(13) of the Storage Tank Act requires the minimization of the amount of soil and subsurface material affected by a release by segregating the unaffected soil and subsurface material during removal of an underground storage tank from the material affected by a release. The amendments add this requirement in subsection (b)(4).

Second, section 501(a)(15) of the Storage Tank Act requires that the person removing the material affected by a release provide to the responsible party a receipt documenting acceptance of the material at a permitted treatment or disposal facility. The amendments add a new subsection (d) to reflect this requirement.

4. *Section 245.309. Site characterization.*

The Department has changed this section to bring storage tank site characterizations into line with the requirements of Act 2.

Subsection (b) outlines the objectives of a site characterization. Paragraph (5) is added to have the responsible party determine more site-specific information during the site characterization for use in fate and transport analysis. Heavy reliance on fate and transport analysis in demonstrating attainment of certain Act 2 standards necessitates this change.

Paragraph (6) is added to indicate that the site characterization must provide sufficient information to allow selection of an Act 2 remediation standard.

Paragraph (7) has been deleted in the final-form rulemaking in response to comments.

Subsection (c) provides a list of potential tasks to satisfy the site characterization objectives. The Board has made the following amendments to subsection (c):

a. Paragraph (4) has been modified in the final-form rulemaking to mirror the requirements of § 245.306(a)(4) to emphasize that the identification and sampling of affected water supplies and water supplies with the potential to be affected must continue, as necessary, throughout the site characterization phase of the corrective action as new information is gathered and evaluated regarding the current and projected extent of contaminant migration.

b. Existing paragraphs (5) and (6) involve identifying affected populations and sensitive environmental receptors and populations and sensitive environmental receptors with the potential to be affected. Some examples are provided. The amendments replace these two activities with the single activity in paragraph (5) of "determining the location of the ecological receptors identified in § 250.311(a)" of the Act 2 regulations. Only direct impacts to the four specific receptors listed in § 250.311(a) (relating to remedial action plan) need to be assessed and addressed.

c. Added a new paragraph (11) to provide for a demonstration that groundwater is not used or currently planned to be used. This activity is necessary where the remediator intends to use the Act 2 nonuse aquifer standards.

d. Paragraph (15) currently requires the remediator to identify and apply appropriate groundwater modeling methodologies to characterize the site. The amendments rephrase this activity as "developing a conceptual site model that describes the sources of contamination, fate and transport of contaminants and potential receptors" in order to be more consistent with the terms used in Act 2. Use and discussion of groundwater models comes later in the corrective action process.

e. Deleted paragraph (18) in response to comments.

f. Added new activities in paragraph (19), "selection of a remediation standard," and paragraph (20), "if the site-specific standard is selected, performance of a risk assessment in accordance with §§ 250.601—250.606." These additions are necessary to bring the CAP regulation site characterization requirements into line with Act 2.

5. *Section 245.310. Site characterization report.*

The Board has amended this section to bring storage tank site characterization reports into line with the requirements of Act 2.

Subsection (a) provides a list of potential elements for an acceptable site characterization report. The Board has made the following changes to subsection (a):

a. Amended subsection (a)(4)(v)(C) to implement the requirements of Act 16 of 1995. This mirrors the requirement added to § 245.306(d).

b. Subsection (a)(4)(v)(F) is required to demonstrate attainment; however, the Department has deleted this subsection and addresses this requirement under § 245.310(b).

c. Moved and rewrote paragraphs (11) and (12). The impacts to ecological receptors and surface water are now reported under new paragraphs (28) and (29), respectively.

d. Revised paragraph (23) to read "a conceptual site model describing the sources of contamination, fate and transport of contaminants and potential receptors."

e. Added a new paragraph (26) to establish that the site characterization report should identify the Act 2 remediation standard that has been chosen.

f. Added a new paragraph (27) to include the Department's written determination under § 250.303 (relating to general requirements) that groundwater is not used or currently planned to be used. This should be included in the report when the nonuse aquifer standards are being utilized under the Act 2 Statewide health standard (SHS).

g. Deleted existing paragraph (28). The Board believes that the discussion of the remedial action options selected is sufficient (paragraph (30)). A new paragraph (28) has been added to identify the impacts to ecological receptors as a result of the receptor evaluation conducted in accordance with §§ 250.311 or 250.402(d) (relating to evaluation of ecological receptors; and human health and environmental protection goals).

h. Added a new paragraph (29) to identify the impacts to surface water as a result of the evaluation conducted in accordance with § 250.309 or § 250.406 (relating to MSCs for surface water; and relationship to surface water quality requirements).

i. Revised paragraph (30) to indicate that a site must be remediated as opposed to completely recovering or removing the regulated substance that was released.

j. Added a new paragraph (31) to include a risk assessment report in accordance with § 250.409 (relating to risk assessment report).

k. Added a new paragraph (32) to require demonstration that no current or future exposure pathways exist.

Subsection (b) affords the responsible party the opportunity to submit a site characterization report as the "final report," where soil is the only media of concern and all contaminated soil has been excavated as an interim remedial action. Further, this subsection is intended to allow a "closure report" to serve as the final report in localized contamination situations. This § 245.310(b) report is intended to be applicable only for use with the SHS. With this rationale in mind, the Board has made the following revisions to subsection (b):

a. Amended subsection (b), in response to comments, to clarify that this report is appropriate where soil is the only media of concern, in lieu of the proposed language "that groundwater is not a media of concern."

b. Revised subsection (b) to indicate that a site must be remediated as opposed to completely recovering or removing the regulated substance that was released.

c. In response to comments, added language to clarify that if submission of a site characterization report satisfying the requirements of § 245.310(b) is acceptable, a site characterization report satisfying the requirements of § 245.310(a) is not required.

d. With respect to the items for inclusion in the report, revised paragraph (2) to indicate that data demonstrating attainment with the SHS should be provided in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

e. Added paragraph (3) to require explanation of the basis for selecting residential or nonresidential SHSs.

f. Added paragraph (4) to require reporting the results of the evaluation of ecological receptors conducted in accordance with § 250.311.

Subsection (c) has been changed in a significant way from both the existing and proposed regulation. In response to comments, the Department has incorporated a process for review time frames and "deemed approvals" into Chapter 245 for site characterization reports, remedial action plans and remedial action completion reports. These time frames will apply only to original reports received after the effective date of the regulation. The time frames will also apply to the review of resubmissions received in response to deficiency letters generated by the Department for these reports. This process includes review time frames for site characterization reports submit-

ted under § 245.310(b), and for site characterization reports where the site-specific standard is selected. All other site characterization reports which elect the background or SHS will be subject to review provisions upon receipt of and in conjunction with review of the remedial action plan designed to attain those standards.

Subsection (c) has therefore been amended to restrict the list of Department actions to site characterization reports submitted under § 245.310(b) or to site characterization reports where the site-specific standard is selected. The subsection has also been amended to indicate that the Department shall take one or more of the actions listed in subsection (c). One option, paragraph (3), which allows the Department to review and disapprove the report, citing deficiencies, has been added. Existing section (c)(5) has been deleted as no longer necessary since paragraph (1) provides for the same review and approval. Subsection (c)(6) has been modified to indicate that one option available to the Department is to review the site characterization report without further action. This would be the case with a report that became deemed approved.

The amendments delete existing subsection (d). Under Act 2 and Chapter 250, a responsible party is entitled to choose the remediation standard it will use when remediating a release from a storage tank.

A new subsection (d) has been added to the final-form rulemaking which sets out the review time frames that apply to site characterization reports meeting the requirements of subsection (b) or to site characterization reports where the site-specific standard is selected. Reports submitted in accordance with subsection (b) will be reviewed or deemed approved by the Department within 60 days of receipt and a site characterization report where the site-specific standard is selected will be reviewed or deemed approved within 90 days of receipt.

An important additional provision of subsection (d) is that an automatic "deemed approval" can be overridden if the Department and the responsible party agree, in writing, to an alternate time frame for review of the report. This provision has been added to accommodate responsible parties who would prefer not to receive a deemed approval, even if some extra time on the part of the Department was necessary for completing the review.

6. Section 245.311. Remedial action plan.

Subsection (a) has been amended to require submission of a remedial action plan within 45 days of submission of the site characterization report only in cases where the background or SHS has been selected in the site characterization report. In these cases, the site characterization report and remedial action plan will be reviewed and acted upon by the Department as one package. In cases where the site-specific standard has been selected, the remedial action plan is not due until 45 days after the responsible party has either received a written approval of the site characterization report or it has been deemed approved. This provision assures that the responsible party is not obligated to submit a remedial action plan for the site-specific standard until action on the site characterization report has occurred.

Subsection (a) also provides a list of potential elements for the remedial action plan. The Board has made the following revisions to subsection (a):

a. Revised paragraph (4) to provide for a discussion of how the remedial action will attain the selected remediation standard for the site, as opposed to how the remedial action will completely recover or remove the regulated substance that was released.

b. Added a new paragraph (5) to provide for the results of treatability, bench scale or pilot scale studies or other data collected to support the remedial action.

c. Revised paragraph (11) to provide for a description of the methodology that will be utilized to demonstrate attainment of the selected remediation standard (as opposed to the methodology that will be utilized to completely recover or remove the regulated substance that was released).

d. Added a new paragraph (12) to provide for a description of any proposed postremediation care that may be required.

The final-form rulemaking deletes subsection (b). Under Act 2 and Chapter 250, a responsible party is entitled to choose the remediation standard it will use when remediating a release from a storage tank.

The final-form rulemaking includes revisions to subsection (c), now subsection (b), which lists the Department's options upon receiving site characterization reports and remedial action plans that have selected the background or SHS. The Department's actions here mirror those in § 245.310(c), except that the options apply to both the site characterization report and remedial action plan, which will be subject to review as a single package.

A new subsection (c) has been added which, in a fashion similar to (b), specifies the Department's alternatives upon receiving a remedial action plan, which is designed to attain the site-specific standard. This separate subsection is needed here to distinguish between remedial action plans that select the background and SHS and those selecting the site-specific standard. In the latter case, the site characterization report would have already been submitted and approved, so the wording of subsection (b) would not be applicable.

A new subsection (d) has been added to indicate that where the site-specific standard is chosen, a remedial action plan is not required and no cleanup is required to be proposed or completed if no current or future exposure pathways exist.

A new subsection (e) has been added in the final-form rulemaking, which specifies that the time frame for the Department's review of a remedial action plan where the background or SHS has been selected is 60 days and 90 days for a remedial action plan where the site-specific standard has been selected. If the Department fails to approve or disapprove the plan, in writing, within the designated time, the report and plan or plan will be deemed approved. As in the case of site characterization reports, these time frames will apply only to original reports received after the effective date of the regulation. The time frames will also apply to the review of resubmissions received in response to deficiency letters generated by the Department for these reports. The "deemed approval" can be overridden if the Department and responsible party agree, in writing, to an alternate time frame for reviewing the report.

A new subsection (f) has been added at final-form rulemaking to address the Department's review time frames if site characterization reports and remedial action plans are submitted at the same time. Site characterization reports and remedial action plans selecting the background and SHS will be reviewed in 60 days, and combined reports selecting the site-specific standard will be reviewed in 90 days. If the Department does not respond in writing within the given time frame, the report and plan shall be deemed approved.

7. Section 245.312. Remedial action.

The amendments revise subsection (c) to indicate that remedial action progress reports are to show the progress toward attainment of the selected remediation standard (as opposed to cleanup levels established by the Department). A new paragraph (6) has been added to require specific information to be provided for fate and transport analyses. An incorrect reference that appeared in the proposed rulemaking has also been corrected.

In response to comments, the final-form rulemaking revises subsection (d) to clarify that the final remedial action progress report is to be submitted as part of the remedial action completion report.

The final-form rulemaking changes the process in subsection (e) for terminating a remedial action plan when the responsible party decides to change it for any reason. First, subsection (e)(1) of the existing regulation is deleted, as it no longer applies. Subsection (e)(1) was an option under the defunct Groundwater Quality Protection Strategy and allowed a remedial action completion report to be submitted where the cleanup levels would not be achieved.

In the proposed rulemaking, subsection (e) required the responsible party to request and receive approval from the Department prior to terminating their remedial action plan, and to submit a new or modified plan selecting a new remediation standard. In response to comments, subsection (e) has been revised in this final-form rulemaking. Subsection (e) now simply requires that the responsible party submit a new remedial action plan for review if and when a decision is made to change it. The time frames established in § 245.311(e) will apply to the review of the new plan. The approved remedial action plan may be terminated upon approval of the new plan. The new remedial action plan need only identify a new remediation standard if a different one is selected. Selection of a new remediation standard alone does not require submission of a new remedial action plan.

Subsection (f) is revised to establish the process for suspending remedial action if continued implementation of the remedial action plan will cause additional environmental harm. Subsection (f)(1), which allowed for submission of a remedial action completion report, has been deleted since it was an option under the defunct Groundwater Quality Protection Strategy.

In response to comments, subsection (f) of the proposed rulemaking has been modified to clarify that the verbal notification that the remedial action plan has been suspended is due within 24 hours of the suspension. The requirement in the proposed rulemaking that the Department must approve the suspension has been eliminated. The responsible party is now only obligated to submit a new or modified remedial action plan in accordance with § 245.311, and identify a new remediation standard, if applicable.

As originally adopted in 1993, subsection (g) required that when groundwater contamination occurred and the level of cleanup had been achieved, that groundwater be sampled quarterly for 1 year to demonstrate "attainment." Since this is an "attainment" requirement and has been superseded by the attainment requirements of the Act 2 remediation standards, this subsection has been deleted. The attainment requirements are now addressed in § 245.310(b) and § 245.313(b) (relating to remedial action completion report).

Subsection (h) is related to and follows the requirements of subsection (g). Accordingly, the Board has also deleted subsection (h).

8. Section 245.313. Remedial action completion report.

Subsection (a) provided for the submission of a remedial action completion report upon achieving the level of cleanup established by the remedial action plan and indicated that the report must demonstrate that the remedial goals have been achieved. This subsection is still appropriate, but it has been revised to delete the terms "level of cleanup" and "remedial goals." These terms have been replaced with "selected remediation standard" in accordance with Act 2.

The amendments delete the existing subsection (b) since it no longer applies. Subsection (b) was an option under the defunct Groundwater Quality Protection Strategy and allowed a remedial action completion report to be submitted where the cleanup levels were not achieved. The subsection has been replaced with the required contents of the remedial action completion report, including references to the specific and relevant attainment demonstration sections from Chapter 250 that must be addressed depending on which of the Act 2 remediation standards was used by the remediator. In addition, since a heavy reliance is placed on fate and transport analyses in demonstrating attainment of certain Act 2 standards, specific requirements with regard to this information have been added.

Subsection (c) lists the actions available to the Department upon submission of a remedial action completion report. The Board has changed "may" to "shall" to indicate that the Department will act on all remedial action completion reports, providing final resolution to remedial actions, or they will be deemed approved. A new paragraph (3) has been added that allows the Department to review and disapprove the remedial action completion report, citing deficiencies. Paragraph (5) has been deleted, since it does not result in a final remedial action determination by the Department. A new paragraph (6) has been added at final that allows the Department to review the remedial action completion report without further action, as would be the case if the report were deemed approved.

New subsection (d) has been added to specify the time frames for the Department's review of remedial action completion reports. Remedial action completion reports demonstrating attainment of the background or SHS will be reviewed within 60 days of receipt. Remedial action completion reports demonstrating attainment of the site-specific standard will be reviewed within 90 days of receipt. If the responsible party does not receive a written approval or disapproval of the report within the specified time frame, the report will be deemed approved. As in the case of site characterization reports and remedial action plans, these time frames will apply only to original reports submitted after the effective date of the final-form regulations. The time frames will also apply to the review of resubmissions received in response to deficiency letters generated by the Department for these reports. The "deemed approval" can be superseded if the responsible party and Department agree, in writing, to an alternative time frame for review.

9. Section 245.314. Professional seals.

This section has been added to require report submissions to be sealed by appropriate registered professionals where the practice of geology or engineering is performed. This requirement is in accordance with the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2).

Subchapter E. Technical Standards for Underground Storage Tanks

1. *Section 245.444. Methods of release detection for tanks.*

Section 245.444(8) provides procedures and reporting requirements for conducting leak detection on underground storage tanks using the Statistical Inventory Reconciliation (SIR) method. Section 245.444(8)(ii)(A) currently requires final reports from SIR vendors to be available within 7 days of the end of the monitoring period. The regulated community and SIR vendors have expressed an inability to thoroughly process SIR data and provide reports within this period. Operation of these rules since their adoption in October 1997 has shown that this reporting requirement simply does not allow enough time to complete the necessary SIR analysis and return the report. In addition, other states that have established reporting time periods for SIR have set this reporting requirement at 20 days. The amendments change the reporting requirement to 20 days, which should be achievable in this Commonwealth and is in line with other states' regulations.

F. Summary of Comments and Responses on the Proposed Rulemaking

There were four commentators to the proposed rulemaking. In general, the commentators supported the proposed rulemaking and welcomed the integration of Chapters 245 and 250.

The most significant issue raised during the public comment period was the incorporation of mandatory review times and deemed approved provisions for site characterization reports and remedial action plans. In response, the Board has amended the proposed rulemaking to include mandatory review time frames and deemed approved provisions for all of the corrective action process reports. The time frame and deemed approved provisions will apply only to new reports submitted after the effective date of the final-form regulations. Deemed approved provisions may be superseded if the Department and the responsible party agree in writing to an alternative time frame. The review time frames are as follows:

The Department will review a site characterization report submitted under § 245.310(b) within 60 days of receipt or a site characterization report submitted under § 245.310(a) selecting the site-specific standard within 90 days of receipt.

Site characterization reports submitted under § 245.310(a) for the background or SHS will be reviewed within 60 days of receipt of a remedial action plan designed to attain those standards. The review will include the remedial action plan.

Site characterization reports and remedial action plans for the background or SHS which are submitted together will be reviewed within 60 days of receipt.

The Department will review a remedial action plan designed to attain the site-specific standard within 90 days of receipt.

Remedial action completion reports for the background and SHS will be reviewed within 60 days of receipt. A remedial action completion report demonstrating attainment of the site-specific standard will be reviewed within 90 days of receipt.

Definitions—§ 245.1

In response to concerns that the proposed definition of "reportable release" might include reporting a release of petroleum of less than 25 gallons to a synthetic surface,

the Board has changed the term "to the surface of the ground" to "to an aboveground surface."

The Board has not excluded a "de minimis" thickness of 1/8 inch or less from the definition of "free product" as suggested by one commentator. The definition was revised solely for consistency with terminology used in Chapter 250. Further, the Board is concerned that the suggested change would exclude accumulations of this thickness or less from any requirements for removing free product to the maximum extent practicable, which based on site-specific considerations, may be more or less than 1/8 inch, for example, on surface water.

One commentator requested defining the word "contamination" or "contaminated soil" to mean the presence of constituents exceeding the applicable Act 2 SHS levels. The Board has not made this change. Meeting the applicable Act 2 SHS levels means that contaminants have been reduced to within an acceptable risk range. It does not mean that contamination has been eliminated in its entirety. Therefore, soil, for example, which meets SHS levels, must be managed in accordance with the Department's residual waste management regulations.

One commentator suggested referencing the definitions of "aquifer," "background," "cleanup or remediation," "contaminant" and "groundwater" in section 103 of Act 2 (35 P. S. § 6026.103) rather than reiterate the definitions in the regulations. The Board considered making this change. However, the full definitions have been included to make it less cumbersome for the user who would otherwise need to consult the other reference cited.

One commentator requested explanation of the term "sufficient level of detail" as used in the definition of "survey." The Board included the phrase "at a sufficient level of detail" in the existing definition of survey to emphasize the importance of the study to the owner or operator. However, since § 245.304(d) (relating to investigation of suspected releases) begins by saying that "To overcome the presumption of liability established in § 245.303(c), the owner or operator shall affirmatively prove, by clear and convincing evidence . . .", the Board believes that the phrase "at a sufficient level of detail" is not necessary in the definition of "survey." Therefore, the phrase has been deleted.

Reporting releases—§ 245.305

One commentator requested a definition of the word "confirmation" as used in the context of "confirming" a reportable release in order to make it clear when the 24-hour reporting period begins. The question was asked: "Is it when the release is discovered by the operator or by someone walking by who reports it?"

"Confirmation" of a reportable release has been widely understood in the program to mean "verification" by the owner or operator that a release meeting the definition of a reportable release has occurred. The confirmation may be made in a number of ways including through the investigation of a suspected release, by the direct observation of a release by the owner/operator, or conceivably, by verifying a report of a release made by someone walking by. In this latter case, the 24-hour period would begin when the release was confirmed by the owner/operator, not the time it was noticed by the person walking by. The Board does not believe that it is necessary to define "confirmation," as clarity in this area has not been an issue.

Two of the commentators wanted to know how the new reporting requirement in § 245.305(a) related to The Clean Streams Law reporting requirement in § 91.33,

and one requested that the § 245.305(a) requirement apply to all discharges, including those subject to The Clean Streams Law. The time frame in § 245.305(a) is applicable to releases of regulated substances from storage tanks regulated under the Storage Tank Act. For these tank releases, the requirements of § 245.305(a) supersede the requirements of § 91.33. As stated in § 245.302 (relating to scope), the scope of Chapter 245, Subchapter D, is restricted to releases of regulated substances from storage tanks regulated under the Storage Tank Act. To mandate that all spills, discharges or releases subject to The Clean Streams Law be subject to the notification requirements of § 245.305(a) would expand the regulation beyond its authorized scope.

One commentator requested that the word "regulated" be inserted before "storage tanks" in § 245.304(a) to better clarify the intent and scope of the provision. The Board does not believe the suggestion is necessary. The scope of all provisions of Chapter 245, Subchapter D, is clearly stated in § 245.302 to be storage tanks regulated by the Storage Tank Act.

Site characterization—§ 245.309

Two of the commentators were concerned with proposed § 245.309(b)(5). This objective lists certain kinds of physical data that might be needed for later use in fate and transport analysis to demonstrate attainment of an Act 2 standard. One commentator felt that the objective erroneously assumed that a fate and transport analysis would be needed in every case, and another questioned the availability of the data and the detail required.

The final-form rulemaking does not amend this paragraph. One clear objective of a site characterization in a risk-based corrective action program is to anticipate and collect the kind of field data that may be needed to support conclusions made at the end of an investigation. Further, fate and transport analysis is required in demonstrating attainment of any Act 2 standard, although the method and form of fate and transport analysis selected will vary depending on the complexity of the release.

The primary purpose of the data is to establish reliable and accurate input parameters for mathematical models that may be used or required to support demonstrations of attainment of Act 2 standards. The number of samples collected and measurements made is site-specific and proportional to the hydrogeologic complexity of the site being characterized and the data requirements of the fate and transport analysis method chosen. Where mathematical models are not used or necessary, the importance of some parameters will be diminished.

One commentator suggested that to be consistent with harmonizing these regulations with Act 2, § 245.309(c)(18) should not be amended (as proposed), but should be deleted in its entirety. The proposed language has been deleted as suggested.

One commentator questioned what constituted "sufficient information" for selecting a remediation standard as required by § 245.309(b)(6) and (7).

Subsection (b)(6) states that one of the objectives of a site characterization is to provide the responsible party with sufficient information to select a remediation standard. What is "sufficient" is a determination to be made by the responsible party, not the Department. The responsible party gets to select the remediation standard. Failure to meet this objective could result in the selection of an unattainable or inappropriate standard for the site by the responsible party.

Subsection (b)(7) states that one of the objectives of a site characterization is to collect enough information to define and assess the relative merits of the remedial action options. To be consistent with the deletion of the proposed language in § 245.309(c)(18), the Department has deleted this objective. While a responsible party may choose to conduct this exercise, it is not required as the responsible party may choose a remediation standard without an analysis of alternatives.

Site characterization report—§ 245.310

One commentator requested assurance that changes in the proposed rulemaking would be effective only on a going-forward basis. The changes to site characterization report submissions, as well as all revisions to this regulation, will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

One commentator asked that the regulation define the consequences if a responsible party does not meet the objectives of a site characterization report. The commentator asked whether the Department would add provisions addressing a deficient site characterization report and whether the Department would notify a responsible party of any deficiencies and the procedure to correct them.

Existing § 245.310(c) lists the actions the Department may take following submission of a site characterization report. In general, site characterization reports are evaluated in terms of the validity and completeness of the elements listed in § 245.310(a), based upon the complexity of the release, rather than an evaluation of the objectives. If a responsible party fails to consider or satisfy a relevant objective, it will very likely be reflected as a deficiency in one or more of the elements necessary in the site characterization report. The Board has added a new § 245.310(c)(3), which allows the Department to disapprove the site characterization report, citing deficiencies, as one of its options.

One commentator requested clarification that if a site characterization report meeting the conditions and requirements of § 245.310(b) was submitted, a report meeting the requirements of § 245.310(a) was not needed. The Department has added wording to § 245.310(b) to clarify this concern. A site characterization is not required to be submitted under both subsections.

Two commentators requested that a cross reference be added to § 245.310(b)(4) to indicate that the evaluation of ecological receptors should be done in accordance with § 250.311. The cross reference has been added.

One commentator requested that § 245.310(b) be amended to delete the condition that a remediator prove that groundwater is not a media of concern, and insert language which applies this paragraph to sites where soil is the only media of concern. While the proposed language was not intended to imply that the responsible party must prove that groundwater is not a media of concern in every case, the language has been changed as suggested to clarify this concern.

One commentator requested that additional revisions to § 245.310(b) be made to allow a site characterization report to be submitted as a final report where groundwater can be demonstrated to achieve the SHS and increase the period of time required for submission of the site characterization report from 180 days to 1 year where a remediator chooses to achieve SHS for groundwater.

Demonstrating attainment of the SHS in groundwater normally requires 8 quarters of monitoring. Less than 8

quarters of monitoring may be allowed with written approval of the Department in accordance with § 250.704(d) (relating to general attainment requirements for groundwater). Deviation from the attainment requirements as set out in Chapter 250 is beyond the scope of this amendment.

In cases when a site characterization shows that groundwater meets SHS, a remedial action plan requesting less than 8 quarters of monitoring to demonstrate attainment can be submitted with the site characterization report. Section 245.303(e) currently provides for this combining of reports/plans. Monitoring data would then be submitted in quarterly (or at an alternative interval) progress reports with the final remedial action progress report being submitted as part of the remedial action completion report.

One commentator requested deletion or amendment of § 245.310(a) to eliminate interim site characterization reports as a generic requirement. The commentator indicated that a report might be appropriate once all remedial action is completed or, in those few cases where applicable, in conjunction with remedial action progress reports, but believed that these are special cases and should be handled as such.

On a somewhat related note, the commentator also suggested that site characterization reports and remedial action plans should be combined into a single report subject to a single Department review.

No change has been made. Section 245.303(e) already provides that the Department can accept a combined site characterization report and remedial action plan. However, the Department does not believe that the combined submission of this report/plan should be mandatory. Unlike the Act 2 program, which is largely voluntary, the CAP regulation implements a mandatory regulatory program that requires responsible parties to conduct cleanup and attain an Act 2 remediation standard. To help assure that the selected standard will be attained through the remedial action, the remedial action plan is reviewed and approved by the Department prior to its implementation. Allowing the submission of one report at the completion of remedial action would preclude the Department's review of the remedial action plan and quarterly progress reports which the Department feels is needed to fulfill its oversight role under the Storage Tank Act and assure that a cleanup standard is being attained.

Remedial action plan—§ 245.311

One commentator questioned the need and burden imposed on responsible parties by § 245.311(a)(5), which requires "the results of treatability, bench scale or pilot scale studies or other data collected to support remedial action."

Treatability studies, bench scale and pilot scale studies are generally used to evaluate experimental or innovative technologies that have little or no history of application at the field scale. The purpose of the studies is to demonstrate the feasibility or effectiveness of a new technology by testing it at a laboratory or on a small field-scale before applying the technology to the larger field problem. In some cases, these studies are reported in the scientific literature. In other cases, especially with pilot scale studies, the consultant for the responsible party or a subcontractor marketing the new technology would complete the studies. The Department believes it is important not to close the door on innovative technology, but at the same time be able to require some demonstration or documentation that the innovative technologies have

merit prior to their application. In most cases, this element of the remedial action plan will not be necessary, since most remediations rely on well-established technologies.

One commentator asked whether a remedial action plan is required when the SHS is selected and no current or future exposure pathways exist. The SHS is a numeric standard. Attainment of the numeric SHS must be demonstrated regardless of whether pathways exist or not, in accordance with Chapter 250, Subchapter G.

Two commentators asked whether a remedial action plan could be denied based on which remediation standard the remediator selected. The regulations do not specify under what circumstances the Department can deny the remedial action plan.

Existing § 245.311(c), (§ 245.311(b) in the final-form rulemaking), lists the actions the Department may take upon submission of a remedial action plan. Basically, the Department looks to see if the remedy has a reasonable chance of attaining the selected standard. With conventional technologies, this should be straightforward. Since the responsible party has the option of selecting the remediation standard, the Department will not disapprove a remedial action plan based solely on the selected remediation standard.

One commentator questioned how a responsible party could show attainment of the selected standard. Attainment requirements for each remediation standard under Act 2 are set out in Chapter 250, Subchapter G. Demonstration of attainment for the remediation standard selected will be reported in the remedial action completion report as described in § 245.313(b).

One commentator stated that because Act 2 leaves the choice of remedial action to the responsible party, not to Department approval, proposed § 245.311(a)(5) should be discarded from further consideration, and existing § 245.311(a)(5) should be deleted in its entirety.

While it is true that the responsible party chooses the remediation standard, unlike the Act 2 administrative process, the CAP regulation requires the remedial action plan to be approved by the Department prior to its implementation. Therefore, the Board believes both elements to be necessary, where appropriate. Treatability studies, bench scale and pilot scale studies are generally used to evaluate experimental or innovative technologies that have little or no history of application at the field scale. In most cases, this element of the remedial action plan will not be necessary, since most remediations rely on well-established technologies. Design and construction details are important in reviewing a remedial action plan to determine the effectiveness of the remedy.

Remedial action—§ 245.312

One commentator suggested allowing a responsible party to combine the reports required by § 245.310, relating to site characterization reports, and this section. Section 245.303(e) states the Department may waive or combine requirements. The commentator questioned whether the reports required by §§ 245.310 and 245.312 could be combined. If they could be, the commentator wondered whether Department permission would be required prior to submitting them together to the Department.

The Department believes the commentator was requesting that site characterization reports and remedial action plans (§ 245.311) be combined. Section 245.303(e) does allow for this report/plan to be a single submission.

However, the responsible party should contact the Department and agree upon a time frame for submission of the combined report/plan, unless the report/plan combination is submitted within the regulatory time frame governing the site characterization report.

Several comments addressed § 245.312(e), which deals with termination of remedial action plans. One commentator stated that while subsection (e) requires the responsible party to request termination of the remediation plan if the plan is not achieving the remediation standard, there is no time requirement for the Department to respond to the request. Another commentator requested clarification regarding subsection (e)—whether a new remedial action plan must be submitted when the remediator decided to select a more stringent remedy with no change in the remediation standard selected; and, if the new remedy could proceed without waiting for Department approval.

The Board has revised subsection (e) extensively. The proposed requirement for the responsible party to write to the Department requesting termination of the remedial action plan has been eliminated. Under the final-form regulation, when responsible parties wish to change the remedial approach, they simply submit a new or modified remedial action plan to the Department for review and approval. As indicated earlier in this section, a 60- or 90-day time frame for Department review would apply to the new or modified plan depending on the remediation standard selected. The responsible party is expected to continue to implement the existing remedial action plan until approval of the new or modified plan. Selection of a more (or less) stringent remedy would require submission of a new or modified remedial action plan. Selection of a new remediation standard, but not a change of the remedy, would not require submission of a new or modified remedial action plan.

One commentator suggested that a time limit for submission of the new or modified remedial action plan should be added to § 245.310(e). The final-form rulemaking does not add a time limit here. As with other submissions under this regulation that may be returned to the responsible party for additional information or work, the Board would prefer that the Department request resubmission of a report/plan or submission of a new report/plan within a reasonable time frame based on the particulars of the case.

One commentator requested that the final remediation action progress report should be consolidated into the remedial action completion report. Language has been added to § 245.312(d) to provide for this.

One commentator pointed out that § 245.312(e) and (f) should be structured to allow for the possibility of a change in remediation method without a change in the remediation standard. As proposed, when a responsible party notified the Department of a mid-course change in a remediation action plan, the notice would have had to include "selection of a new remediation standard." These two subsections have been revised to address this concern by indicating that it is only necessary to identify a new remediation standard, if one has been selected.

One commentator suggested that because § 245.312(g), which related to demonstrating groundwater cleanup, was being deleted, a cross reference should be added to § 250.704, which relates to general attainment requirements for groundwater.

The Department believes that the concern is accommodated in § 245.313(b), which establishes the requirements

for a remedial action completion report. Section 245.313(b) cites the specific subsections in Chapter 250 that are to be addressed in the remedial action completion report for each standard. These subsections include the attainment requirements of Chapter 250, Subchapter G, which includes § 250.704.

One commentator objected to the deletion of § 245.312(g), which required only 4 quarters of groundwater monitoring, and replacing it with Act 2's general requirement of 8 quarters of monitoring to demonstrate attainment of groundwater standards.

Section 250.704(d) specifically mandates 8 quarters of monitoring as the general requirement for demonstrating attainment of an Act 2 standard in groundwater. Because releases from regulated storage tanks are subject to the standards and attainment requirements of Act 2 and Chapter 250, § 245.312(g) is deleted in the final-form rulemaking.

One commentator suggested further amendment of proposed § 245.312(f) to establish the starting point for the 24-hour deadline to report suspension of a remedial action because it was causing environmental harm. The Board has clarified this subsection by indicating that the notification is to be made to the Department within 24 hours of suspension of the remedial action plan.

G. *Benefits, Costs and Compliance*

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

Benefits

This final-form rulemaking is primarily intended to harmonize the requirements of the CAP regulation and the requirements of Act 2 and the Chapter 250 regulations. By making these changes, the Board hopes to reduce confusion faced by responsible parties for releases from regulated storage tanks regarding what requirements they need to meet. By making the changes necessary to have the CAP regulation reflect the most recent statutory amendments affecting storage tanks, owners and operators of storage tanks can be confident that the requirements outlined in Chapter 245 represent a comprehensive overview of their responsibilities for corrective action should a release occur. Finally, the citizens of this Commonwealth should benefit through quicker and more efficient remediations occurring, along with the reuse of contaminated sites under the Act 2 program.

With the incorporation of report review time frames and deemed approved provisions, responsible parties are guaranteed an action, either approval or disapproval, from the Department regarding all corrective action process reports.

By extending the time allowed for preparing SIR reports under Subchapter E's release detection rules, this final-form rulemaking should allow for sufficient time for proper reports to be generated when tank owners use this leak detection method.

An alternative approach would have been to delete Subchapter D entirely, and simply have storage tank cleanups proceed under Act 2 and Chapter 250's procedures. Given the requirements of section 904(c) of Act 2, the Board felt that the General Assembly recognized that the procedures established for corrective actions under the Storage Tank Act were working, and so should be preserved. Therefore, this final-form rulemaking only represents the modifications needed to integrate the programs.

Compliance Costs

Persons responsible for corrective actions under the Storage Tank Act should see no net increases in compliance costs as a result of this rulemaking. Generally speaking, most requirements in this final-form rulemaking to amend the CAP regulation are already in place through statutory amendment (such as Act 2, Act 16 of 1995 and the Engineer, Land Surveyor and Geologist Registration Law) or regulations that are already in effect (such as Chapter 250). The Board does not anticipate any additional costs to the Commonwealth as a result of this final-form rulemaking. While the final regulatory language includes a commitment on the part of the Department to review corrective action process reports and plans in a timely manner, it is believed that implementation of these provisions can be handled by existing regional office staff. However, the Department acknowledges that shifting of staff in some regional offices may need to occur for effective implementation.

Compliance Assistance Plan

The Department currently operates a fairly extensive program of outreach activities designed to assist owners and operators of storage tanks and other potentially responsible parties. This program includes the *Storage Tank Monitor*, a biannual newsletter; a series of detailed fact sheets that focus on single issues in the program (such as release reporting); and seminars and training sessions presented by both central and regional office training teams on a variety of issues. The Department has also prepared a number of detailed guidance documents on specific topics to assist both program staff and regulated persons in understanding and meeting the requirements of the Storage Tank Act and Chapter 245. Department personnel regularly present and participate in program seminars jointly with the regulated community and the Underground Storage Tank Indemnification Fund (USTIF) and consults with STAC on regulatory, policy and program development. As with any new or amended regulations, the Department will make every effort to inform the regulated community and the general public about the new requirements.

The costs of corrective actions for most releases from underground storage tanks should be covered by the USTIF created by Chapter 7 of the Storage Tank Act (35 P. S. §§ 6021.701—6021.712) and administered by the Insurance Department. The Department does have a limited amount of funding under section 710(b.1) of the Storage Tank Act (35 P. S. § 6021.710(b.1)) for special environmental cleanup projects. This money is limited to use in carrying out remedial actions at sites where owners of underground storage tanks are not eligible for USTIF coverage, for remediation not completed due to financial hardship and for owners of retail gasoline facilities or commercial distribution centers that are no longer in business. Corrective actions at storage tank sites may also be eligible for funding under the programs established by Acts 2 and 4 of 1995.

Paperwork Requirements

This final-form rulemaking does require responsible parties for storage tank releases to prepare and submit to the Department and any municipality affected a release notification report where new impacts to environmental media or water supplies, buildings, or sewer or other utility lines are discovered after the initial notification already required by regulation. This notification process is already familiar to responsible parties, will not be necessary in all cases and will not pose a significant

additional burden. One area where paperwork required to be submitted to the Department should decrease is in release reports. By following the Federal standard in 40 CFR 280.53, fewer release reports will be submitted to the Department, reducing the paperwork burden on the regulated community under these final-form regulations.

H. Pollution Prevention

"Pollution prevention (P2)" is defined as measures taken to avoid or reduce generation of all types of waste—solid/hazardous waste, wastewater discharges and air emissions—at their points of origin. It does not include activities undertaken to treat, control or dispose of pollution once it is created, such as end-of-the-stack or pipe control equipment or procedures. Because the CAP regulation only becomes applicable after a release of regulated substances occurs from a regulated storage tank, it does not generally provide P2 opportunities. It should be noted, however, that this regulation was designed to be flexible, rather than prescriptive, with the goal of having cleanups completed more quickly, thus minimizing the polluting impacts of a release. In addition, the new provision in § 245.306(b)(4) regarding segregation of soils should help to reduce the volume of contaminated soils at storage tank remediation sites.

I. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 11, 2000, the Department submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 3897 (July 29, 2000), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Department has considered the comments from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on October 11, 2001, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 18, 2001, and approved the final-form regulations.

K. Findings

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 30 Pa.B. 3897.

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

L. Order:

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

(a) The regulations of the Department, 25 Pa. Code Chapter 245, are amended by amending §§ 245.1, 245.304—245.306, 245.309—245.313 and 245.444 and by adding § 245.314, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

DAVID E. HESS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6120 (November 3, 2001).)

Fiscal Note: Fiscal Note 7-355 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND
SAFETY**

ARTICLE VI. GENERAL HEALTH AND SAFETY

**CHAPTER 245. ADMINISTRATION OF THE
STORAGE TANK AND SPILL PREVENTION
PROGRAM**

**Subchapter A. GENERAL PROVISIONS
GENERAL**

§ 245.1. Definitions.

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

* * * * *

Aquifer—A geologic formation, group of formations or part of a formation capable of a sustainable yield of significant amount of water to a well or spring.

Background—The concentration of a regulated substance determined by appropriate statistical methods that is present at the site, but is not related to the release of regulated substance at the site.

* * * * *

Cleanup or remediation—To clean up, mitigate, correct, abate, minimize, eliminate, control or prevent a release of a regulated substance into the environment to protect the present or future public health, safety, welfare or the environment, including preliminary actions to study or assess the release.

* * * * *

Contaminant—A regulated substance released into the environment.

* * * * *

Environmental media—Soil, sediment, surface water, groundwater, bedrock and air.

* * * * *

Free product—A regulated substance that is present as a separate phase liquid; that is, liquid not dissolved in water.

* * * * *

Groundwater—Water below the land surface in a zone of saturation.

Hazardous substance storage tank system—A storage tank system that contains a hazardous substance defined in section 101(14) of CERCLA (42 U.S.C.A. § 101(14)). The term does not include a storage tank system that contains a substance regulated as a hazardous waste under Subtitle C of CERCLA, or mixture of the substances and petroleum, and which is not a petroleum system.

* * * * *

Potential to be affected—In the context of water supplies, a water supply that, by virtue of its location with respect to a release of regulated substances, is reasonably likely to be impacted by that release, based on an evaluation of the known physical and hydrogeologic environment in which the release occurred and the fate and transport properties of the contaminants released.

* * * * *

Property—A parcel of land defined by the metes and bounds set forth in the deed for that land.

* * * * *

Remediation standard—The background, Statewide health or site-specific standard, or any combination thereof, as provided for in the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.909).

* * * * *

Reportable release—A quantity or an unknown quantity of regulated substance released to or posing an immediate threat to surface water, groundwater, bedrock, soil or sediment. The term does not include the following, if the owner or operator has control over the release, the release is completely contained and, within 24 hours of the release, the total volume of the release is recovered or removed in the corrective action:

(i) A release to the interstitial space of a double-walled aboveground or underground storage tank.

(ii) A release of petroleum to an aboveground surface that is less than 25 gallons.

(iii) A release of a hazardous substance to an aboveground surface that is less than its reportable quantity under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §§ 9601—9675) and 40 CFR Part 302 (relating to designation, reportable quantities, and notification).

* * * * *

Responsible party—A person who is responsible or liable for corrective action under the act. The term includes: the owner or operator of a storage tank; the landowner or occupier; a person who on or after August 5, 1990, knowingly sold, distributed, deposited or filled an

underground storage tank regulated by the act which never held a valid registration, with a regulated substance; and a person who on or after August 5, 1990, knowingly sold, distributed, deposited or filled an unregistered aboveground storage tank regulated by the act, with a regulated substance, prior to the discovery of the release.

Risk assessment—A process to quantify the risk posed by exposure of a human or ecological receptor to regulated substances. The term includes baseline risk assessment, development of site-specific standards and risk assessment of the remedial alternatives.

* * * * *

Site—For purposes of § 245.303(c) and (d) (relating to general requirements), the term means the property which includes the storage tank facility. For other purposes, the term means the extent of contamination originating within the property boundaries and all areas in close proximity to the contamination necessary for the implementation of remedial activities to be conducted.

* * * * *

Survey—For purposes of § 245.303(d), the term means a study to establish background for surface water, groundwater, soil and sediment prior to the use of a storage tank facility.

* * * * *

Subchapter D. CORRECTIVE ACTION PROCESS FOR OWNERS AND OPERATORS OF STORAGE TANKS AND STORAGE TANK FACILITIES AND OTHER RESPONSIBLE PARTIES

§ 245.304. Investigation of suspected releases.

(a) The owner or operator of storage tanks and storage tank facilities shall initiate and complete an investigation of an indication of a release of a regulated substance as soon as practicable, but no later than 7 days after the indication of a release. An indication of a release includes one or more of the following conditions:

- (1) The presence of a regulated substance or an unusual level of vapors from a regulated substance of unknown origin, at a storage tank facility.
- (2) Evidence of a regulated substance or vapors in soils, basements, sewer lines, utility lines, surface water or groundwater in the surrounding area.
- (3) Unusual operating conditions, indicative of a release, such as the erratic behavior of product dispensing equipment.
- (4) The sudden or unexpected loss of a regulated substance from a storage tank, or the unexplained presence of water in a storage tank.
- (5) Test, sampling or monitoring results from a release detection method which indicate a release.
- (6) The discovery of holes in a storage tank during activities such as inspection, repair or removal from service.
- (7) Other events, conditions or results which may indicate a release.

(b) The investigation required by subsection (a) shall include a sufficient number of the procedures outlined in this subsection and be sufficiently detailed to confirm whether a release of a regulated substance has occurred. The owner or operator shall investigate the indication of a release by one or more of the following procedures:

- (1) A check of product dispensing or other similar equipment.
- (2) A check of release detection monitoring devices.
- (3) A check of inventory records to detect discrepancies.
- (4) A visual inspection of the storage tank or the area immediately surrounding the storage tank.
- (5) Testing of the storage tank for tightness or structural soundness.
- (6) Sampling and analysis of soil or groundwater.
- (7) Other investigation procedures which may be necessary to determine whether a release of a regulated substance has occurred.

(c) If the investigation confirms that a reportable release has occurred, the owner or operator shall report the release in accordance with § 245.305 (relating to reporting releases) and initiate corrective action.

(d) If the investigation confirms that a nonreportable release has occurred, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.

(e) If the investigation confirms that a release has not occurred, further investigation by the owner or operator is not required.

§ 245.305. Reporting releases.

(a) The owner or operator of storage tanks and storage tank facilities shall notify the appropriate regional office of the Department as soon as practicable, but no later than 24 hours, after the confirmation of a reportable release.

(b) Upon the occurrence of a confirmed, nonreportable release, the owner or operator shall take necessary corrective actions to completely recover or remove the regulated substance which was released.

(c) The notice required by subsection (a) shall be by telephone and describe, to the extent of information available, the regulated substance involved, the quantity of the regulated substance involved, when the release occurred, where the release occurred, the affected environmental media, relevant, available information concerning impacts to water supplies, buildings or to sewer or other utility lines and interim remedial actions planned, initiated or completed.

(d) Within 15 days of the notice required by subsection (a), the owner or operator shall provide written notification to the Department and to each municipality in which the reportable release occurred, and each municipality where that release has impacted environmental media or water supplies, buildings or sewer or other utility lines.

(e) The owner or operator shall provide written notification to the Department and each impacted municipality of new impacts to environmental media or water supplies, buildings, or sewer or other utility lines discovered after the initial written notification required by subsection (d). Written notification under this subsection shall be made within 15 days of the discovery of the new impact.

(f) Written notification required by this section shall contain the same information as required by subsection (c).

(g) If the Department determines that a release poses an immediate threat to public health and safety, the Department may evaluate and implement reasonable procedures to provide the public with appropriate information about the situation which may, at a minimum,

include a summary of the details surrounding the release and its impacts in a newspaper of general circulation serving the area in which the impacts are occurring.

(h) Upon the occurrence of a reportable release at the aboveground storage tank, the owner or operator of aboveground storage tank facilities with a capacity greater than 21,000 gallons shall immediately notify the county emergency management agency, the Pennsylvania Emergency Management Agency and the Department. Downstream water companies, downstream municipalities and downstream industrial users within 20 miles of an aboveground storage tank facility located adjacent to surface waters shall be notified on a priority basis based on the proximity of the release by the owner or operator or the agent of the owner or operator within 2 hours of a release which enters a water supply or which threatens the water supply of downstream users. If the owner or operator or an agent fails to notify or is incapable of notifying downstream water users, the county emergency management agency shall make the required notification. This notification shall be done in accordance with section 904 of the act (35 P. S. § 6021.904).

(i) The owner or operator of storage tanks and storage tank facilities shall immediately notify the local fire authority where fire, explosion or safety hazards exist at the site.

§ 245.306. Interim remedial actions.

(a) Upon confirming that a release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a release from a storage tank is identified in another manner, the responsible party shall immediately initiate the following interim remedial actions necessary to prevent or address an immediate threat to human health or the environment while initiating, as necessary, one or more of the tasks identified in § 245.309(c) (relating to site characterization):

(1) Remove the regulated substance from the storage tank to prevent further release to the environment.

(2) Identify, mitigate and continue to monitor and mitigate, fire, explosion and safety hazards posed by vapors and free product.

(3) Prevent further migration of the regulated substance released from the storage tank into the environment as follows:

(i) If contaminated soil exists at the site, the interim remedial action may include excavation of the soils for treatment or disposal.

(ii) If free product is present, free product recovery shall be initiated immediately.

(4) Identify and sample affected water supplies and water supplies with the potential to be affected in a reasonable and systematic manner consistent with § 245.309(b)(1) and (4) and (c)(4), (6) and (13). The responsible party shall restore or replace an affected or diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(b) At sites where free product recovery, regulated substance removal or contaminated soil excavation is performed, the responsible party shall:

(1) Conduct recovery, removal, storage, treatment and disposal activities in a manner that prevents the spread of contamination into previously uncontaminated areas.

(2) Handle flammable products in a safe and competent manner to prevent fires or explosions.

(3) Obtain required State and local permits or approvals for treatment and disposal activities.

(4) Minimize the amount of soil and subsurface material affected by a release of a regulated substance by segregating the unaffected soil and subsurface material from the material affected by a release of a regulated substance.

(c) If free product recovery affects or diminishes the quality or quantity of a water supply, the responsible party shall restore or replace the water supply in accordance with § 245.307.

(d) Where soil and subsurface material affected by a release is removed from the site, the person removing the material shall provide to the owner, operator, landowner or other responsible party a receipt documenting acceptance of the material at a permitted treatment or disposal facility.

§ 245.309. Site characterization.

(a) Upon confirming that a reportable release has occurred in accordance with § 245.304 (relating to investigation of suspected releases) or after a reportable release from a storage tank is identified in another manner, the responsible party shall perform a site characterization.

(b) The objectives of a site characterization are to accomplish the following:

(1) Determine whether additional interim remedial actions are necessary to abate an imminent hazard to human health or the environment.

(2) Determine whether additional site characterization work is required upon completion of an interim remedial action.

(3) Determine or confirm the sources of contamination.

(4) Provide sufficient physical data, through field investigations, to determine the regulated substances involved, and the extent of migration of those regulated substances in surface water, groundwater, soil or sediment.

(5) Determine, from measurements at the site, values for input parameters including hydraulic conductivity, source dimensions, hydraulic gradient, water table fluctuation and fraction organic carbon necessary for fate and transport analysis.

(6) Provide sufficient information to select a remediation standard.

(7) Provide sufficient information to allow for completion of a remedial action plan or a design for remedial action.

(c) The responsible party shall conduct the site characterization activities necessary to satisfy the objectives established in subsection (b). The site characterization shall include the following tasks, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) Identifying the need for and initiating additional interim remedial actions.

(2) Opening and sampling storage tanks to determine the regulated substances stored in the tanks.

(3) Tightness testing or other release detection testing and monitoring to determine the structural integrity of the storage tank.

(4) Identify and sample affected water supplies and water supplies with the potential to be affected not previously identified or sampled under § 245.306(a)(4) (relating to interim remedial actions). The responsible party shall restore or replace an affected or diminished water supply in accordance with § 245.307 (relating to affected or diminished water supplies). The responsible party shall provide a copy of the sample results to the water supply owner and the Department within 5 days of receipt of the sample results from the laboratory.

(5) Determining the location of the ecological receptors identified in § 250.311(a) (relating to evaluation of ecological receptors).

(6) A review of the site history.

(7) A review and analysis of data from removal from service and interim remedial action activities.

(8) Using geophysical survey techniques to locate storage tanks and to determine geologic and hydrogeologic characteristics of affected hydrogeologic zones and hydrogeologic zones with the potential to be affected.

(9) Drilling soil borings, conducting soil gas surveys and collecting soil samples to determine soil characteristics and the horizontal and vertical extent of soil contamination.

(10) Using piezometers, well points, monitoring wells and public and private wells to:

(i) Determine the direction of groundwater flow.

(ii) Determine soil, geologic, hydrogeologic and aquifer characteristics.

(iii) Measure the horizontal extent and thickness of free product.

(iv) Sample groundwater to determine the horizontal and vertical extent of groundwater contamination.

(11) A demonstration that groundwater is not used or currently planned to be used.

(12) Sampling surface water and sediments to determine the extent of surface water and sediment contamination.

(13) Assessing potential migration pathways, including sewer lines, utility lines, wells, geologic structures and hydrogeologic conditions.

(14) Performing site surveying and topographic mapping.

(15) Developing a conceptual site model that describes the sources of contamination, fate and transport of contaminants and potential receptors.

(16) Handling and disposing of site characterization wastes.

(17) Preparing and implementing a site-specific plan for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) A quality assurance/quality control program for the performance of site characterization field activities and

for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(18) An analysis of the data collected as a result of the site characterization.

(19) Selection of a remediation standard.

(20) If the site-specific standard is selected, performance of a risk assessment in accordance with Chapter 250, Subchapter F (relating to exposure and risk determinations).

(21) Recommendation of preferred remedial action options.

(22) Recommendation for further site characterization work.

(23) Developing a conceptual design of the selected remedial action options and identifying additional investigations or pilot studies needed to design and implement a detailed remedial action plan.

(24) Additional tasks necessary to characterize the site.

§ 245.310. Site characterization report.

(a) The responsible party shall prepare and submit to the Department within 180 days of reporting a reportable release under § 245.305(a) (relating to reporting releases), or within an alternative time frame as determined by the Department, two copies of a site characterization report which describes the activities undertaken in accordance with § 245.309 (relating to site characterization). The site characterization report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A narrative description of the site and the historical and current operations conducted at the site.

(2) A site map showing location of buildings, roads, storage tanks, including those removed from service or closed in place, utilities, property boundaries, topographic contours, potential receptors and other information pertinent to the site characterization.

(3) A description of natural and manmade features pertinent to the site characterization.

(4) Details of interim remedial actions conducted at the site in accordance with § 245.306 (relating to interim remedial actions). These details shall include the following, as necessary:

(i) A description of the type and volume of the regulated substance removed from the storage tank.

(ii) A discussion of fire, explosion and safety hazards which have been identified, mitigated and monitored.

(iii) A discussion of necessary relocation of affected residents.

(iv) Where free product recovery is performed:

(A) The regulated substance released and the thickness of free product in wells, boreholes or excavations.

(B) The type of free product recovery system used.

(C) Whether a discharge has or will take place during the recovery operation and where this discharge is or will be located.

(D) The type of treatment applied to, and the effluent quality expected from, a discharge.

(E) The steps that have been or are being taken to obtain necessary permits or approvals for a discharge.

(F) The volume and disposition of the recovered free product.

(G) The date free product recovery was initiated.

(H) The date free product recovery was completed.

(v) Where excavation of contaminated soil is performed:

(A) The regulated substance released and actual volume of soil excavated.

(B) The method used to determine the existence and extent of contaminated soil.

(C) The treatment method or disposition of the excavated soil, including receipts documenting acceptance of the material at a permitted treatment or disposal facility.

(D) The date excavation was initiated.

(E) The date excavation was completed.

(F) The rationale for terminating soil excavation where the contaminated soil has not been excavated, including the volume of contaminated soil remaining in place, and a description of what steps will be taken to address the soils that remain unexcavated.

(5) The steps that have been or are being taken to restore or replace affected or diminished water supplies.

(6) A description of the type and characteristics of regulated substances involved, including quantities, physical state, concentrations, toxicity, propensity to bioaccumulate, persistence and mobility.

(7) The results of tightness testing or other release detection method used or conducted to determine the structural integrity of the storage tanks.

(8) The details of removal from service activities conducted at the site.

(9) The identification of the sources of contamination, including the actual or estimated date and quantity of release from each source.

(10) The location and description of affected water supplies and water supplies with the potential to be affected.

(11) A description of further site characterization work needed.

(12) A discussion and conclusions that demonstrate the site characterization objectives outlined in § 245.309(b) have been satisfied.

(13) The rationale, equipment, methodology and results of geophysical surveys.

(14) The location, rationale and logs of soil borings.

(15) The location, rationale, construction details, including methods and materials, and depth to groundwater of piezometers, well points and monitoring wells.

(16) Groundwater contour maps depicting groundwater flow direction at the site.

(17) A description of methods and equipment used to determine site-specific soil, geologic, hydrogeologic and aquifer properties.

(18) Sampling locations and rationale for selection of these locations.

(19) The results of a survey used to identify and sample public and private wells.

(20) Parameters analyzed for, analytical methods used and detection limits of these methods.

(21) Field and laboratory analytical results and interpretations.

(22) Contaminant distribution maps in the media and contaminant phases.

(23) A conceptual site model describing the sources of contamination, fate and transport of contaminants and potential receptors.

(24) The disposition of site characterization wastes.

(25) A copy of site-specific plans prepared and implemented for the provision of the following:

(i) Worker health and safety in accordance with OSHA requirements established at 29 CFR 1910.120 (relating to hazardous waste operations and emergency response), including health and safety policies, medical monitoring, training and refresher courses, emergency and decontamination procedures, personal protective equipment and standard work practices.

(ii) The identification, management and disposition of solid, hazardous, residual and other wastes generated as part of the site characterization.

(iii) A quality assurance/quality control program for the performance of site characterization field activities and for the accurate collection, storage, retrieval, reduction, analysis and interpretation of site characterization data.

(26) The identification of the remediation standard which has or will be attained at the site.

(27) The Department's written determination that groundwater is not used or currently planned to be used.

(28) The impacts to ecological receptors as a result of the evaluation conducted in accordance with § 250.311 or § 250.402(d) (relating to evaluation of ecological receptors; and human health and environmental protection goals).

(29) The impacts to surface water as a result of the evaluation conducted in accordance with § 250.309 or § 250.406 (relating to MSCs for surface water; and relationship to surface water quality requirements).

(30) A discussion of the remedial action options selected to remediate the site.

(31) A risk assessment report in accordance with § 250.409 (relating to risk assessment report).

(32) A demonstration that no current or future exposure pathways exist following the procedures described in § 250.404 (relating to pathway identification and elimination).

(33) A conceptual design of the remedial action options selected.

(34) A report of additional tasks performed to characterize the site.

(b) If the responsible party determines, after completion of interim remedial actions, that further site characterization is not required, that soil is the only media of concern, and that interim remedial actions have remediated the site, the responsible party may submit a site characterization report to the Department, in lieu of the report required in subsection (a), which contains the following:

(1) A concise statement that describes the release, including information such as the amount of regulated substance that was released, the extent of contamination and interim remedial actions taken under § 245.306.

(2) Data demonstrating that the interim remedial actions have attained the Statewide health standard for the site in accordance with Chapter 250, Subchapter G (relating to demonstration of attainment).

(3) The basis for selection of the residential or nonresidential Statewide health standard.

(4) The results of the evaluation of ecological receptors conducted in accordance with § 250.311.

(5) Additional information as identified in subsection (a) necessary to fully describe the release, the extent of contamination and the interim remedial actions taken to address the release.

(c) Following submission of a complete site characterization report prepared under subsection (a), selecting the site-specific standard, or subsection (b), the Department will do one or more of the following:

(1) Review and approve the site characterization report as submitted.

(2) Review and approve the site characterization report with modifications made by the Department.

(3) Review and disapprove the site characterization report, citing deficiencies.

(4) Review and disapprove the site characterization report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report, perform the site characterization in whole or in part and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in performing the site characterization.

(6) Review the site characterization report without further action.

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of a site characterization report meeting the requirements of subsection (b) or within 90 days of receipt of a site characterization report selecting the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

§ 245.311. Remedial action plan.

(a) Unless a site characterization report is submitted in accordance with § 245.310(b) (relating to site characterization report), the responsible party shall prepare and submit to the Department within 45 days of submission of a site characterization report required by § 245.310(a) selecting the background or Statewide health standard, within 45 days of deemed approval or receipt of a written approval of a site characterization report selecting the site-specific standard or within an alternative time frame as determined by the Department, two copies of a remedial action plan prior to implementation of the remedial action plan. The remedial action plan shall be complete and concisely organized and shall contain the following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A brief summary of the site characterization report conclusions.

(2) A copy of the plans relating to worker health and safety, management of wastes generated and quality assurance/quality control procedures, as they relate to the

remedial action, if different from the plans submitted in accordance with § 245.310(a)(27).

(3) A list of required Federal, State and local permits or approvals to conduct the remedial action.

(4) A discussion of how the remedial action will attain the selected remediation standard for the site.

(5) The results of treatability, bench scale or pilot scale studies or other data collected to support the remedial action.

(6) Design and construction details for the remedial action, including expected effectiveness.

(7) Operation and maintenance details for the remedial action, including:

(i) A schedule including initiation and completion dates for all elements of the remedial action plan.

(ii) The expected concentrations and quantities of regulated substances in any discharge.

(iii) The disposition of the discharge.

(iv) A schedule for monitoring, sampling and site inspections.

(8) A site map showing the location of buildings, roads, property boundaries, remedial equipment locations and other information pertinent to the remedial action.

(9) A description of the media and parameters to be monitored or sampled during the remedial action.

(10) A description of the analytical methods to be utilized and an appropriate reference for each.

(11) A description of the methodology that will be utilized to demonstrate attainment of the selected remediation standard.

(12) A description of proposed postremediation care requirements.

(13) A description of additional items necessary to develop the remedial action plan.

(b) Following submission of a complete remedial action plan selecting the background or Statewide health standard, the Department will do one or more of the following:

(1) Review and approve the site characterization report and remedial action plan as submitted.

(2) Review and approve the site characterization report and remedial action plan with modifications made by the Department.

(3) Review and disapprove the site characterization report and remedial action plan, citing deficiencies.

(4) Review and disapprove the site characterization report and remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the site characterization report and remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action plan or performing the remedial action.

(6) Review the site characterization report and remedial action plan without further action.

(c) Following submission of a complete remedial action plan selecting the site-specific standard, the Department will do one or more of the following:

(1) Review and approve the remedial action plan as submitted.

(2) Review and approve the remedial action plan with modifications made by the Department.

(3) Review and disapprove the remedial action plan, citing deficiencies.

(4) Review and disapprove the remedial action plan and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action plan, prepare a remedial action plan or perform the remedial action in whole or in part, and recover, in accordance with § 245.303(b), the Department's costs and expenses involved in preparing or performing the remedial action plan.

(6) Review the remedial action plan without further action.

(d) A remedial action plan is not required and no remedy is required if the site-specific standard is chosen and no current or future exposure pathways exist.

(e) The Department will take one or more of the actions listed in subsection (b) within 60 days of receipt of a remedial action plan to attain the background or Statewide health standard, or the Department will take one or more of the actions listed in subsection (c) within 90 days of receipt of a remedial action plan to attain the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report and plan or plan shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

(f) If the site characterization report and remedial action plan are submitted to the Department at the same time, the Department will take one or more of the actions listed in subsection (b) within 60 days of receipt of a report and plan to attain the background or Statewide health standard, or the Department will take one or more of the actions listed in subsection (c) within 90 days of receipt of a report and plan to attain the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report and plan shall be deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

§ 245.312. Remedial action.

(a) Upon reasonable notice by the Department to the responsible party, or upon approval of the remedial action plan by the Department, the responsible party shall implement the remedial action plan, or a portion of the remedial action plan, according to the schedule contained therein.

(b) During implementation of the remedial action plan, remedial action progress reports shall be submitted to the Department quarterly or at an alternative interval as determined by the Department.

(c) Each remedial action progress report shall provide the data generated during the reporting period and shall show the progress to date toward attainment of the selected remediation standard. Each report shall be complete and concisely organized and shall contain the

following elements, as necessary, based on the nature, extent, type, volume or complexity of the release:

(1) A summary of site operations and remedial progress made during the reporting period.

(2) Data collected from monitoring and recovery wells showing depth to groundwater and thickness and horizontal extent of free product.

(3) Groundwater contour maps depicting groundwater flow direction.

(4) Quantitative analytical results from groundwater, surface water, soil and sediment sampling.

(5) Maps for all media and all phases at specified times that indicate the distribution of concentrations of regulated substances.

(6) For fate and transport analyses, the following information, in addition to that required by § 250.204(f)(5) (relating to final report):

(i) An isoconcentration map showing the configuration and concentrations of contaminants within the plume being analyzed.

(ii) Sufficient information from monitoring data to establish whether the plume is stable, shrinking or expanding.

(iii) Input parameters for the analysis and the rationale for their selection.

(iv) Figures showing the orientation of the model or analysis to the field data.

(v) Comparison and analysis of the model or mathematical output to the actual field data.

(7) Reporting period and cumulative amounts of free product recovered, groundwater treated, and soil and sediment treated or disposed.

(8) Treatment and disposal documentation for waste generated during the reporting period.

(9) Demonstration that required Federal, State and local permits and approvals are being complied with.

(10) A report of additional items necessary to describe the progress of the remedial action.

(d) The first remedial action progress report shall be received by the Department 3 months following the date of remedial action plan implementation. The final remedial action progress report shall be submitted to the Department as part of the remedial action completion report.

(e) If during implementation of the remedial action plan the responsible party decides to change the remedial action plan, the responsible party shall prepare and submit, to the Department, a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, in accordance with § 245.311 (relating to remedial action plan).

(f) If during implementation of the remedial action plan the responsible party determines that continued implementation of the remedial action plan will cause additional environmental harm, the responsible party shall suspend remedial action and notify the Department, by telephone, within 24 hours of suspension. The responsible party shall prepare and submit a new or modified remedial action plan, to include selection of the new remediation standard, if applicable, to the Department in accordance with § 245.311.

§ 245.313. Remedial action completion report.

(a) When the selected remediation standard has been attained, the responsible party shall submit a remedial action completion report to the Department.

(b) The remedial action completion report shall be complete and concisely organized and shall contain the following elements, as necessary, based on the remediation standard attained:

(1) When the background standard has been attained, the remedial action completion report shall include the requirements of § 250.204(f) and (g) (relating to final report).

(2) When the Statewide health standard has been attained, the remedial action completion report shall include the requirements of § 250.312(b)—(h) (relating to final report).

(3) When the site-specific standard is attained, the remedial action completion report shall include the requirements of § 250.411(c)—(f) (relating to final report).

(4) For fate and transport analyses, the following information, in addition to that required by § 250.204(f)(5):

(i) An isoconcentration map showing the configuration and concentrations of contaminants within the plume being analyzed.

(ii) Sufficient information from monitoring data to establish whether the plume is stable, shrinking or expanding.

(iii) Input parameters for the analysis and the rationale for their selection.

(iv) Figures showing the orientation of the model or analysis to the field data.

(v) Comparison and analysis of the model or mathematical output to the actual field data.

(c) Following submission of the remedial action completion report, the Department will do one or more of the following:

(1) Review and approve the remedial action completion report as submitted.

(2) Review and approve the remedial action completion report with modifications made by the Department.

(3) Review and disapprove the remedial action completion report, citing deficiencies.

(4) Review and disapprove the remedial action completion report and direct, require or order the responsible party to perform other tasks or make modifications as prescribed by the Department.

(5) Review and disapprove the remedial action completion report, perform the site characterization or remedial action and recover, in accordance with § 245.303(b) (relating to general requirements), the Department's costs and expenses involved in preparing the remedial action completion report.

(6) Review the remedial action completion report without further action.

(d) The Department will take one or more of the actions listed in subsection (c) within 60 days of receipt of the remedial action completion report demonstrating attainment of the background or Statewide health standard, or within 90 days of receipt of a remedial action completion report demonstrating attainment of the site-specific standard. If the Department does not respond, in writing, within the allotted time, the report shall be

deemed approved, unless the responsible party and the Department agree, in writing, to an alternative time frame.

§ 245.314. Professional seals.

Reports submitted to satisfy this subchapter containing information or analysis that constitutes professional geologic or engineering work as defined by the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) shall be sealed by a professional geologist or engineer who is in compliance with the requirements of that statute.

Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS

RELEASE DETECTION

§ 245.444. Methods of release detection for tanks.

Each method of release detection for tanks used to meet the requirements of § 245.442 (relating to requirements for petroleum underground storage tank systems) shall be conducted in accordance with the following:

* * * * *

(8) *Statistical Inventory Reconciliation (SIR)*. SIR shall meet the performance standards of paragraph (9)(i) for monthly monitoring.

* * * * *

(ii) A separate report for each tank monitored shall be maintained by the owner/operator in accordance with § 245.446(2) (relating to release detection recordkeeping). Each report shall meet the following requirements:

(A) Owners and operators shall have reports available within 20 days of the end of the monitoring period.

* * * * *

[Pa.B. Doc. No. 01-2169. Filed for public inspection November 30, 2001, 9:00 a.m.]

INSURANCE DEPARTMENT

[25 PA. CODE CHS. 971, 973, 975 AND 977]

Underground Storage Tank Indemnification Fund

The Underground Storage Tank Indemnification Board (Board) adopts Chapter 977 (relating to underground storage tank indemnification fund) (Fund) and deletes Chapters 971, 973 and 975 to read as set forth in Annex A.

Statutory Authority

The final-form regulations are adopted under the authority of the Storage Tank and Spill Prevention Act (act) (35 P. S. §§ 6021.101—6021.2104).

Comments and Response

Notice of proposed rulemaking was published at 30 Pa.B. 6593 (December 23, 2000) with a 30-day comment period. During the 30-day comment period, comments were received from Earthtech, Inc., Professional Enterprises, Inc. and Associated Petroleum Industries of Pennsylvania (APIP). During its regulatory review, the Inde-

pendent Regulatory Review Commission (IRRC) also submitted comments to the Board. The following is a response to those comments.

Comments from the Public

1. APIP questioned, in § 977.61(a) (relating to dispute procedures), whether 15 days is enough time to analyze the Executive Director's decision, draft another appeal and send it to the Board.

The Board can understand this concern and has no objection to increasing the allotted time to file an appeal to 35 days. Changes to § 977.61(a) reflect this revised 35-day period.

2. Earthtech believed that the regulations will cause qualified individuals and companies to allow their certifications to expire and that the requirements of the regulations are excessive for companies who already have errors and omissions (E&O) insurance.

Since the proposed rulemaking was published at 30 Pa.B. 6593, the Board has reduced the certified company fee from \$2,000 to \$1,000, made the certification fees \$0, and decreased the activity fees, thereby significantly reducing the fee requirements in the regulations. These new fees were established in accordance with actuarial review and input, and are very reasonable for the amount of coverage provided by the Fund.

3. Professional Enterprises Inc. expressed concern with respect to the "minimum" \$2,000 certified company fee in § 977.19 (relating to certified company fees).

As mentioned previously, the Board has reduced the certified company fee from \$2,000 to \$1,000, thereby effectively addressing the concerns in this regard.

IRRC Comments

During its review, IRRC expressed a number of concerns. Those concerns are addressed as follows.

1. *Method of fee assessment. Statutory authority; economic impact; reasonableness; clarity.*

The main concern expressed by IRRC was whether the Board had statutory authority to set a maximum fee and then adjust the fees outside of the regulatory promulgation process by publishing a notice in the *Pennsylvania Bulletin*. IRRC believes that this proposed process does not provide the opportunity for legislative or public input on the fee reductions, or on the underlying required actuarial study that is the basis for the fees.

The Board has eliminated the concept of "maximum fees" in the regulations. Fees will now be established by regulation, and any changes to these fees in the future will be accomplished through the appropriate regulatory process.

2. *Section 977.4. Definitions.—Clarity.*

IRRC had some concerns with respect to the definition section. IRRC stated that the definitions of "operator," "owner," "regulated substance," "release" and "UST" are identical to the act and therefore the statutory definition of these terms would be sufficient in the chapter.

The Board reviewed the definitions and noticed that a few ("operator," "owner" and "release") reference the term "HOT." This reference is not in the act, and therefore the definition should be provided in its entirety rather than referencing the definition in the act. The term "UST" is not in the act, although it does appear in § 245.1 (relating to definitions). The Board considered defining the term by referencing § 245.1, but was concerned that many of the parties affected by the regulations would not

have access to that publication. Additionally, the cost for a hard copy of 25 Pa. Code (relating to environmental protection), which consists of 9 volumes, is \$284 for an initial subscription and \$222.50 for the annual renewal. Accordingly, cross references have been added for clarity, but otherwise the Board has kept the definition of "UST" as it appeared in the proposed rulemaking. The Board also considered replacing the definition of "regulated substance" with the statutory reference. Although cross references have been added, upon further review, the Board is requesting that the term "regulated substance" be printed as proposed rather than having the parties affected by the regulations spend additional time and money researching other reference materials.

3. IRRC questioned whether there is a certification that is not in 25 Pa. Code with respect to the definition of "certified company." The Board is not aware of any certification other than those in 25 Pa. Code; therefore, reference to "this title or" has been removed from the definition of "certified company."

4. IRRC commented that a reference to the Department of Environmental Protection's (DEP) certification regulations would add clarity to the definition of "certified tank installer."

The Board agrees and has added a reference to the DEP's regulations.

5. IRRC had a concern that the term "corrective action cost" uses the phrases "corrective action as defined in the act" and "as specified in the regulations promulgated by the Department." IRRC asked for specific references to the act and the DEP's regulations.

The Board agrees and has added the appropriate references to the act and the DEP's regulations.

6. IRRC asked the Board to clarify what regulation the phrase "determined by the DEP by regulation" pertained to in subparagraph (i)(C) of the definition of "regulated substance."

This phrase pertains to regulations that the DEP may promulgate, if necessary, in the future, but they do not exist at this time. Accordingly, the Board has removed this term to avoid any confusion.

7. IRRC also asked the Board to cite the appropriate Federal regulations that were referred to in subparagraph (i) of the definition of the term "release."

The Board has cited the appropriate Federal regulations.

8. IRRC also questioned what other policies or regulations were being referred to in "Other tanks excluded by policy or regulation promulgated under the act" in subparagraph (ii)(S) of "UST—underground storage tank."

The Board used the definition for "UST—underground storage tank" as found in § 245.1. Because there are no other tanks excluded by policy or regulation under the act, this phrase has been deleted for clarity.

9. IRRC questioned why "waste oil" is defined as "an accumulation of oil from several sources," and whether "waste oil" could be from one source. Also, under subparagraph (ii), IRRC wanted to know what is meant by "the reaction of incompatible oils that have been mixed."

The Board agrees that an accumulation of oil could be from one source. Therefore, the definition of waste oil now reads, "An accumulation of oils from one or more sources [. . .]" Additionally, to clarify the sentence, "The reaction of

incompatible oils that have been mixed [. . .]”, the sentence now reads, “Incompatible oils that have been mixed [. . .]”.

Section 977.12. Owner and operator fees.—Clarity.

10. IRRC noted that § 977.12(d) (relating to owner and operator fees) states that the Board may charge a fee that “is calculated in accordance with section 705(d)(2) of the act.” However, section 705(d)(2) of the act (35 P. S. § 6021.705(d)(2)) does not contain a formula for a calculation. It states that the “capacity fee shall be set on the same actuarial basis” as the other fees. Hence, IRRC contends that the word “calculated” should be removed from this subsection.

The Board agrees and has revised the section to use the word “established.” In accordance with this comment, the Board has also replaced the word “calculated” in § 977.18(b) (relating to capacity fee payment procedure) with the word “established.”

Subsection (e). Changes to applicability of fees to particular substances.

11. IRRC commented that this subsection allows “any changes regarding which substances are assessed a tank fee” to be done by publication in the *Pennsylvania Bulletin*. In this regard, IRRC had a question and a comment. First, IRRC asked whether this subsection is intended to refer to the defined term “regulated substances.” If so, IRRC contends that the word “regulated” should be added to subsection (e). Secondly, IRRC commented that the regulation relies on the defined term “regulated substances” to establish fees. For example, § 977.12(b)(2) assesses “a gallon fee on all regulated substances. . . .” IRRC pointed out that publishing changes in the *Pennsylvania Bulletin* will not amend the regulation. The result will be a definition in the regulations and a different definition published in the *Pennsylvania Bulletin*. Therefore, IRRC noted that subsection (e) should be deleted.

The Board agrees that § 977.18(e) is not needed and therefore has deleted it from the regulations. This deletion also renders moot the question about the defined term “regulated substance” mentioned previously.

Section 977.13. Tank fee payment procedure.—Reasonableness; Clarity.

12. IRRC notes that subsection (b) states “the tank fee shall be calculated in § 977.12.” However, § 977.12 does not contain a formula for calculating fees. Section 977.12 states that the Board may charge and modify fees, not to exceed an established maximum and based on an annual actuarial review. IRRC contends that the word “calculated” should be removed from this subsection.

The Board agrees and has removed “calculated” and replaced it with “established.”

Section 977.14. Gallon fee payment procedures.—Statutory authority; Reasonableness; Clarity.

13. IRRC had three questions with respect to § 977.14. They are as follows:

First, section 705(e) of the act (35 P. S. § 6021.705(e)) states that owners and operators are required to pay the fees to the Fund. Section 977.14 requires distributors to collect the gallon fee. IRRC questioned the statutory authority for “requiring” distributors to collect the gallon fee.

The gallon fee payment procedures that require distributors to collect the gallon fees are found in the current Fund regulations in § 973.4 (relating to gallon

fee payment procedure), which the Board promulgated under its statutory authority found in section 705(f) of the act (relating to additional powers). Section 705(f) of the act provides in pertinent part, “To make bylaws for the management and regulation of its affairs and to adopt, amend and repeal rules, regulations and guidelines governing the administrative procedures and business of the board and operation and administration of the fund.” See section 705(f)(2) of the act.

Second, IRRC stated that subsection (e) applies to UST owners or operators who pay their fees directly to the Fund and not through distributors. The other subsections before and after subsection (e) establish procedures and requirements for distributors to collect the gallon fee. Hence, IRRC suggested that subsection (e) be placed before subsection (h).

The Board agrees and has placed the requirements found in subsection (e), before subsection (h).

Third, IRRC stated that subsection (h) limits “gallon fees” to no more than \$5,000 per tank in 1 year. Section 705(d)(3) of the act uses the word “fees,” not “per gallon fees.” Hence, IRRC suggested that the maximum of \$5,000 should apply to all fees paid by owners and operators, not only to the per gallon fee described in this section.

The Board agrees that the reference to “per gallon fees” is incorrect and has deleted it from this section.

Section 977.17. Security for payment of gallon fees.—Reasonableness; Clarity.

14. IRRC stated that subsection (a) states that the security shall be “calculated by multiplying the gallon fee in § 977.12(b)(ii) by the number of gallons of regulated substance. . . .” There were two concerns.

First, IRRC noted a typographical error. IRRC stated that there is no § 977.12(b)(ii), and questioned whether the reference should be § 977.12(b)(2).

The Board agrees that this was a typographical error and has changed it accordingly.

Second, IRRC stated that even if the reference to § 977.12(b)(2) is correct, the reference is still unclear. Section 977.12(b)(2) states that the gallon fee will not exceed a maximum of \$.02 per gallon. It does not set the fee level. It states that fee levels will be published in the *Pennsylvania Bulletin* under § 977.12(a). Since the fee is subject to change, IRRC questioned how a tank owner will determine the amount required for the security. IRRC suggested that the phrase “the gallon fee as set forth in § 977.12(b)(ii)” should be replaced with “the gallon fee as established under § 977.12(a) and (b)(2).”

The Board agrees with this comment and has changed this section to read “[. . .] the gallon fee as established under § 977.12(a) and (b)(2) [. . .]”, as requested by IRRC.

Section 977.19. Certified company fees.—Fiscal impact; Reasonableness; Clarity.

15. IRRC had three concerns. They are as follows:

First, subsection (b) states that certified companies may be required to pay a fee not to exceed a maximum of \$2,000 per year. There is a concern with the fiscal impact of the maximum of \$2,000 on smaller companies that perform only 12 to 15 installations in a 3-year period. IRRC noted that one commentator (see previous comment from Professional Enterprises) suggested that the fee should be “per tank” or linked to the number of tank

installations performed by the company. IRRC suggested that the Board should examine the fiscal impact of the fee level on smaller businesses.

As previously explained, since the proposed version of this section was published, in accordance with actuarial review and input, the Board has reduced the certified company fee to \$1,000, set the certification fees at \$0, and reduced the activity fees as well.

Second, IRRC points out that subsection (c) uses the acronyms, "UMX," "UMR," "UTT" and "TL" as used by the DEP. IRRC suggested clarity would be improved by adding a cross reference to the definitions in the DEP's regulations.

The Board agrees and has made the appropriate cross references.

Third, subsection (d) requires an activity fee per tank for all activities on a UST or heating oil tank (HOT). The required fee and an activity fee form for each activity must be submitted to the Fund 30 days before the start of the activity. Similar language also appears in § 977.20(b) (relating to certified company fee, certification fee and activity fee payment procedures). IRRC questioned where and how can UST or HOT owners obtain copies of the activity fee forms. Additionally, the requirement to submit the fee and forms 30 days before any activity will cause an unwanted delay if immediate action is required to correct problems with a storage tank system. Accordingly, IRRC further questioned what steps UST or HOT owners can pursue if immediate action is necessary.

The Board agrees that the 30-day rule would not be feasible in an emergency situation where immediate action is necessary. Therefore, the Board has added "[. . .] except in an emergency [. . .]" to this section to allow for immediate action. Forms are now provided by DEP for the activity, and the regulation now denotes this change.

Section 977.31. Eligibility requirements.—Clarity.

16. IRRC had a concern with clarity in this section. This section states ". . . to be eligible for Fund coverage, the participant shall meet the following eligibility requirements as set forth in section 706 of the act." However, IRRC noted that the list of requirements differs from the language in section 706 of the act (35 P. S. § 6021.706). IRRC pointed out that although the Board has the authority to clarify and establish additional requirements, the phrase should be changed to ". . .under section 706 of the act, the participant shall meet the following eligibility requirements . . ."

IRRC also pointed out that the first paragraph is designated as subsection (a). This designation could be deleted since there is no subsection (b).

The Board agrees and has made these recommended changes. The language in the regulation is now as consistent as possible with the language in the act.

Section 977.33. Fund coverage and exclusions.—Clarity.

17. IRRC suggested that a reference to the limits referred to in paragraphs (1) and (2) of subsection (a) should be added.

The Board agrees and has made the recommended clarifications.

Section 977.37. Priority of payment.—Clarity.

18. IRRC had a concern with respect to clarity in this section, because the title of the section is "Priority of payment," but the first sentence uses the phrase "prioritize reimbursements." Section 705(b) of the act uses the

phrase "prioritizing claims," and therefore IRRC contended that the word "claims" should be used consistently.

The Board agrees and has renamed the section "Priority of claims." Also changed was the first line so that the phrase "prioritize reimbursements" now reads "prioritize claims."

Section 977.61. Dispute of procedures.—Reasonableness.

19. IRRC was concerned because subsection (a) allows 35 days to file an appeal of a Fund decision to the Executive Director, while subsection (b) only allows 15 days to appeal the Executive Director's decision to the Board. IRRC questioned whether 15 days is sufficient time to receive and review a decision of the Executive Director, and prepare an appeal of that decision to the Board.

The Board agrees and has made both appeal periods 35 days, as noted earlier.

Other changes

Some other minor changes appear in the final-form regulations from the proposed format. These changes were to make the regulations accurately reflect the act. None of the changes were substantive therefore additional comments and concerns are not expected.

In § 977.4, it was determined that the DEP does not require certification to perform activities on a HOT. Accordingly, the "or a HOT" language in the definition of "certified tank installer" is being changed to "and who may also perform activities on a HOT."

In § 977.31, the term "or HOT" in subsection (a)(3) has been removed, as a HOT is not required to be registered under the act.

In § 977.33(a)(3) states that "A certified installer is subject to one deductible. . .". It should state "A certified company is subject to one deductible. . .". The company is the participant and therefore the installer is not subject to the deductibles.

Affected Parties

A participant or a distributor transacting business in this Commonwealth is affected by this rulemaking. There is a fiscal impact as a result of this rulemaking relating to fees. However, this rulemaking will have minimal impact on owners and operators as they have previously been paying fees and receiving benefits.

Fiscal Impact

State Government

State government will not be affected by this rulemaking since the program is funded entirely by fees paid by participants. No tax dollars are used to support this program. The fees paid by participants cover both claims and administrative expenses.

General Public

The general public may be minimally affected to the extent that fees are assessed, since the general public is a consumer of goods and services provided by owners and operators of a UST or a HOT who utilize the services of certified companies. Theoretically, any fees imposed by this rulemaking may add additional costs which in turn may lead to higher prices to consumers. However, the competitive market will likely serve as a buffer to any increase to consumers.

Political Subdivisions

Political subdivisions are directly affected by the implementation of this rulemaking since they constitute a portion of the owner, operator and certified company community. The political subdivision may pay fees based upon the types of product stored in their underground storage tanks and the cost of necessary services supplied by certified companies to keep their tank systems in compliance with Federal and State mandates. However, the political subdivisions receive benefits from the fees. If a release occurs, the political subdivision may receive up to \$1 million to clean the environment and minimize adverse impact to third parties.

Private Sector

Owners and operators of a UST or a HOT, as well as owners of certified companies, are directly affected by the implementation of these regulations since they constitute a portion of the regulated community. The private sector may pay fees based upon the types of product stored in underground storage tanks and the cost of necessary services supplied by certified companies. To offset this increase in costs the private sector shall receive up to \$1 million in coverage in the event of a release.

Paperwork

This rulemaking will affect all UST owners and operators and certified companies in this Commonwealth. There will be additional paperwork relating to payment of fees and claims made by a participant. However, the Fund is developing electronic commerce capabilities to minimize paperwork burdens. A participant can choose which method (hard copy or electronic commerce) best meets the participant's individual business needs for paying fees, reviewing transactions and facility information and communicating with the Fund.

Effectiveness/Sunset Date

This rulemaking becomes effective January 1, 2002. No sunset date has been assigned.

Contact person

Any questions regarding these final-form regulations should be directed to Peter J. Salvatore, Regulatory Coordinator, Special Projects Office, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 9, 2001, the agency submitted a copy of these final-form regulations to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted final-form regulations, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing these final-form regulations, the agency considered all comments received from IRRC, the Committees and the public. These final-form regulations were deemed approved by the House and Senate Committees on October 17, 2001. In accordance with section 5a(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), IRRC met on October 18, 2001, and approved the final-form regulations in accordance with section 5a(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

Findings

The Insurance Commissioner and the Chairperson of the Board find that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

Order

The Insurance Commissioner and the Chairperson of the Board, acting under the authorizing statutes, order that:

(a) The regulations of the Board, 25 Pa. Code Part VIII, are amended by deleting §§ 971.1—971.4, 973.1—973.12, 975.1—975.6; and by adding §§ 977.1—977.4, 977.11—977.24, 977.31—977.40, 977.51—977.54 and 977.61, to read as set forth in Annex A.

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

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

(d) The order shall take effect January 1, 2002.

M. DIANE KOKEN,
Insurance Commissioner
E. BRUCE SHELLER,
Chair,
Underground Storage Tank
Indemnification Board

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 31 Pa.B. 6120 (November, 3, 2001).)

Fiscal Note: Fiscal Note 11-179 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART VIII. UNDERGROUND STORAGE TANK
INDEMNIFICATION BOARD**

CHAPTER 971. (Reserved)

§§ 971.1—971.4. (Reserved).

CHAPTER 973. (Reserved)

§§ 973.1—973.12. (Reserved).

CHAPTER 975. (Reserved)

§§ 975.1—975.6. (Reserved).

**CHAPTER 977. UNDERGROUND STORAGE TANK
INDEMNIFICATION FUND**

Subchapter A. GENERAL PROVISIONS

Sec.	
977.1.	Purpose.
977.2.	Scope.
977.3.	Applicability.
977.4.	Definitions.

§ 977.1. Purpose.

This chapter sets forth the requirements that participants in the Fund shall satisfy to be eligible for Fund coverage of corrective action costs, bodily injury and property damage.

§ 977.2. Scope.

This chapter addresses the establishment and collection of fees, the claims procedures, the optional heating oil tank program and the dispute procedures of the Fund.

§ 977.3. Applicability.

This chapter applies to owners and operators of USTs, owners and operators of HOTs that elect to participate in the Heating Oil Tank Optional Program, certified companies and distributors.

§ 977.4. Definitions.

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

Act—The Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104).

Activity—Installing, making major modifications to or removing all or part of a storage tank system or storage tank facility.

Activity fee—The fee assessed upon a certified company for all activities on a UST or a HOT as established in accordance with section 705(d)(1) of the act (35 P. S. § 6021.705(d)(1)) and § 977.19(d) (relating to certified company fees).

Board—The Underground Storage Tank Indemnification Board.

Bodily injury—Physical injury, sickness, disease or death sustained by a third party, resulting from a release from a UST or a HOT, or a certified company activity.

Capacity fee—The fee assessed upon an owner or operator, as established in accordance with section 705(d)(2) of the act and § 977.18 (relating to capacity fee payment procedure).

Certification fee—The annual fee assessed upon a certified company which performs tank-handling activities on a UST, as established in accordance with section 705(d)(1) of the act and § 977.19(c).

Certified company—An entity, including, but not limited to, a sole proprietorship, a partnership or a corporation, which is authorized by the DEP to conduct tank-handling activities, tightness testing activities or inspection activities using certified installers, certified inspectors or both. See § 245.1 (relating to definitions).

Certified company fee—The fee assessed upon a certified company as established in accordance with section 705(d)(1) of the act and § 977.19(b).

Certified tank installer—A person certified by the DEP to perform tank-handling activities on a UST and who may also perform activities on a HOT. See § 245.1.

Claim—A request for coverage and reimbursement from the Fund which is made by the participant that has incurred, or will incur, corrective action costs or liability for bodily injury or property damage caused by a release.

Claim investigation—The obtaining and reviewing of information concerning a reported claim including:

- (i) Verbal or written statements.

- (ii) Conducting onsite visits and any information obtained from these visits.

- (iii) Other relevant information.

Corrective action costs—Reasonable and necessary expenses for corrective action, as defined in section 103 of the act (35 P. S. § 6021.103), incurred by an owner or operator in response to a confirmed underground storage tank release as specified in regulations promulgated by the DEP. The term does not include the cost of upgrading, routine inspections, investigations or permit activities not associated with a release. See § 245.1.

DEP—The Department of Environmental Protection of the Commonwealth.

Defense costs—Expenses incurred by the Fund in the investigation, settlement or defense of a specific claim, including fees of attorneys that the Fund retains and other litigation expenses.

Discount—The amount retained by distributors who collect the gallon fee in accordance with § 977.15 (relating to gallon fee discount for distributors).

Distributor—An intermediary that retains title to a regulated substance prior to delivery, and which delivers that substance into a UST.

Distributor delivery invoice—The document supplied by the distributor to a UST owner or operator which identifies the number of gallons of regulated substance delivered into a UST and the total gallon fee to be paid.

EPA—The United States Environmental Protection Agency.

Fund—The Underground Storage Tank Indemnification Fund.

Gallon fee—The fee assessed upon a UST owner or operator on regulated substances placed into a UST. The gallon fee is calculated by multiplying the number of gallons of regulated substance entering a UST by the unit charge in § 977.12 (relating to owner and operator fees).

Gallon fee statement—A form supplied by the Fund to a distributor or to a UST owner or operator upon which the assessed gallon fee is noted, and which is returned to the Fund with the remittance.

HOT—Heating oil tank—An underground heating oil tank not regulated under regulations promulgated by DEP, with a capacity of 3,000 gallons or greater used for storing heating oil products for use on the premises.

Nonretail bulk storage UST—A UST which is not used for dispensing gasoline to end-users.

Operator—Includes any of the following:

- (i) A person who manages, supervises, alters, controls or has responsibility for the operation of a UST.

- (ii) A person who manages, supervises, alters, controls or has responsibility for the operation of a HOT, and elects to participate in the Heating Oil Tank Optional Program.

Owner—Includes any of the following:

- (i) A person who owns a UST storing regulated substances on or after November 8, 1984.

- (ii) A person who owns a UST at the time all regulated substances were removed when removal occurred prior to November 8, 1984.

- (iii) A person who owns a HOT and elects to participate in the Heating Oil Tank Optional Program.

Participant—Includes any of the following:

- (i) An owner or operator of a UST.
- (ii) An owner or operator of a HOT.
- (iii) A certified company.

Property damage—Damage to the property of third parties that includes:

(i) Destruction of, contamination of, or other physical harm to real property or tangible personal property, including the resulting loss of use of that property which occurred from a release from a UST on or after February 1, 1994, or a release from a HOT on or after the date of election of coverage.

(ii) Loss of use of real property or tangible personal property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release from a UST which occurred on or after February 1, 1994, or a release from a HOT on or after the date of election of coverage.

Regulated substance—

(i) An element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health, welfare or the environment, and which is:

(A) Any substance defined as a hazardous substance in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. § 9601), but not including substances regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6921—6931).

(B) Petroleum, including crude oil or a fraction thereof and hydrocarbons which are liquid at standard conditions of temperature and pressure (60° and 14.7 pounds per square inch absolute), including oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other nonhazardous wastes and crude oils, gasoline and kerosene.

(C) Other substances determined by the DEP whose containment, storage, use or dispensing may present a hazard to the public health and safety or the environment, but not including gaseous substances used exclusively for the administration of medical care.

(ii) The term does not include the storage or use of animal waste in normal agricultural practices. See section 103 of the act and § 245.1.

Release—

(i) Spilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST or a HOT into surface waters and groundwaters of this Commonwealth or soils or subsurface soils in an amount equal to or greater than the reportable release quantity determined under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. § 9602), and regulations promulgated thereunder (See 40 CFR 302.1—302.8 (relating to designation, reportable quantities, and notification)), or an amount equal to or greater than a discharge as defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1321) and regulations promulgated thereunder (See 40 CFR 110.1—110.6 (relating to discharge of oil)).

(ii) The term also includes any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a UST or a HOT into a containment structure or facility

that poses an immediate threat of contamination of the soils, subsurface soils, surface water or groundwater.

Security—A bond of the Commonwealth or the United States, a surety bond or an irrevocable letter of credit.

Statement—A document supplied by the Fund to the participant which documents the appropriate fees.

Subrogation—The right of the Fund to pursue a claim against a third party when the participant has been indemnified by the Fund.

Suit—A civil action instituted against the participant for bodily injury or property damage resulting from a release.

Tank fee—The fee assessed upon a UST owner or operator whose tanks store regulated substances, which is calculated by multiplying the number of the USTs owned or operated by the per tank charge in § 977.12.

UST—Underground storage tank—

(i) Any one or a combination of tanks (including underground pipes connected thereto) which are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground.

(ii) The term does not include:

(A) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

(B) Tanks used for storing heating oil for consumptive use on the premises where stored unless they are specifically required to be regulated by Federal law.

(C) A septic or other subsurface sewage treatment tank.

(D) A pipeline facility (including gathering lines) regulated under:

(I) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. App. §§ 1671—1687).

(II) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A. §§ 2001—2015).

(E) An interstate or intrastate pipeline facility regulated under state laws comparable to the provisions of law in subparagraph (iv).

(F) Surface impoundments, pits, ponds or lagoons.

(G) Stormwater or wastewater collection systems.

(H) Flow-through process tanks.

(I) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(J) Storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the tank is situated upon or above the surface of the floor.

(K) Except for tanks subject to the requirements of 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of UST), tanks regulated under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), including piping, tanks, collection and treatment systems used for leachate, methane gas and methane gas condensate management.

(L) A UST whose capacity is 110 gallons or less.

(M) Tanks containing radioactive materials or coolants that are regulated under The Atomic Energy Act of 1954 (42 U.S.C.A §§ 2011—2297).

(N) A wastewater treatment tank system.

(O) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(P) A UST that contains a de minimis concentration of regulated substances.

(Q) An emergency spill or overflow containment UST system that is expeditiously emptied after use.

(R) A UST that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50, Appendix A (relating to general design criteria for nuclear power plants).

Waste oils—An accumulation of oils from one or more sources, including the following:

- (i) Water emulsified in oil.
- (ii) Incompatible oils that have been mixed.
- (iii) Foul or wet oil and sludge received from receipt operations.
- (iv) Sludges or bottom sediment accumulating in the bottoms of storage tanks after a significant period of time.
- (v) Oil which has been spilled and then recovered from sumps, basins or other spaces.
- (vi) Oil contaminated by gasoline or other petroleum products.

Wholesale distribution UST—A UST used for intermediate storage of gasoline prior to delivery into a UST that directly serves end users.

Subchapter B. FEES AND COLLECTION PROCEDURES

Sec.	
977.11.	Fund fees.
977.12.	Owner and operator fees.
977.13.	Tank fee payment procedure.
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977.21.	Penalty for late payment of fees.
977.22.	Fee dispute procedure.
977.23.	Recordkeeping responsibilities.
977.24.	Audit of records.

§ 977.11. Fund fees.

The fees in this subchapter are established and assessed by the Board to finance the Fund.

§ 977.12. Owner and operator fees.

(a) *Annual fees.* The Board may charge fees established in this section, based on an annual actuarial review.

(b) *Tank and gallon fees.* A UST owner or operator storing gasoline, new motor oil, hazardous substances, gasohol, aviation fuel, mixture, farm diesel and other types of substances based on the tank registration information maintained by the DEP may be assessed the following fees:

- (1) *Tank fee.* A tank fee of \$0 per UST per year.

(2) *Gallon fee.* A gallon fee on all regulated substances entering a UST of \$.0005 per gallon. For example, 10,000 gallons at \$.0005 per gallon equals \$5.

(c) *Nonretail bulk storage.* Total fees paid by an owner or operator of a nonretail bulk storage or wholesale distribution UST storing gasoline are established using the method described in subsection (b) and are capped at \$5,000 per UST per year in accordance with section 705(d)(3) of the act (35 P. S. § 6021.705(d)(3)).

(d) *Capacity fee.* An owner or operator which stores regulated substances including diesel, heating oil, used motor oil, kerosene and unknown substances based on the tank registration information maintained by the DEP may be assessed a capacity fee of \$.01 per gallon of capacity, which amount is established in accordance with section 705(d)(2) of the act. (For example, 10,000 gallons at \$.01 per gallon equals \$100).

§ 977.13. Tank fee payment procedure.

(a) The Board may charge a per tank fee to a UST owner or operator.

(b) The tank fee shall be established as set forth in § 977.12 (relating to owner and operator fees).

(c) The UST owner or operator shall pay the tank fee on or before the fee payment due date on the statement.

§ 977.14. Gallon fee payment procedure.

(a) A distributor shall collect any gallon fee directly from a UST owner or operator. If a UST owner or operator pays the fee, but a distributor fails to remit the fee, a UST owner or operator, upon proof of payment, will be eligible for Fund coverage. A distributor who fails or refuses to remit fees shall be subject to sanctions as provided in § 977.16 (relating to posting and collecting security).

(b) On or before the last day of each month, a distributor shall remit to the Fund any collected gallon fees, less the discount described in § 977.15 (relating to gallon fee discount for distributors). A distributor shall submit a completed gallon fee statement to the Fund on a monthly basis to document the amount of product distributed. The gallon fee will be based on the amount of regulated substance delivered into a UST by a distributor in the preceding month.

(c) A distributor shall record the number of gallons delivered on the delivery invoice, the receipt or another form which documents the date and amount of regulated substance delivered. A distributor shall provide a copy of this document to a UST owner or operator at the time of delivery. The number of gallons recorded on each delivery invoice shall be used to calculate the total number of gallons on the gallon fee report form for the preceding month. A distributor shall use the total of gallons recorded to calculate the gallon fee.

(d) A distributor located outside the territorial boundaries of this Commonwealth may collect and remit gallon fees upon proof that a performance bond by a licensed company has been secured and maintained in the amount of \$1 million. If a UST owner or operator is using an out-of-State distributor that chooses not to collect the fees, the UST owner or operator shall notify the Fund and shall remit fees to the Fund.

(e) If a UST owner or operator fails or refuses to pay the gallon fee, by the due date, a distributor shall provide the Board in writing with the following information: the name and address of the owner or operator, the street

address of the UST location, the point of contact for the distributor, product delivery dates and the amount of gallon fee not paid.

(f) If the Board determines that a distributor is ineligible, in accordance with § 977.16 to collect and remit the gallon fee in accordance with § 977.12 (relating to owner and operator fees), a UST owner or operator shall, after notification of the distributor's status by the Board, pay the fee directly to the Fund following the procedures in subsections (a)—(e).

(g) A UST owner or operator who pays the gallon fee to the Fund shall pay the fees directly to the Fund and record deliveries in accordance with subsections (a)—(d). A UST owner or operator who does not receive regulated substances from a distributor shall notify the fund and pay the fee directly to the Fund.

(h) A UST owner or operator with tanks used for nonretail bulk storage or wholesale distribution of gasoline is not required to pay more than \$5,000 per tank per year. See section 705(d)(3) of the act (35 P. S. § 6021.705(d)(3)).

§ 977.15. Gallon fee discount for distributors.

(a) The net monthly gallon fee remitted to the Fund by a distributor under § 977.14 (relating to gallon fee payment procedure) shall be the gallon fee less a discount computed as follows: 1% multiplied by the gallon fee collected.

(b) The gallon fee discount will not be allowed when the gallon fee payment is received by the Fund after the due date.

§ 977.16. Posting and collecting security.

(a) *Requirement to post security.*

(1) A distributor shall remit fees on or before the last day of each month. Fees shall be calculated based on the quantity of the regulated substance distributed by the distributor in the preceding month. A distributor shall be considered delinquent if fees are not received by the Fund within 45 days after the end of the calendar month in which the product was delivered.

(2) A distributor shall post security for a minimum of 12 months following a delinquency.

(3) Following the posting of security, the Fund will have recourse against the security if the distributor fails to timely remit to the Fund, all or part of the gallon fee due to the Fund.

(4) The form of security and the calculation of the amount of security shall be as set forth in § 977.17 (relating to security for payment of gallon fee).

(b) *Collecting posted security.*

(1) For any delinquent payment, the Fund may make demand for payment upon the distributor's surety or guarantor for payment of the full amount due the Fund.

(2) The distributor shall post replacement security within 5 days after collection of the posted security. A distributor who fails or refuses to post replacement security is ineligible to collect the fees of the Fund.

§ 977.17. Security for payment of gallon fee.

(a) The value of the security posted by a distributor shall be calculated by multiplying the gallon fee as established under § 977.12(a) and (b)(2) (relating to owner and operator fees) by the number of gallons of regulated substance (except heating oil and diesel fuel products) distributed over the 3-month period in the past

calendar year in which the distributor distributed the greatest volume of regulated substance.

(b) The Fund will accept only payment bonds issued by surety companies licensed to do business in this Commonwealth.

(c) Negotiable securities of the United States or the Commonwealth may be used in lieu of a surety bond if the face value of the security is not less than the amount of the security required. The securities shall be held by the State Treasurer.

(d) Bank letters of credit submitted as collateral shall be subject to the following conditions:

(1) The letter of credit shall be a standby or guarantee letter of credit issued by a Federally insured or equivalently protected bank or banking institution authorized to do business in this Commonwealth.

(2) The letter of credit shall be irrevocable and shall be so designated. The letter of credit shall name the Fund as the beneficiary and shall be payable to the Fund. The Fund may accept a letter of credit for which a limited time period is stated if the following conditions are met and are stated in the letter:

(i) The letter of credit is automatically renewable for additional time periods unless the bank gives at least 90 days prior written notice to both the Fund and the owner or operator, of its intent to terminate the letter of credit at the end of the current time period.

(ii) The Fund may draw upon the letter of credit before the end of its time period, if the distributor is required to post security under § 977.16 (relating to posting and collecting security) and has failed to replace the letter of credit with other acceptable means of compliance in accordance with section 215 of the Oil and Gas Act (58 P. S. § 601.215) within 30 days of the bank's notice to terminate the letter of credit.

(iii) A distributor will notify the Fund within 30 days of the bank's notice to terminate the letter of credit.

(3) The letter of credit shall be governed by the *Uniform Custom and Priorities for Accounting Credits*, International Chamber of Commerce, Publication Number 400 (1983 edition), and the laws of the Commonwealth, including 13 Pa.C.S. § 5101 (relating to letters of credit).

(4) The Fund will not accept a letter of credit from a bank, which has failed or refused to pay, in full, on a letter of credit previously submitted as collateral to the Fund.

(5) The Fund will not accept a letter of credit that contains rights of set-off, or liens in favor of the issuing bank.

(e) If the Fund collects an amount under the letter of credit in excess of the fees due, following failure of the distributor to replace the letter of credit after demand by the Fund, the Fund will hold the excess proceeds as cash collateral. The distributor may obtain the excess after the distributor has submitted, and the Fund has approved, a bond or other form of security posted in compliance with this section.

§ 977.18. Capacity fee payment procedure.

(a) The Fund shall charge the capacity fee to an owner or operator.

(b) The capacity fee shall be established as set forth in § 977.12(d) (relating to owner and operator fees).

(c) An owner or operator shall pay, on or before the due date indicated on the statement, the full amount of the capacity fee or a monthly payment of 1/12 of the total capacity fee due.

§ 977.19. Certified company fees.

(a) *Annual fees.* The Board will charge fees established in this section, based on an annual actuarial review.

(b) *Certified company fee.* Certified companies shall be required to pay to the Fund a certified company fee of \$1,000 per year.

(c) *Certification fee.* Certified companies which perform tank-handling activities on a UST as described in this subsection, shall be required to pay to the Fund an annual certification fee for each of the certifications held for each of the certified installers, based on the certification information maintained by the DEP (See 25 Pa. Code § 245.110 (relating to certification of installers)):

(1) Installation and modification certification (UMX) fee of \$0.

(2) Removal certification (UMR) fee of \$0.

(3) Tightness Tester certification (UTT) fee of \$0.

(4) Storage tank liner certification (TL) fee of \$0.

(d) *Activity fee.* An activity fee shall be assessed on all activities on a UST or a HOT. The tank installer shall complete an activity fee form, supplied by the DEP for each activity. Except in an emergency these forms shall be submitted to the DEP 30 days prior to the commencement of the activity. The fees are as follows:

(1) Installation Activity Fee of \$50.

(2) Major Modification Activity Fee of \$50.

(3) Removal Activity Fee of \$15.

§ 977.20. Certified company fee, certification fee and activity fee payment procedures.

(a) *Certified company fee and certification fee payment procedures.*

(1) This section applies to a certified company that performs installations, major modifications or removals of a UST or a HOT.

(2) A certified company shall pay the certified company fee and the certification fee to the Fund on or before the due date on the statement.

(3) The assessed fees shall be established in § 977.19 (relating to certified company fees).

(4) A certified company shall pay, by the due date indicated on the statement, the full amount of the fee or a monthly payment of 1/12 of the total certified company fee and certification fee.

(b) *Activity fee payment procedures.*

(1) This section applies to a certified company that performs installations, major modifications and removals of a UST or a HOT.

(2) The certified company shall submit required installation, modification and removal fees to the Fund upon receipt of the monthly invoice from the Fund.

(3) The activity fee shall be established in § 977.19(d).

§ 977.21. Penalty for late payment of fees.

Failure or refusal of a participant to pay the fee or a part of the fee by the date established by the Board for the payment of fees may result in a penalty of 5% of the amount due which shall accrue on the first day of

delinquency. Thereafter, on the last day of each month during which a part of a fee or a prior accrued penalty remains unpaid, an additional 5% of the then unpaid balance shall accrue in accordance with section 705(e) of the act (35 P. S. § 6021.705(e)).

§ 977.22. Fee dispute procedure.

(a) *General disputes.* The participant or a distributor that disputes the amount of an assessed fee may obtain review by filing a complaint with the Fund's Executive Director following the procedure established in § 977.61 (relating to dispute procedures).

(b) *Change in tank ownership.* If a change in the ownership of a UST occurs and the prior owner failed to pay assessed fees, the current owner may file an affidavit supplied by the Fund to establish date of ownership. The Fund may waive unpaid assessed fees up to and including the date of purchase of a UST. Coverage for releases occurring on or after the date of ownership may be considered for Fund coverage, based on the eligibility requirements as found in § 977.31 (relating to eligibility requirements).

§ 977.23. Recordkeeping responsibilities.

(a) An owner or operator shall maintain for 3 years documents necessary to verify the payment of the gallon, capacity and tank fees. At a minimum, these records shall include:

(1) Distributor delivery invoices.

(2) Financial records documenting payment of fees.

(3) Regulated substance inventory documents.

(4) Copies of the statement for a gallon, capacity or tank fee.

(b) A distributor shall maintain for a minimum of 3 years documents necessary to verify the number of gallons of regulated substances delivered into a UST. Records shall be maintained by customer account and shall include at a minimum:

(1) Distributor delivery invoices.

(2) Financial records, by customer account, documenting payment of the gallon fee.

(3) Financial records pertaining to remittance of the gallon fee by distributor.

(4) Regulated substance inventory records.

(5) Copies of the Fund's gallon fee statement.

(c) A certified company shall maintain for 3 years documents necessary to verify the company certification and the number of installer certifications held by the employees of the company for the installation, major modification and removal of a UST or a HOT. This documentation shall include, at a minimum:

(1) Copies of the DEP company certification and tank installer certificates.

(2) Financial records documenting payment of fees to the Fund.

(d) A certified company shall maintain documents necessary to verify the number of installations, modifications and removal activities performed on a UST or a HOT. This documentation shall include, at a minimum:

(1) Copies of the tank activity report form originally submitted to the DEP.

(2) Financial records documenting payment of fees to the Fund.

(e) Documents identified in this section shall be made available to the Fund upon request.

§ 977.24. Audit of records.

The Fund may require audits of the participant or a distributor to protect the rights and responsibilities of the Fund.

Subchapter C. COVERAGE AND CLAIMS PROCEDURES

Sec.	
977.31.	Eligibility requirements.
977.32.	Participant cooperation.
977.33.	Fund coverage and exclusions.
977.34.	Claims reporting.
977.35.	Third-party suit.
977.36.	Corrective action payments.
977.37.	Priority of claims.
977.38.	Primary coverage.
977.39.	Claim dispute procedures.
977.40.	Subrogation for corrective action cost.

§ 977.31. Eligibility requirements.

To be eligible for Fund coverage, the participant shall, under section 706 of the act (35 P. S. § 6021.706), meet the following eligibility requirements:

(1) The claimant is the owner, operator or certified tank installer of the tank which is the subject of the claim.

(2) The current fee required under section 705 of the act (35 P. S. § 6021.705) has been paid.

(3) A UST has been registered in accordance with the requirements of section 503 of the act (35 P. S. § 6021.503).

(4) The participant has obtained the appropriate permit or certification, if required under sections 108, 501 and 504 of the act (35 P. S. §§ 6021.108, 6021.501 and 6021.504).

(5) The release that is the subject of the claim occurred after the date established by the Board for payment of the fee required by section 705(d) of the act.

(6) The participant cooperates, as defined in § 977.32 (relating to participant cooperation), with the Fund in its eligibility determination process, claims investigation, the defense of any suit, the pursuit of a subrogation action and other matters as requested.

(7) The participant has met the notification requirements of § 977.34 (relating to claims reporting).

(8) If the claimant is a certified company, the company conducted a tank-handling activity on a UST or a HOT from which the release occurred.

§ 977.32. Participant cooperation.

(a) At a minimum, the participant shall cooperate by:

(1) Providing all information requested by the Fund including tank system design documents, inventory records, tank tightness test results, contracts and other information pertinent to a claim within 30 days of the request of the Fund, or additional time as set by the Fund.

(2) Permitting the Fund or its agent to inspect, sample and monitor on a continuing basis the property or operation of the participant.

(3) Providing access to interview employees, agents, representatives or independent contractors of the participant; and to review any documents within the possession, custody or control of the participant concerning the claim.

(4) Submitting, and requiring employees, consultants and other interested parties subject to its control to submit, to an examination under oath upon the request of the Fund.

(5) Obtaining competitive proposals for work to be performed when requested by the Fund.

(b) The participant shall cooperate in all respects with the Fund, its investigators, attorneys and agents during the investigation and resolution of a claim, including the defense of a suit, as provided in § 977.35 (relating to third-party suit) and any subrogation action as provided in § 977.40 (relating to subrogation for corrective action cost).

(c) Lack of cooperation by the participant with the Fund or its investigators, attorneys, or agents may result in denial of the claim or cessation of further payments on a claim.

§ 977.33. Fund coverage and exclusions.

(a) *Fund coverage.*

(1) *Corrective action.* The Fund shall indemnify an eligible owner or operator for up to the available coverage limit, for reasonable and necessary corrective action costs. See paragraph (4).

(2) *Bodily injury or property damage.* The Fund shall indemnify the eligible participant, up to the available coverage limit, for bodily injury and property damage. See paragraph (4).

(i) The Fund may defend any suit against the eligible participant. The cost of this defense does not reduce Fund coverage limits.

(ii) Punitive or exemplary damages awarded against the participant as a result of a suit are excluded from Fund coverage.

(3) *Deductible.* Payment of a claim for corrective action costs shall be subject to a deductible in an amount not less than \$5,000 per tank per occurrence for each UST or HOT that contributed to the release. If an eligible claim for bodily injury or property damage results from the release, an additional deductible per tank per occurrence in an amount not less than \$5,000 applies to all claims in addition to the deductible for corrective action. A certified company is subject to one deductible per tank per occurrence. The Fund in its discretion may pay the entire claim and seek reimbursement of the applicable deductible from the participant. The Fund shall publish the deductibles in the *Pennsylvania Bulletin* annually.

(4) *Limits of liability.* Payment of corrective action costs and bodily injury and property damage claims (See section 704 of the act (35 P. S. § 6021.704)) are subject to the following limits of liability:

(i) Payments for reasonable and necessary corrective action costs, and bodily injury or property damage may not exceed a total of \$1 million per tank per occurrence and may not exceed the annual aggregate limit.

(ii) Payments may not exceed:

(A) An annual aggregate of \$1 million for each owner and operator of 100 or less USTs or an owner or operator of 100 or less HOTs.

(B) An annual aggregate of \$2 million for each owner or operator of 101 or more USTs or an owner or operator of 101 or more HOTs.

(iii) For the purpose of determining coverage limits, any release, whether sudden, accidental, intermittent or continuous, will be considered one occurrence.

(iv) The Fund will only reimburse an owner or operator for reasonable and necessary corrective action costs.

(v) Damages paid to a third party for bodily injury or property damage may not exceed the amount of damages awarded by a court of competent jurisdiction or the amount agreed to by the Fund in settlement of the claim or suit resulting from a release. Under no circumstances will the Fund pay any amount in excess of the Fund's limit of liability as found in this paragraph.

(b) *Exclusions.* Fund coverage does not apply to the following:

(1) A release caused in whole or in part by the intentional act of the participant.

(2) Damages which the participant is legally obligated to pay solely by reason of the assumption of liability in a contract or agreement unless the participant has paid all current and past-due fees to the Fund as required by section 705(e) of the act (35 P. S. § 6021.705(e)), and the release was not discovered or known by the participant or by any previous participant, prior to the payment of any past due fees.

(3) Any portion of a release which occurred before February 1, 1994.

(4) A claim made against a certified company before the date of coverage.

(5) A claim made against the participant for a release discovered before any required fees are paid.

(6) Default judgments.

§ 977.34. Claims reporting.

The participant shall notify the Fund within 60 days after the confirmation of a release under §§ 245.304 and 245.305 (relating to investigation of suspected releases; and reporting releases).

§ 977.35. Third-party suit.

(a) *Suit.* In addition to the requirements of § 977.32 (relating to participant cooperation), the participant shall assist the Fund in its defense of a suit. The participant shall forward to the Fund all materials including:

(1) Technical reports, laboratory data, field notes or any other documents gathered by or on behalf of the participant to abate a release or to implement corrective action.

(2) Documentation of release detection methods, such as tank and line tightness tests or inventory records to verify that a release has taken place.

(3) Correspondence between the participant and any other persons relating to the release or claim that is the subject of the suit.

(4) Demands, summons, notices or other processes or papers filed with, in or by a court of law, administrative agency or an investigative body relating to the release or claim.

(5) The expert reports, investigations and data collected by experts retained by the participant relating to the release or claim.

(6) Other information developed or discovered by the participant concerning the release or claim.

(b) *Legal defense undertaken by the Fund.* The Fund may settle or defend any claim for bodily injury or property damage. The Fund may assign legal counsel to

defend any suit brought against the participant by a third party. The Fund will not reimburse legal fees for any firm not assigned by the Fund.

(c) *Defense and exhaustion of limits.* The Fund is not required to pay defense costs after the limit of liability is exhausted.

§ 977.36. Corrective action payments.

(a) The Fund shall make payments for reasonable and necessary corrective action costs to an owner or operator, unless a signed Authorization to Pay Form provided by the Fund has been submitted designating another person to receive Fund payments.

(b) Time and expense charges for remediation invoices shall be submitted to the Fund for all work performed. For invoices to be paid by the Fund, the invoices shall be fully documented to include:

(1) Time sheets for personnel and equipment.

(2) Statements of work performed.

(3) Receipts or other documentation for expendable supplies and subcontractor supplies.

(4) A list of tests performed with costs and results for any laboratory analyses.

(5) The owner, operator or remediation contractor shall supply rate schedules, fees for service schedules and contracts with consultants.

(6) All subcontractor invoices.

(c) An owner or operator may request that the Fund employ an alternative remediation payment option to include pay for performance type contracts.

§ 977.37. Priority of claims.

The Fund may prioritize claims for payment. The prioritization may take into account corrective action costs and the impact of the release on human health.

§ 977.38. Primary coverage.

(a) *Primary coverage.* The Fund provides primary coverage for corrective action costs and eligible claims for personal injury and property damage due to a release from a UST or a HOT.

(b) *Combined limits.* When the Fund determines a certified company is responsible for the release that is the subject of the claim, the coverage of a certified company will be exhausted before the coverage of an owner or operator of a UST or a HOT is applied.

§ 977.39. Claim dispute procedures.

The participant, or a distributor, that disputes a determination of the Fund may obtain a review of the determination by filing an appeal with the Executive Director of the Fund by following the procedures established in § 977.61 (relating to dispute procedures).

§ 977.40. Subrogation for corrective action cost.

(a) The Fund, after any payment, shall be subrogated to all of the rights of recovery of an owner or operator against any person for the costs of remediation.

(b) If an owner or operator does not comply with § 977.32 (relating to participant cooperation), the Fund may deny further payments on a claim.

Subchapter D. HEATING OIL TANK OPTIONAL PROGRAM

- Sec.
- 977.51. Election requirements.
- 977.52. Coverage period.
- 977.53. Cancellation of coverage.
- 977.54. Dispute procedures.

§ 977.51. Election requirements.

To elect coverage from the Fund, a HOT owner or operator shall:

- (1) Complete and submit an application form available from the Fund.
- (2) Provide the Fund with a copy of a tank tightness test utilizing an EPA approved testing system, indicating a satisfactory result. The test shall be completed within the 30-day period preceding the application date.
- (3) Submit a \$50 fee. The fee will be credited to the applicant's account if the application is approved or returned if the application is rejected.
- (4) Pay any fee established in § 977.11 (relating to Fund fees).

§ 977.52. Coverage period.

If the Fund determines that the requirements in § 977.31 (relating to eligibility requirements) have been satisfied, coverage by the Fund will be effective from the date the application is received. A HOT owner or operator will have continuous coverage provided all fees are paid within 30 days of the due date indicated on the statement provided by the Fund.

§ 977.53. Cancellation of coverage.

- (a) A HOT owner or operator may cancel coverage by providing advance written notice to the Fund. Coverage will be terminated on the date notice is received by the Fund or on a later date as requested by the HOT owner or operator. Fee refunds shall be made on a pro-rata basis.
- (b) The failure of a HOT owner or operator to remit fees within 30 days of the due date indicated on the statement will cause coverage to be canceled as of the due date. A fee is deemed paid on the date the payment is received by the Fund. Coverage may be reinstated as provided in section 705(e) of the act (35 P. S. § 6021.705(e)).

§ 977.54. Dispute procedures.

A HOT owner or operator who disputes a decision of the Fund may obtain review by filing a complaint with the Fund's Executive Director following the procedures in § 977.61 (relating to dispute procedures).

Subchapter E. DISPUTE PROCEDURES

- Sec.
- 977.61. Dispute procedures.

§ 977.61. Dispute procedures.

(a) An appeal of a decision of the Fund shall be made in writing to the Executive Director of the Fund. The appeal must be received within 35 days of the mailing date of the Fund's decision. An appeal shall contain:

- (1) The name and address of the appellant.
- (2) A statement of the facts forming the basis of the complaint.
- (3) Supporting material.

(b) An appeal of the Executive Director's decision shall be made in writing to the Board. The appeal must be received by the Board within 35 days of the mailing date of the decision. The appeal process shall be conducted in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(c) An adjudication of the Board may be appealed in accordance with 2 Pa.C.S. § 702 (relating to appeals).

(d) To remain eligible for Fund coverage, disputed fees shall be paid in full during the pendency of an appeal.

(1) If a participant or a distributor prevails in the appeal, fees paid in excess of the amount determined to be due plus interest shall be refunded. Interest shall be computed at the rate determined by the Secretary of Revenue for interest payments for overdue taxes under section 806 of the Fiscal Code (72 P. S. § 806).

(2) Penalties authorized by the act or by § 977.21 (relating to penalty for late payment of fees) will be retroactive to the first day of delinquency.

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