



Volume 31 (2001)

Pennsylvania Bulletin
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December 8, 2001 (Pages 6647-6770)

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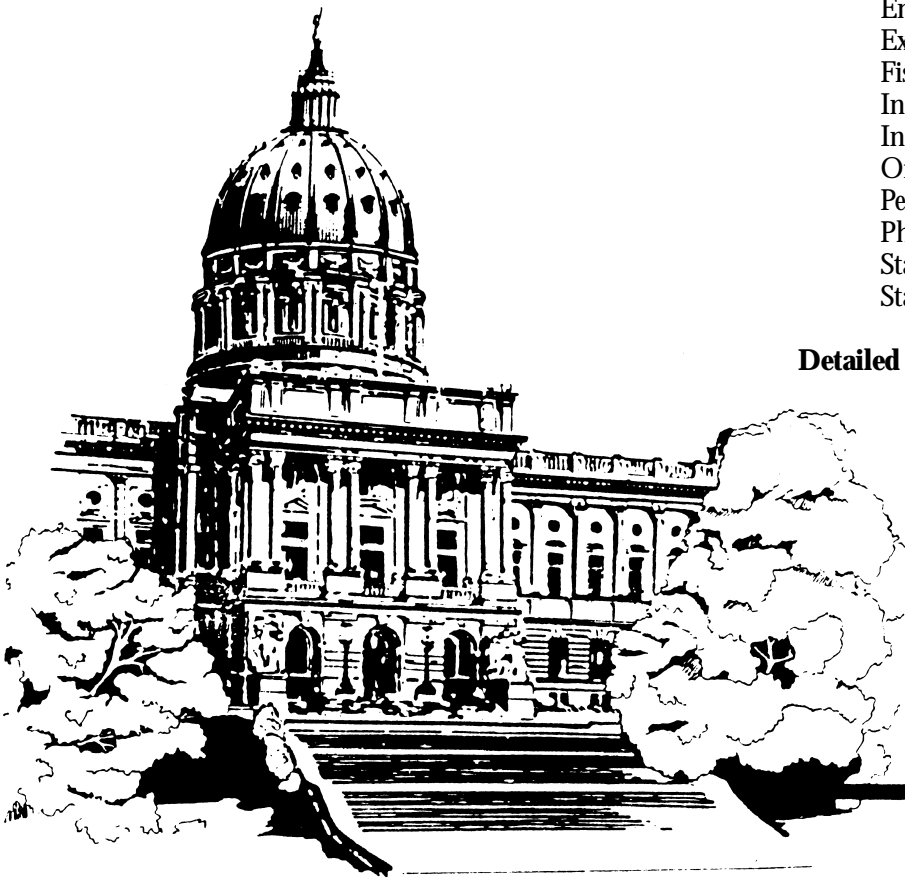
PENNSYLVANIA BULLETIN

Volume 31
Saturday, December 8, 2001 • Harrisburg, Pa.
Number 49
Pages 6647—6770

Agencies in this issue:

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State Board of Occupational Therapy
Education and Licensure

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No. 325, December 2001

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BULLETIN

(ISSN 0162-2137)

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2001.

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THE GENERAL ASSEMBLY

Recent Actions during the 2001 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during 2001 Regular Session.

2001 GENERAL ACTS ENACTED—ACT 084 through 088

| <i>Doc. No.</i> | <i>Date of Action</i> | <i>Bill Number</i> | <i>Printer's Number</i> | <i>Effective Date</i> | <i>Subject Matter</i> |
|-----------------|-----------------------|--------------------|-------------------------|-----------------------|---|
| 084 | Nov 21 | HB0494 | PN2717 | 60 days | First Class Township Code, The—conservation district appropriations |
| 085 | Nov 21 | HB0495 | PN2718 | 60 days | Borough Code, The—conservation district appropriations |
| 086 | Nov 21 | HB1541 | PN2719 | 60 days | Judicial Code (42 Pa.C.S.)—major criminal offenses time limitation |
| 087 | Nov 21 | HB1603 | PN2743 | 60 days | Crimes Code (18 Pa.C.S.)—paintball guns and markers unlawful carrying in vehicles |
| 088 | Nov 21 | SB0977 | PN1441 | immediately | Judicial Code (42 Pa.C.S.)—senior judge operational support grants |

* with exceptions

Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

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Director
Legislative Reference Bureau

[Pa.B. Doc. No. 01-2171. Filed for public inspection December 7, 2001, 9:00 a.m.]

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY Administrative Doc. 11 of 2001

And Now, this 14th day of November, 2001, it is hereby *Ordered and Decreed* that Trial Division General Court Regulation No. 94-1 issued by then Administrative Judge Alex Bonavita is hereby vacated.

By the Court

JOHN W. HERRON,
Administrative Judge

This Administrative Docket is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. ★51 and Pa.R.C.P. 239, and shall become effective immediately. As required by Pa.R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District. The Administrative Docket is also available on the Court web site at <http://courts.phila.gov>.

[Pa.B. Doc. No. 01-2172. Filed for public inspection December 7, 2001, 9:00 a.m.]

PHILADELPHIA COUNTY

Adoption of Phila.R.Civ.P.No. 7109.1; President Judge General Court Regulation No. 2001-03

Order

And Now, this 16th day of November, 2001, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on November 15, 2001 to adopt Philadelphia Rule of Civil Procedure 7109.1, *It Is Hereby Ordered* that Philadelphia Rule of Civil Procedure 7109.1 is adopted effective January 1, 2002.

This General Court Regulation is issued in accordance with Pa.R.Civ.P. No. 205.4, and shall become effective January 1, 2002. As required, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

FREDERICA A. MASSIAH-JACKSON,
President Judge

Phila.R.Civ.P.No. 7109.1. Electronic Filing of Mental Health Applications or Petitions.

(1) *General Rule.* (A) Except as otherwise provided by subsection (B) of this rule, parties shall file legal papers, including original process, with the Prothonotary by means of electronic filing in any civil mental health matter filed pursuant to the Mental Health Procedures Act of 1976, as amended, and the within rule.

(B) Notwithstanding subsection (A), appeals to appellate courts filed from orders issued by the Court pursuant to Petitions for Review of certification orders issued by Mental Health Review Officers cannot be filed electronically, but must be filed with the Prothonotary in a paper format.

(C) The filing party shall maintain the original paper copy of any legal paper that is electronically filed and shall file the original with the Prothonotary if requested pursuant to Pa.R.C.P. No. 205.4(b)(2)(ii).

(D) The Prothonotary shall not maintain a paper file of any legal papers filed electronically pursuant to this rule.

(2) *File Date. Acceptance By Prothonotary.* The Prothonotary shall provide electronic access at all times; however, legal papers submitted electronically shall be deemed "filed" after they are reviewed and accepted by the Prothonotary. Electronically filed document will be reviewed and accepted for filing during normal business hours only. The Prothonotary shall electronically provide a filing status message to the filing party setting forth the "filed" date and time.

Note

A filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the Prothonotary. See Pa.R.C.P. No. 205.4(e)(2).

(3) *Scheduling of Hearing.* Upon filing of the application or petition, a hearing shall be scheduled consistent with the dictates of the Mental Health Procedures Act.

(4) *Service of Pleading and Scheduling Order.* After the application or petition is verified and accepted and a hearing date scheduled, the Prothonotary shall notify all parties that the application was filed and is available, and further that a scheduling order was entered. This notification shall constitute service of the application or petition on all parties, and service of the scheduling order as required by Pa.R.C.P. No. 236.

(5) *Orders.* Upon conclusion of the hearing, the Mental Health Review Officer shall enter an appropriate order electronically. An electronic copy of the order shall be e-mailed or made available electronically to all parties through the Mental Health Electronic Filing System. Participation in the Electronic Filing System and the electronic availability of the orders as provided herein shall constitute compliance with Pa.R.C.P. No. 236.

(6) *Website.* The Prothonotary's web site, and the Mental Health System, may be found at the following website address: <http://courts.phila.gov>, or at such other site as may be designated from time to time. The Prothonotary shall provide electronic access at all times; however, the electronically filed document will be reviewed and accepted for filing during normal business hours only. The time and date of the filing and receipt shall be as set forth above.

(7) *Authorized Users.* The Civil Mental Health Electronic Filing System shall be accessible to attorneys and other parties with the prior approval of the Prothonotary. An appropriate user name and password will be provided, and specific software may also be required.

(8) *Fees.* The Prothonotary shall impose an automation fee of \$5.00 per Mental Health Application or Petition filed, together with any other requisite filing fees. All Petitions and Applications not filed with the Prothonotary electronically after the implementation date of this rule shall be subject to both the automation fee and the requisite filing fee. The President Judge may waive all or any portion of the filing fee and automation fee. The funds generated by the automation fee shall be set aside by the Prothonotary and remitted monthly to the First Judicial District's Procurement Unit, and shall be used for, but not limited to, the development, training, implementation and maintenance of the electronic filing system for the Philadelphia Court of Common Pleas. The procedure for payment of the fees and costs of the Prothonotary shall be set forth on the Prothonotary's web site.

[Pa.B. Doc. No. 01-2173. Filed for public inspection December 7, 2001, 9:00 a.m.]

Title 252—ALLEGHENY COURT RULES

ALLEGHENY COUNTY

Appointment of Counsel Policies and Procedures and Revised Fee Bill; Family Division; Administrative Doc. No. A-8

Order

Now, this 9th day of November, 2001, upon recommendation of the Court's Juvenile Section, it is hereby *Ordered* that the following policy regulating the appointment of counsel in all Family Division, Juvenile Section cases before the Judges of the Court of Common Pleas of Allegheny County is adopted for cases in which the order for appointment of counsel is made after December 1, 2001.

It is further *Ordered* that the District Court Administrator of Allegheny County publicize this policy in the *Pennsylvania Bulletin* forthwith.

By the Court

KATHLEEN MULLIGAN,
Administrative Judge

Policies and Procedures Governing Court Appointed Counsel for Delinquency Cases

I. General Guidelines

A. The appointment of counsel for delinquent Juvenile cases shall be made by the Supervising Judge of the Juvenile Section, her designee or by the Judge or Hearing Officer assigned to the specific case. Each appointment shall require a motion by the Public Defender of Allegheny County, setting forth the basis for the conflict. The Public Defender's office shall, upon reasonable notice of the Court, make itself available to the appointing Judge. Unless there is good cause, motions shall be submitted in writing in advance of the scheduled hearing.

B. The Supervising Judge of the Juvenile Section will keep a list of eligible attorneys. Attorneys interested in

being considered for appointments shall submit a letter and summary of criminal and family division defense experience to the supervising Judge of the Juvenile Section. This list is available for distribution to any Family Division Judge, upon request.

C. Immediately upon appointment, counsel shall prepare the Appointment Order (Form 24 A Juv. Ct.) for judicial signature. The appointed Attorney shall copy this order to 3 sources. Blank orders may be picked up in the office of the Judicial Services supervisor. It is important that the appointed attorney completes the order in full, insuring that it contains the JID #, the Docket #, and the Case Log #. The Court Clerk shall make the distribution of the appointment order in Court as follows:

Original—Prothonotary

First Copy—District Court Administrator, Fiscal Affairs,
300 Frick Building, 437 Grant Street, Pittsburgh, PA
15219

Second Copy—Information Management Dept.

Third Copy—Appointed Attorney (to be later used with
invoicing)

D. Attorneys receiving appointments agree to accept and adhere to the policies and procedures as set forth in this document including the Pro Bono section.

II. Fee Schedule

| | |
|--------------------------|--------------------------|
| A. Necessary Preparation | \$ 50.00 per hour |
| B. Court Appearance | |
| 1. Full Court Day | \$500.00 |
| 2. Half Court Day | \$250.00 (up to 4 hours) |
| C. Expert Fees | |
| 1. Preparation | \$ 50.00 per hour |
| 2. Full Court Day | \$500.00 |
| 3. Half Court Day | \$250.00 (up to 4 hours) |
| D. Investigator Fee | \$ 30.00 per hour |

III. Fee Guidelines

Court-appointed invoices in excess of the following amounts shall require the approval and signature of both the assigned Judge and the Supervising Judge of the Juvenile Section.

| | |
|---|------------|
| A. Trial (includes pre-trial conference, Cont'd hrgs. def'd hrgs., etc.) | \$1,000.00 |
| B. Plea (investigative & office time or Cont'd Hrgs. resulting in plea) | \$ 750.00 |
| C. Preliminary Hearings | \$ 250.00 |
| D. Expert Fees | \$1,500.00 |
| E. Investigator Fees | \$ 500.00 |
| F. Pre-Trial Conference | \$ 50.00 |

IV. Pro Bono Program

A. Attorneys accepting appointments under this program shall participate in pro bono work.

B. Participating attorneys shall submit one pro bono invoice for every four appointments (25%). Attorneys submitting invoices must designate the pro bono case upon submission of the invoice to the assigned judge.

C. The District Court Administration Fiscal Affairs Office shall maintain a record of all appointments. Policy enforcement shall be the responsibility of the Juvenile Section Administration. Failure to comply with the Pro

Bono requirements may result in designation by the Court of pro bono work, upon invoices received.

D. The District Court Administrator shall report quarterly to the Judges of the Family Division concerning the Pro Bono work of all participating attorneys.

V. Billing Guidelines

A. Appointed attorney shall submit all invoices to the appointment Judge. The invoice shall be submitted on firm letterhead, include the firm's address and telephone number, date and take the following format:

1. A chronological listing of appointment work with dates, amount of time devoted to the legal work, and associated expense.

2. Clearly identify miscellaneous expenses (copying, postage, etc.) and include actual original receipts.

3. Include statements of services rendered by experts and investigators.

4. Attach a copy of the Appointment Order (Form 24 A Juv. Ct.)

5. Include a completed Payment Order (Form 24 B. Juv. Ct) for execution by the assigned judge and the Supervising Judge, if necessary.

B. Counsel must submit requests for payment within 60 days of case completion. For the purpose of this policy, case completion shall be defined as:

1. Not Guilty Verdict
2. Disposition (if no post-disposition motions)
3. Disposition of post-disposition motion
4. Dismissal/Withdrawal of Charges
5. Acceptance of Consent Decree
6. Disposition of Appeal

C. The following limitations are established by the policy:

1. The Court will not reimburse for preparation or closing the case on the same day as the trial/plea/consent decree.

2. The Court will not reimburse for more than two 1/2 days or one full day per attorney per day. The only exception to this standard will be a situation in which counsel is asked to provide representation on-the-spot for a defendant. These cases usually involve little or no preparation or research to provide effective representation. In such case, counsel may invoice at a \$50.00 per hour rate for that case, beyond what is being invoiced for the original case that brought counsel to the Court.

3. The Court will not reimburse for a full day in Juvenile Court if counsel has submitted an invoice for work performed in another division of the Court on the same day.

IV. Billing Procedures

A. Counsel shall submit their invoice, a copy of the appointment Order, and completed payment order without the Judge's signature. This package is to be submitted to the Administration Secretary of the Juvenile Section.

B. The Juvenile Section Administration Secretary will record the receipt of such package and pass it to the Administrative Services Clerk who begins a preliminary audit of the invoice to insure proper rates are being charged and addition is correct. The invoice package is then returned to the Juvenile Section Administration Secretary.

1. Upon determination that there is a discrepancy or question on the invoice, the Juvenile Section Assistant Administrator will contact counsel and attempt to resolve the discrepancy.

2. Upon resolution, the Assistant Administrator will submit the package with a recommendation that the assigned judge sign the Payment Order.

3. If the discrepancy is unresolved, a notation will be made on the invoice and the package will be presented to the assigned Judge. The Judge will enter an appropriate order or direct the attorney to present a motion pursuant to the motions procedures. After an order is entered, the judicial staff will provide a copy to counsel and will forward the package to the Juvenile Section Administration for further processing.

D. The Administration of the Juvenile Section will forward the invoice package with payment order to the assigned Judge for signature. Once the Judge has approved the payment order and invoice, the package will be returned to the Juvenile Section Administration Secretary and it will be promptly submitted to the Fiscal Affairs Department.

E. The Fiscal Affairs Department shall promptly review the documents and post the transaction to the Court's respective account, prepare a payment voucher, and forward to the Office of County Controller.

1. If any discrepancy is discovered by the Fiscal Affairs Department, the package will be returned to the Assistant Administrator of the Juvenile Section who will resolve the discrepancy or advise the assigned Judge that a problem exists.

F. The Court will make every effort to assure payment within 14 days of receipt of the invoice.

G. The following issues may cause delay in prompt payment and or rejection of any expense or invoice:

1. Failure to submit within the established time constraints
2. Failure to submit required receipts
3. Failure to notify the Fiscal Affairs Department of a change of address
4. Failure to correctly complete a W-9 form
5. Failure to comply with any provision of this policy
6. Inquiry of the Court's Fiscal Affairs Department, Administration Department or Controller Office inquiry

Reminders

- Fee schedules and Fee Guidelines only apply to Court Appointments of the Juvenile Section of the Family Division
- Signature of Juvenile Section Supervising Judge is required for amounts in excess of Fee Guidelines
- A request for payment must be completed within 60 days of case completion.—See Section V., Subsection B.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION—JUVENILE SECTION

IN THE INTEREST OF CASELOG NUMBER JID NUMBER DOCKET NUMBER
(A MINOR)

ATTORNEY PAYMENT ORDER

AND NOW, to wit, this ____ day of _____, 20 __, appearing _____, counsel appointed by the Court, and presenting the within Petition for Counsel Fees, it is ORDERED and DECREED that the Controller of Allegheny County is hereby authorized and directed to issue a warrant for the amount of \$ _____ for the above-rendered legal services to:

Name: _____
Address: _____

APPEARANCE FOR THE ABOVE NAMED YOUTH IS WITHDRAWN
BY THE COURT:
Judge

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION—JUVENILE SECTION

IN THE INTEREST OF CASELOG NUMBER JID NUMBER DOCKET NUMBER
(A MINOR)

CONFLICT COUNSEL APPOINTMENT ORDER

AND NOW, to wit, this ____ day of _____, 20 __, in accordance with the Public Defender Act of 1968, December 2, P. L. 1144, 16 P. S. 9960.7, it appearing to the Court that the above-named Defendant is unable to hire private legal counsel to represent him/her at the above numbered matter, it also appearing to the Court that the Public Defender of Allegheny County, having been appointed to represent the Defendant is unable to do so on the date and time set for trial and for the reason: Conflict,

IT IS HEREBY ORDERED that _____ Esq., be appointed to represent the Defendant in the matter before the Court at the above number and that he/she be awarded reasonable compensation upon completion of said representation.

BY THE COURT:
Judge

[Pa.B. Doc. No. 01-2174. Filed for public inspection December 7, 2001, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MERCER COUNTY

Local Rule of Criminal Procedure L4006E; No. 2001-588

Order

And Now, this 20th day of November, 2001, it is hereby Ordered and Directed that Mercer County Local Rule of Criminal Procedure L4006E is hereby withdrawn. This shall become effective thirty (30) days after publication in the Pennsylvania Bulletin.

It is also Ordered and Directed the Court Administrator of Mercer County, in accordance with Pa. Rule of Criminal Procedure 105, shall file seven (7) certified copies of

these Rules with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, and file one certified copy with the Criminal Procedural Rules Committee.

It is further Ordered and Directed that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

By the Court

FRANCIS J. FORNELLI, President Judge

[Pa.B. Doc. No. 01-2175. Filed for public inspection December 7, 2001, 9:00 a.m.]

MERCER COUNTY
Local Rule—L4006E; 2001-588

Order

And Now, October 23, 2001, It Is Hereby Ordered and Decreed that Local Rule L4006E is withdrawn effective January 1, 2002. This Rule providing for determination of real estate valuation for purposes of bail, will no longer be applicable after January 1, 2002. Mercer County has provided effective January 1, 2002 that real estate valuation shall be 100 percent of assessed valuation. Thus, the formula provided for in Local rule L4006E will no longer be accurate or necessary.

By the Court

FRANCIS J. FORNELLI,
President Judge

[Pa.B. Doc. No. 01-2176. Filed for public inspection December 7, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

[49 PA. CODE CH. 42]

General Revisions

The State Board of Occupational Therapy Education and Licensure (Board) amends its regulations governing occupational therapists and occupational therapy assistants in Chapter 42 (relating to State Board of Occupational Therapy Education and Licensure).

A. *Effective Date*

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

B. *Statutory Authority*

The Board is authorized to promulgate and adopt regulations consistent with law as it deems necessary for the performance of its duties and the proper administration of its enabling statute under section 5(b) of the Occupational Therapy Practice Act (act) (63 P. S. § 1505(b)). Section 6(a)(2) of the act (63 P. S. § 1516(a)(2)) anticipates that the Board will adopt a code of ethics in that this provision authorizes the Board to take disciplinary action against a licensee for violating a code of ethics adopted by the Board.

C. *Background and Purpose*

The Board seeks in these amendments to eliminate provisions that are outdated or have been rendered invalid, to standardize and simplify provisions that maintain their validity and to adopt a revised code of ethics. Proposed rulemaking was published at 30 Pa.B. 4255 (August 12, 2000). The proposal contained a detailed discussion of the background and purpose of the rulemaking.

D. *Compliance with Executive Order 1996-1*

In accordance with the principles and requirements of Executive Order 1996-1 of February 6, 1996, an exposure draft of this proposal was sent on May 18, 1999, to 21 agencies, associations and individuals who had been identified as interested parties or who had expressed an interest in this rulemaking. The Board received comments as a result of this mailing and reviewed them at its meeting of June 19, 1999. The Board made a number of changes to the draft proposal as a result of the comments.

E. *Summary of Comments and Responses to Proposed Rulemaking*

The publication of proposed rulemaking on August 12, 2000, was followed by a 30-day public comment period. The Board did not receive any comments from members of the public during this period. The Board received reports from the House Professional Licensure Committee (dated September 12, 2000) and the Independent Regulatory Review Commission (IRRC) (dated October 12, 2000).

The House Committee report stated that it would not take formal action until the final-form regulations were

promulgated. The House Committee called attention to a technical error in § 42.3 (relating to meetings of the Board). The Legislative Reference Bureau also noticed the error and published the correct version of that section in its publication of the proposed rulemaking, 30 Pa.B. 4255. The Board adopts the corrected version.

The code of ethics in the current regulations is the code adopted by the American Occupational Therapy Association (AOTA) in 1988. The proposed rulemaking sought to adopt the more recent code of ethics adopted by the AOTA in 1994 (1994 Code). During the course of its review of the proposed rulemaking, IRRC contacted the AOTA and learned that the AOTA had adopted a still newer code of ethics (2000 Code) than the one the Board proposed to adopt. The AOTA adopted its latest code May 15, 2000. Although the Board had corresponded with the AOTA in 1998 about adopting the 1994 Code and had sent a copy of an exposure draft to the AOTA on May 18, 1999 (see section D of this Preamble), the AOTA did not at any time, prior to the close of the public comment period, suggest to the Board that it was working on a new code of ethics. IRRC transmitted to the Board a letter it received from the AOTA, dated September 15, 2000, approximately 3 days after the close of the public comment period. That letter recommended that the Board adopt the 2000 Code. IRRC recommended that the Board should revise the final-form regulations to reflect the 2000 Code.

Despite the lateness of the AOTA's communication, the Board was able to review the 2000 Code at its meeting of March 2, 2001. For the following reasons the Board declines to adopt the 2000 Code and goes forward with its proposed rulemaking unchanged in regard to the code of ethics.

First, the new 2000 Code is significantly different from the 1994 Code. Neither the public in general nor the regulated community in particular has had the opportunity to comment on it. Second, the 2000 Code contains provisions that the Board may not have the statutory authority to adopt or are inconsistent with the Board's view of the requirements of ethical practice, or both. The Board's concerns about the 2000 Code include the following:

(1) Principle 1.B. of the 2000 Code requires occupational therapists to set fees "with due regard for the service recipient's ability to pay." The act does not give the Board express authority to regulate fees charged by licensees. This provision of the 2000 Code could be interpreted to mean that fees must be set in accordance with a service recipient's ability to pay and that a licensee could be considered in violation of the code if he or she charged a fee that was beyond a service recipient's ability to pay.

(2) Principle 1.C of the 2000 Code requires that "occupational therapy personnel shall make every effort to advocate for recipients to obtain needed services through available means." This provision of the 2000 Code could be interpreted to mean that a licensee must make not just a reasonable effort to advocate for a recipient to secure services, but must make every effort, even if unreasonable. Moreover, this provision does not specify with sufficient clarity what needed services are meant. It is not clear whether the "needed services" for which the occupational therapy personnel must advocate are restricted to occupational therapy services or whether they include other services such as medical or social services.

(3) Principle 3.C of the 2000 Code states that occupational therapists “shall obtain informed consent from participants involved in research activities and indicate that they have fully informed . . . the participants of potential risk” The provision goes on to state that occupational therapists “shall endeavor to ensure that the participant(s) comprehend these risks” The 1994 Code, which the Board seeks to adopt, requires written informed consent from research subjects. It is not clear to the Board why the 2000 Code retreats from requiring that the consent be written.

(4) Principle 4.B of the 2000 Code requires occupational therapists to “use procedures that conform to the standards of practice and other appropriate AOTA documents relevant to practice.” The 2000 Code does not explain or define “other appropriate AOTA documents relevant to practice.” A code of ethics should be understandable from examining the document itself, without referring to unexplained “other appropriate AOTA documents.”

(5) Principle 4.F of the 2000 Code requires occupational therapists to provide appropriate supervision to individuals for whom the practitioners have supervisory responsibility in accordance with the AOTA policies, local, state and Federal laws, and institutional values. The Board has its own regulations pertaining to supervision in §§ 42.21—42.23 (relating to delegation of duties to aides and other unlicensed personnel; supervision of occupational therapy assistants; and supervision of applicants with temporary licenses).

(6) Principle 5.A of the 2000 Code requires occupational therapists to “familiarize themselves with and seek to understand and abide by applicable Association policies Principle 5.B of the 2000 Code requires occupational therapists to “remain abreast of revisions in . . . laws and Association policies and . . . inform employers, employees, and colleagues of those changes.” Principle 7.D of the 2000 Code again requires occupational therapists to “familiarize themselves with . . . [the] policies and procedures created by the [AOTA].” The Board does not believe it can require, as a matter of ethics, that licensees keep abreast of unspecified policies of a professional association. If the Board were to adopt a code of ethics that required licensees to be familiar with unspecified policies of a professional organization, the Board would be putting pressure on licensees to join the organization so as to assure that they receive notice of those policies.

(7) Principle 6.D of the 2000 Code requires occupational therapists to “accept the responsibility for their professional actions which reduce the public’s trust in occupational therapy services” It is not clear to the Board how this provision should be interpreted or enforced. For these reasons, the Board declines to adopt the 2000 Code. The Board remains satisfied that the 1994 Code represents an improvement over the 1988 Code and will serve as a useful, practical guide to ethical behavior for licensees.

The letter of September 15, 2000, from the AOTA to IRRC also suggested a revision to § 42.12 (pertaining to waiver of licensure examination). Under the current regulation the Board may issue a license without examination to an applicant who: (1) is licensed in another jurisdiction which has requirements substantially equivalent to those of the Commonwealth; or (2) provides evidence of having completed the certifying examination and is currently certified by the AOTCB as an occupational therapist or occupational therapy assistant. The

AOTA proposes that the requirement of “currently certified” by the AOTCB be replaced by “initially certified” by the AOTCB. The Board declines to make this substantive change on final rulemaking. First, the only purpose in amending § 42.12(2) was to make a technical change to reflect the change in name of the certifying organization from the AOTCB to the National Board for Certification in Occupational Therapy, Inc. The purpose was not to make a substantive change in the qualifications that an applicant must demonstrate in order to be awarded a license without examination. Neither the public in general nor the regulated community in particular has had the opportunity to comment on the AOTA’s proposal. Second, while the AOTA recommends the change so that § 42.12(2) will be “consistent” with § 42.15(c)(3) (relating to application for temporary license), these two sections pertain to standards for different types of licenses, the former section pertaining to unrestricted licenses to practice, the latter to temporary licenses.

F. Fiscal Impact and Paperwork Requirement

The final-form rulemaking should not have any fiscal impact on the Commonwealth, its subdivisions, the regulated community or the residents of the Commonwealth. It is unlikely that the final-form rulemaking will impose additional paperwork on anyone. The revised code of ethics requires a licensee to obtain “written informed consent” from subjects involved in research activities. It is highly likely that those engaged in research activities already do this.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 28, 2000, the Board submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 4255 to IRRC and to the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of all comments received, as well as other documents.

In preparing these final-form regulations, the Board has considered all comments received from the House Professional Licensure Committee, the Commission and the public. No comments were received from the Senate Consumer Protection and Professional Licensure Committee.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on October 25, 2001. The Commission met on November 1, 2001, and approved the final-form regulations in accordance with Section 5(e) of the Regulatory Review Act.

I. Public Comment

Interested persons may obtain information regarding the amendments by writing to Herbert Abramson, Board Counsel, State Board of Occupational Therapy, Education and Licensure, P. O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

J. 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 the 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 amendments do not enlarge the purpose of proposed rulemaking published at 30 Pa.B. 4255.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

K. Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 42, are amended by amending §§ 42.1, 42.3, 42.11, 42.12, 42.14, 42.15, 42.21, 42.24, 42.31, 42.42—42.45 and 42.47; by adding § 42.19 and by deleting §§ 42.18, 42.32 and 42.33 to read as set forth in Annex A.

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

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

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

MELANIE A. WENNICK,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6358 (November 17, 2001).)

Fiscal Note: Fiscal Note 16A-674 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 42. STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

GENERAL PROVISIONS

§ 42.1. Definitions.

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

AOA—American Occupational Therapy Association.

Act—The Occupational Therapy Practice Act (63 P. S. §§ 1501—1519).

Applicant—An individual seeking licensure under the act as an occupational therapist or an occupational therapy assistant.

Board—The State Board of Occupational Therapy Education and Licensure of the Commonwealth.

Certification—Recognition by the NBCOT that an individual is a registered occupational therapist or a certified occupational therapy assistant.

Commissioner—The Commissioner of Professional and Occupational Affairs.

Equivalent program—A masters or certificate program in occupational therapy approved by the Board.

Licensee—An individual who has been licensed under the act as an occupational therapist or an occupational therapy assistant.

Licensure examination—The Certification Examination for Occupational Therapist, Registered, or the Certification Examination for Occupational Therapy Assistant prepared and administered by the NBCOT.

NBCOT—National Board for Certification in Occupational Therapy, Inc.

Service recipient—The patient or client who directly receives care or services from the licensee.

Surrogate—The spouse, parent or guardian of the service recipient.

§ 42.3. Meetings of the Board.

Action may be taken by the Board at a constituted meeting at which a majority of appointed Board members are present. A simple majority of the members present and voting determine action to be taken by the Board. Minutes will be kept of Board meetings, and, upon approval by the Board, will become the official minutes.

LICENSURE

§ 42.11. Licensure examination.

(a) The licensure examinations will be scheduled at least twice each year at times and places designated by the NBCOT.

(b) The applicant shall apply to NBCOT for admission to the licensure examination and shall pay the required fee at the direction of NBCOT.

(c) The applicant is responsible for directing that NBCOT send the applicant's examination results and other information requested to the Board.

(d) The passing score shall be that established by the NBCOT for each administration of the licensure examination.

(e) After the first failure, the applicant may take the next scheduled examination or the examination following the next scheduled examination. After a second or successive failure of the licensure examination, the Board may require the applicant to complete additional training approved by the Board. Written notice will be provided to the applicant as to what additional training will be required.

§ 42.12. Waiver of licensure examination.

An applicant may be licensed without examination who presents one of the following to the Board:

(1) Satisfactory evidence on forms provided by the Board, that the applicant is licensed or registered as an occupational therapist or occupational therapy assistant in another state, territory of the United States or the District of Columbia, which has requirements for licensure substantially equivalent to those of the Commonwealth.

(2) Satisfactory evidence that the applicant has successfully completed the NBCOT Certification Examination and is currently certified by NBCOT as a registered occupational therapist or an occupational therapy assistant.

§ 42.14. Foreign-educated applicants.

(a) To apply for licensure, the foreign-educated applicant shall, before examination, submit evidence satisfac-

tory to the Board, on forms provided by the Board, that the applicant meets the following requirements:

- (1) Is of good moral character.
- (2) Has completed educational requirements substantially equal to § 42.13(2) (relating to application for licensure). The Board will accept a credentials evaluation done by the NBCOT as proof that the foreign-educated applicant has completed the educational requirements.
- (b) The foreign-educated applicant may be licensed by the Board, if he has complied with subsection (a) and has met one of the following criteria:

- (1) Passed the licensure examination.
- (2) Qualified for a waiver of the licensure examination under § 42.12 (relating to waiver of licensure examination).

§ 42.15. Application for temporary license.

(a) The Board may issue a temporary license to an applicant who pays the required fee and submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant:

- (1) Has met requirements for licensure under § 42.13 (relating to application for licensure).
- (2) Is eligible and has applied to take the licensure examination or has failed the licensure examination but applied to retake the examination on the next scheduled date if the following applies:

(i) The temporary license shall expire automatically upon the failure of the applicant to take the licensure examination, except for an appropriate excuse approved by the Board.

(ii) The temporary license shall expire automatically upon receipt by the applicant of notice of failure of reexamination, and the applicant may not be eligible for another temporary license for a period of 1 year from the date of the notice.

(iii) Even after 1 year from the date of notice of failure of reexamination, the applicant may not be issued another temporary license, except at the discretion of the Board.

(b) A temporary license issued under subsection (a) authorizes the practice of occupational therapy only as an assistant under the direct supervision of an occupational therapist licensed under the act and this chapter.

(c) The Board may also issue a temporary license to an applicant who:

- (1) Pays the required fee.
- (2) Submits evidence satisfactory to the Board, on forms provided by the Board, that the applicant is not a resident and is not licensed in this Commonwealth.
- (3) Submits evidence to the Board that the applicant is either licensed under the laws of the District of Columbia or of a state or territory of the United States which has licensure requirements substantially equal to the requirements of the act or has met the requirements for certification, as an occupational therapist registered or a certified occupational therapy assistant, established by NBCOT.

(4) Certifies that the applicant will perform services for not longer than a 6 consecutive month period in a calendar year, in association with an occupational therapist licensed under the act.

§ 42.18. (Reserved).

§ 42.19. Licensee's change of name or address; service of process and legal papers.

(a) A licensee's name and address on file with the Board shall be deemed the licensee's official name and address for the purpose of service of process and other legal papers.

(b) A licensee's name on file with the Board shall be the name that appears on the license unless that name is legally changed, in which case the licensee shall report the change and the reason for the change to the Board in writing within 10 days of the change.

(c) A licensee who changes an address on file with the Board shall notify the Board in writing within 10 days. Licensees who do not comply with this subsection shall bear full responsibility for failure to receive correspondence from the Board, including biennial renewal notification.

MINIMUM STANDARDS OF PRACTICE

§ 42.21. Delegation of duties to aides and other unlicensed personnel.

(a) A licensee may delegate to aides and other unlicensed personnel duties associated with nontreatment aspects of occupational therapy services if the following conditions are met:

(1) The licensee who delegates a duty shall accept professional responsibility for the performance of that duty by the aide or other unlicensed person to whom it is delegated. Responsibility for the performance of a duty delegated by an occupational therapy assistant shall lie with both the assistant and with the occupational therapist who supervises that assistant.

(2) The aide or other unlicensed person does not perform an activity which requires licensure under the act.

(b) The following are examples of the lawful use of aides or other unlicensed personnel in the occupational therapy setting:

- (1) Transporting patients.
- (2) Preparing or setting up a work area or equipment.
- (3) Attending to the personal needs of patients/clients during treatment.

(4) Assisting patients/clients with nontreatment aspects of occupational therapy services, such as monitoring and cuing patients/clients as they participate in activities.

(5) Performing clerical and housekeeping activities.

(c) The following are examples of the unlawful use of aides or other unlicensed personnel in the occupational therapy setting:

- (1) Evaluating patients/clients.
- (2) Treating patients/clients.
- (3) Recording occupational therapy progress reports on the chart of a patient/client.

(d) Failure to comply with this section constitutes unprofessional conduct under section 16(a)(2) of the act (63 P. S. § 1516(a)(2)).

§ 42.24. Code of Ethics.

Purpose. The Board adopts the following Code of Ethics to establish and maintain a high standard of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of licensees. The Code of Ethics is adapted with permission from the

“Occupational Therapy Code of Ethics” of the American Occupational Therapy Association (revised July 1994).

(1) *Principle 1.* Licensees shall demonstrate a concern for the well-being of the recipients of their services. (beneficence)

(i) Licensees shall provide services in an equitable manner for all individuals.

(ii) Licensees shall maintain relationships that do not exploit the recipient of services sexually, physically, emotionally, financially, socially or in any other manner. Licensees shall avoid those relationships or activities that interfere with professional judgment and objectivity.

(iii) Licensees shall take all reasonable precautions to avoid harm to the recipient of services or to his property.

(2) *Principle 2.* Licensees shall respect the rights of the recipients of their services. (autonomy, privacy, confidentiality)

(i) Licensees shall collaborate with service recipients or their surrogates, or both, in determining goals and priorities throughout the intervention process.

(ii) Licensees shall fully inform the service recipients or their surrogates, or both, of the nature, potential risks and outcomes of any interventions.

(iii) Licensees shall obtain written informed consent from subjects involved in research activities indicating they have been fully advised of the potential risks and outcomes.

(iv) Licensees shall respect the individual's right to refuse professional services or involvement in research or educational activities.

(v) Licensees shall protect the confidential nature of information gained from educational, practice, research and investigational activities.

(3) *Principle 3.* Licensees shall achieve and continually maintain high standards of competence. (duties)

(i) Licensees shall use procedures that conform to the standards of acceptable and prevailing occupational therapy practice.

(ii) Licensees shall take responsibility for maintaining competence by participating in professional development and education activities.

(iii) Licensees shall perform their duties on the basis of accurate and current information.

(iv) Licensees shall protect service recipients by ensuring that duties assumed by or assigned to other licensees are commensurate with their qualifications and experience.

(v) Licensees shall provide appropriate supervision to individuals for whom the licensees have supervisory responsibility.

(vi) Licensees shall refer recipients to other service providers or consult with other service providers when additional knowledge and expertise are required.

(4) *Principle 4.* Licensees shall comply with laws and regulations governing the practice of occupational therapy in this Commonwealth. (justice)

(i) Licensees shall understand and abide by applicable local, State and Federal laws.

(ii) Licensees shall inform employers employees, and colleagues about those laws and regulations that apply to the profession of occupational therapy.

(iii) Licensees shall require those they supervise in occupational therapy related activities to adhere to this chapter.

(iv) Licensees shall accurately record and report all information related to professional activities.

(5) *Principle 5.* Licensees shall provide accurate information about occupational therapy services. (veracity)

(i) Licensees shall accurately represent their qualifications, education, experience, training and competence.

(ii) Licensees shall disclose any affiliations that may pose a conflict of interest.

(iii) Licensees shall refrain from using or participating in the use of any form of communication that contains false, fraudulent, deceptive or unfair statements or claims.

(6) *Principle 6.* Licensees shall treat colleagues and other professionals with fairness, discretion and integrity. (fidelity, veracity)

(i) Licensees shall safeguard confidential information about colleagues and staff members.

(ii) Licensees shall accurately represent the qualifications, views, contributions and findings of colleagues.

(iii) Licensees shall report any breaches of the Board's law and this chapter to the Board.

DISCIPLINARY PROCEEDINGS

§ 42.31. Unprofessional conduct.

A licensee who engages in unprofessional conduct is subject to disciplinary action under section 16 of the act (63 P. S. § 1516). Unprofessional conduct includes the following:

(1) Harassing, abusing or intimidating a patient physically, verbally or sexually.

(2) Divulging, without patient or family consent, or both, information gained in the patient-therapist relationship to anyone not a member of the patient's immediate family or not a health-care professional or educational team member, unless under a statute or court order.

(3) Receiving a fee for referring a patient to a third person.

(4) Accepting a patient for treatment or continuing treatment if benefit cannot reasonably be expected to accrue to the patient or client, or misleading a patient as to the benefits to be derived from occupational therapy.

(5) Guaranteeing the results of therapy, consultation or procedure.

(6) Practicing while using or under the influence of alcohol, narcotics or another type of drug, chemical or material which impairs judgment or coordination.

(7) Practicing without reasonable skill and safety to patients due to a physical or mental condition which impairs judgment or coordination or addiction to alcohol, narcotics or another type of drug, chemical or material which impairs judgment or coordination.

(8) Practicing outside the lawful scope of occupational therapy as defined in section 3 of the act (63 P. S. § 1503) or not in accordance with section 14 of the act (63 P. S. § 1514).

§ 42.32. (Reserved).

§ 42.33. (Reserved).

CHILD ABUSE REPORTING REQUIREMENTS

§ 42.42. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensees who, in the course of the employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Licensees who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensee, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.

(d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:

(1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.

(2) Where the suspected abuse occurred.

(3) The age and sex of the subjects of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.

(5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.

(6) Family composition.

(7) The source of the report.

(8) The person making the report and where that person can be reached.

(9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

(10) Other information which the Department of Public Welfare may require by regulation.

§ 42.43. Photographs, medical tests and X-rays of a child subject to report.

A licensee may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical test on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 42.44. Suspected death as a result of child abuse—mandated reporting requirement.

A licensee who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

§ 42.45. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensee who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the licensee's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensee shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensee's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

§ 42.47. Noncompliance.

(a) *Disciplinary action.* A licensee who willfully fails to comply with the reporting requirements in §§ 42.42—42.44 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 16 of the act (63 P. S. § 1516).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensee who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

[Pa.B. Doc. No. 01-2177. Filed for public inspection December 7, 2001, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51 AND 63]

Administration and Fishing

The Fish and Boat Commission (Commission) by this order amends Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments relate to administration and fishing.

A. Effective Date

The amendments will go into effect upon publication of this order adopting the amendments in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the amendments, contact Laurie E. Shepler, Assistant Counsel, (717) 705-7815, P. O. Box 67000, Harrisburg, PA 17106-7000. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The amendments to § 51.25 (relating to demand for or waiver of hearing) are published under the statutory authority of section 928 of the code (relating to revocation, suspension or denial of license, permit or registration). The amendments to § 51.41 (relating to general) are published under the statutory authority of sections 928, 2102, 2305, 2711, 2903 and 2904 of the code. The amendments to §§ 51.89, 63.5, 63.11, 63.15 and 63.21 are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

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

E. Summary of Changes

(1) *Section 51.25.* The Commission's regulations provide that before the Commission may suspend, deny or revoke an individual's license, permit, special license or boat registration issued under the authority of the code, the Commission must give that individual an opportunity to be heard. The individual must submit a timely demand for a hearing, and the demand shall be in writing. After an individual requests a hearing, the Executive Director appoints a presiding officer to conduct the hearing on the Commission's behalf. Although the Commission's regulations provide for a nonrefundable filing fee of \$35, the Commission historically had not charged a fee. The Commission accordingly has amended its regulations to provide for a \$35 nonrefundable filing fee. The Commission also has amended its regulations to provide that if an individual demands a hearing and subsequently fails to appear, the individual waives his right to a hearing, and a hearing will not be conducted.

(2) *Sections 51.41, 51.89, 63.11 and 63.15.* When the General Assembly amended the law to transfer administrative responsibility related to commercial artificial propagation from the Commission to the Department of Agriculture, it repealed Chapter 33 of the code (relating

to propagation and sale of fish). Therefore, the Commission has amended its regulations to remove any references to this chapter or any of the sections contained in the chapter.

(3) *Sections 63.5 and 63.21 (relating to methods of fishing; and designation of fishing regulations).* The code provides that if a person violates a regulation promulgated under section 2102(a) of the code (relating to general rules) that the Commission has designated as being for the protection of fish or fish habitat or for the health and safety of persons who fish, that person commits a summary offense of the second degree. The penalty is a \$100 fine or imprisonment not exceeding 20 days. If a person violates a regulation promulgated under section 2102(b) of the code, that person commits a summary offense of the third degree. The penalty is a \$50 fine. An individual who is caught intentionally snagging steelhead, for example, pays a \$100 fine, whereas an individual who is caught netting steelhead pays only a \$50 fine. This disparity occurs because the Commission promulgated § 63.9 (relating to snatch fishing, foul hooking and snag fishing) under section 2102(a) of the code and designated it as being for the protection of fish or fish habitat or for the health and safety of persons who fish. The Commission, on the other hand, promulgated § 63.5 (relating to fishing devices) under section 2102(b) of the code.

The Commission, accordingly, has adopted amendments to correct the inconsistency in the current fine structure for using various illegal methods of taking fish from Commonwealth waters.

F. Paperwork

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

G. Fiscal Impact

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. Currently, no more than 20 individuals per year request administrative hearings regarding the proposed suspension, denial or revocation of their licenses, permits, special licenses or boat registrations issued under the authority of the code. Therefore, the fiscal impact of the amendments to § 51.25 will be minimal. With the exception of the changes to § 51.25, the amendments will impose no new costs on the private sector or the general public. The amendments to § 51.25, as previously stated, will impose a \$35 non-refundable filing fee.

H. Public Involvement

A notice of proposed rulemaking was published at 31 Pa.B. 4652 (August 25, 2001). The Commission did not receive any public comments concerning the proposals.

Findings

The Commission finds that:

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

(2) A public comment period was provided, and no comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 51 and 63, are amended by amending §§ 51.25, 51.41, 51.89, 63.5, 63.11, 63.15 and 63.21 to read as set forth in 31 Pa.B. 4652.

(b) The Executive Director will submit this order and 31 Pa.B. 4652 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 31 Pa.B. 4652 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Code: Fiscal Note 48A-118 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 01-2178. Filed for public inspection December 7, 2001, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 453]

Distribution of Highway Maintenance Funds

The Department of Transportation (Department), Bureau of Maintenance and Operations, by this order deletes Chapter 453 (relating to distribution of highway maintenance funds) to read as set forth in Annex A.

Purpose of Final-Form Rulemaking

The purpose of this final-form rulemaking is to delete Chapter 453. Chapter 453 is no longer needed because 75 Pa.C.S. § 9104 (relating to standards and methodology for data collection) no longer requires the promulgation of standards and methodology for data collection in the form of regulations. Changes to the standards and methodology for data collection are now to be published as a notice in the *Pennsylvania Bulletin*.

The Department will publish any changes to the standards and methodology for data collection in the *Pennsylvania Bulletin*. A notice will first be published announcing that changes to the standards and methodology of data collection are being considered, inviting questions and comments from interested persons and the public. After a sufficient period for questions or comments concerning the proposed changes, a subsequent notice of the changes to the standards and methodology for data collection will be published in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 5098 (October 2, 1999), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Transportation Committees. In addition to this final-form rulemaking, the Department provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in

compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

No comments were received from the public, IRRC or the Committees. Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form rulemaking was deemed approved by the House and Senate Committees on October 26, 2001. Under section 5(g) of the Regulatory Review Act, this final-form rulemaking was deemed approved by IRRC effective October 26, 2001, confirmed at meeting of IRRC on November 1, 2001.

Comments and Responses

As there were no comments received from the public, IRRC or the Committees, the final-form text of these regulations contains no additions, deletions or other modifications to the rulemaking as previously proposed at 29 Pa. B. 5098.

Statutory Authority

These final-form regulations are deleted under the authority contained in 75 Pa.C.S. §§ 6103 and 9104 (relating to promulgation of rules and regulations by department; and standards and methodology for data collection).

Persons and Entities Affected

This rulemaking affects Department maintenance districts within this Commonwealth and the general motorist public which has occasion to use the State roadway network.

Fiscal Impact: Paperwork Requirements

This rulemaking will not impose any increased costs on private persons, State or local governments. This rulemaking will not occasion the development of any additional reports or other paperwork requirements.

Effective Date

This deletion will be effective on the date of final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

As this rulemaking effects a rescission of regulations, no sunset date is established.

Contact Person

Individuals who seek information regarding this final-form rulemaking may contact J. Michael Long, P.E., Chief, Roadway Inventory and Testing Section, Roadway Management Division, Bureau of Maintenance and Operations, BOMO Annex Building, 907 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-8920.

Order

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 453, are amended by deleting §§ 453.1—453.4 to read as set forth in Annex A.

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

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

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

BRADLEY L. MALLORY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 6358 (November 17, 2001).)

Fiscal Note: Fiscal Note 18-352 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart B. VEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAY

CHAPTER 453. (Reserved)

§§ 453.1—453.4 (Reserved).

[Pa.B. Doc. No. 01-2179. Filed for public inspection December 7, 2001, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 207]

Noncoal Underground Mines and Other Excavations

The Environmental Quality Board (Board) proposes to amend Chapter 207 (relating to noncoal mines). The proposed amendments will delete the current regulations addressing the use of explosives at noncoal mines and add regulations addressing safety at underground noncoal mines and mined-out underground noncoal mines housing other businesses. This proposal was adopted by the Board at its meeting of October 16, 2001.

A. *Effective Date*

These proposed amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information contact Paul Hummel, Chief, Anthracite and Industrial Minerals Mine Safety Division, Bureau of Deep Mine Safety, 5 West Laurel Blvd., Pottsville, PA 17901, (570) 621-3139; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I of this Preamble. Persons with a disability may use the AT&T Relay service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The proposed rulemaking is being made under the authority of sections 2(f) and 12 of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. §§ 25-2(f) and 25-12) (act), and Reorganization Plan No. 2 of 1975 (71 P. S. § 751-22). Section 2(f) of the act requires inter alia all pits, quarries and mines other than coal mines to be operated and conducted to provide adequate protection to workers. This proposed rulemaking is also authorized by sections 1917-A and 1920-A(b) of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20(b)), which authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to formulate, adopt and promulgate regulations necessary for the Department to perform its work.

D. *Background and Purpose*

The purpose of this proposed rulemaking is to revise Chapter 207 by deleting and reserving the existing regulations and by adding regulations addressing safety at noncoal underground mines. The provisions to be deleted are outdated regulations addressing the use of explosives at noncoal mines. The use of explosives at noncoal surface mines is completely addressed by regulations found in Chapters 77 and 211 (relating to noncoal mining; and storage, handling and use of explosives). The proposed amendments address safety in underground noncoal mines (including the use of explosives) and in mined-out underground noncoal mines used to house

other businesses. The proposed amendments will modernize, clarify and recodify regulations within the Department's authority to enforce.

Since 1975, the Department has regulated noncoal mines and mined-out noncoal underground mines used for other businesses to ensure the safety of persons at these facilities. The authority and duty to maintain these programs is established by section 2(f) of the act (concerning safety at pits, quarries, underground mines other than coal mines, trenches and similar operations). To carry out these programs, the Department has been using the regulations found in 34 Pa. Code Chapter 33 (relating to mines and other excavations) promulgated by the Department of Labor and Industry (L&I). L&I was the agency responsible for enforcing section 2(f) of the act prior to 1975.

The proposed amendments do not recodify the L&I regulations addressing safety in active noncoal underground mines. The L&I regulations are out-of-date and redundant in light of more recent Federal regulations. As an alternative, the Board proposes to incorporate by reference the United States Department of Labor, Mine Safety and Health Administration's (MSHA) regulations addressing safety in metal and nonmetal underground mines. Currently, noncoal underground mines in this Commonwealth must comply with both the MSHA and the Department's regulations. By using the MSHA regulations, rather than maintaining two sets of standards, safety at noncoal underground mines will be enhanced and there will be a reduction in the operator's regulatory obligations. The MSHA regulations provide a fairly complete regulatory scheme. However, there are three issues not addressed by the MSHA regulations, which are included in this proposed rulemaking.

First, a person working as a mine foreman will be responsible for ensuring that the day-to-day operation of the mine is performed in a manner which protects worker safety and complies with the regulations. Also, the foreman must demonstrate the competency to meet this obligation by obtaining a certificate of qualification from the Department. Making the foreman responsible for safety and compliance with the regulations recodifies requirements in the L&I regulations. Requiring the mine foreman to obtain a certificate of qualification merely codifies current practice. Similar requirements are applicable to foremen for underground coal mines.

Second, the proposed amendments will continue the current requirement that surface explosive storage magazines must be licensed in accordance with the requirements of Chapter 211. The risks associated with storing explosives are significant enough to warrant retaining this minimal licensing requirement.

Finally, due to the ultra-hazardous nature of storing, using and handling explosives, the proposed amendments will retain the requirement that the person responsible for the blasting activity be licensed by the Department.

The proposed amendments will recodify the L&I regulations addressing safety in mined-out noncoal underground mines used to house an ongoing business. Most of the changes from the L&I regulations are for clarity and simplicity, not for the purpose of changing substantive standards.

The proposed amendments do not separately address safety while constructing storage caverns. In the Depart-

ment's experience, safety for persons either constructing or working in storage caverns is better addressed by the proposed amendments addressing noncoal underground mines and mined-out noncoal underground mines used to house other businesses.

This proposed rulemaking will affect 13 underground noncoal mining operations employing approximately 350 persons and 17 mined-out underground noncoal mines housing other businesses that employ approximately 700 persons.

The Department discussed the proposed amendments with the underground industrial mineral mining roundtable. This group, which is open to representatives from the underground industrial mineral mining industry, reviewed in detail the proposed amendments for underground noncoal mines. This group is in favor of incorporating by reference the MSHA regulations rather than promulgating a separate, potentially conflicting, set of requirements.

E. Summary of Regulatory Requirements

1. Subchapter A (relating to general).

Subchapter A sets forth the chapter's general requirements. Section 207.101 (relating to scope) defines the applicability of the chapter to underground noncoal mines and mined-out underground noncoal mines used to house other businesses. Section 207.102 (relating to definitions) defines terms applicable to more than one subchapter. These terms are "developed facility," "mined-out," "noncoal underground mine" and "person." A developed facility is a portion of a mined-out noncoal underground mine being or to be used as part of a business. This proposed definition combines the original L&I definitions for "developed facility" and "undeveloped facility." The proposed amendment has been made for simplicity and clarity. "Mined-out" is still defined as those portions of an underground noncoal mine where mining is completed for any reason. A noncoal underground mine is defined broadly to include both the underground workings and the related surface support facilities. This definition is based on the MSHA definition for an underground mine. The MSHA definition was used to ensure that the regulations applicable to noncoal underground mines will have the same scope as the MSHA regulations for metal and nonmetal mines. Finally, "person" is defined broadly to include natural persons and legal entities.

Section 207.103 (relating to responsible party) makes the entity that owns or operates the facility responsible for ensuring that the facility is in compliance with the regulations. This is a change from the L&I regulations (see 34 Pa. Code § 33.162(b) (relating to scope)) which also makes the employee responsible for complying with the implementing regulations.

Finally the Department's administrative enforcement authority is spelled out in § 207.104 (relating to enforcement). The Department has the authority to issue orders to ensure compliance with section 2(f) of the act, the authorizing legislation, as well as these implementing regulations. In addition, the Department can revoke any certificates of qualification or approvals issued under these implementing regulations. This regulation is authorized by and clarifies the Department's inherent authority to issue compliance orders to enforce section 2(f) of the act. See *Department of Environmental Resources v. Butler County Mushroom Farm*, 454 A.2d 1 (Pa. 1982).

2. Subchapter B (relating to noncoal underground mines).

Subchapter B applies to noncoal underground mines in this Commonwealth. Section 207.202 (relating to definitions) defines MSHA as the United States Department of Labor, Mine Safety and Health Administration. Also, the L&I definition for "magazine" is retained. A magazine is a structure used for storing explosives.

Section 207.211(a) (relating to safety requirements) incorporates by reference the MSHA safety and health standards in 30 CFR Part 57 (relating to Safety and Health Standards—underground metal and nonmetal mines). Future changes to the MSHA regulations will be immediately incorporated by reference. Subsection (b) incorporates by reference mine-specific alternative safety or health standards accepted by MSHA. Subsection (c) requires the owner or operator of a noncoal underground mine to submit to the Department a copy of the materials submitted to MSHA. The Department will utilize the applicable MSHA policies and guidance materials to ensure that the Department's interpretation of these incorporated MSHA regulations is consistent with MSHA's interpretation.

Section 207.211(d) requires that surface explosives magazines at noncoal underground mines must be licensed in accordance with Chapter 211. This cross reference to the Department's blasting regulations is not a new requirement. The Department's blasting regulations have always required the licensing of surface explosives magazines, including surface magazines at coal and noncoal underground mines. In the Department's experience, the risks associated with storing explosives are significant enough to warrant retaining this minimal licensing requirement. The license will ensure that the explosives magazine is sited, constructed and maintained in accordance with the applicable regulations. This licensing requirement will not impose on noncoal mine operators' substantive requirements different from those established by the MSHA regulations. The MSHA regulations cross-reference the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Fire Arms regulations for storing explosives. The Board has amended Chapter 211 to incorporate by reference the same Federal regulations. See 31 Pa.B. 3751 (July 14, 2001).

Section 207.212 (relating to employment of foreman) retains the L&I requirement that the mine operator shall employ a mine foreman who will be responsible for ensuring the safety of underground workers and for ensuring that the mining operation complies with the Commonwealth's mine safety laws and regulations. The proposed amendments will now require the mine foreman to possess a certificate of qualification from the Department. Sections 207.213—207.215 describe the duties of the foreman, the certificate of qualification application requirements and the standards for issuing certificates of qualification. To obtain the certificate of qualification, the applicant must demonstrate, by means of a written examination, the ability to ensure the safety of the underground employees. Under § 207.216 (relating to examining committee), this examination will be prepared and scored by a committee consisting of a mine foreman and a Department representative.

Requiring noncoal underground mines to employ a foreman who is responsible for the underground employees' safety, compliance with the mining laws and who must possess a certificate of qualification from the Department is consistent with requirements applicable to

coal underground mine foremen. See section 201 of the Pennsylvania Anthracite Coal Mine Act (52 P. S. § 70-201) and section 206 of the Pennsylvania Bituminous Coal Mine Act (52 P. S. § 701-206).

Requiring the mine foreman to possess a certificate of qualification codifies current practice. Noncoal underground mines employ a mine foreman who has the day-to-day responsibility for the underground mine's operation. A critical part of this responsibility is ensuring compliance with applicable State and Federal laws and regulations. As a service to the mining industry, the Department has maintained a voluntary program for certifying the competency of persons to be mine foremen. Noncoal underground mines employ as mine foremen persons possessing a Department certificate of qualification.

Finally, proposed § 207.217 (relating to blasting activity) retains the requirement that the storage, handling and use of explosives be supervised by a person licensed as a blaster by the Department. The use of explosives is an ultra-hazardous activity. Given the potential risk of injury to persons and damage to property, it is essential that the Department continues to ensure the competency of persons who are responsible for explosives.

3. Subchapter C (relating to mined-out areas).

This subchapter specifies the standards for protecting the health and safety of persons working in mined-out noncoal underground mines used to house other businesses. The following summary identifies those few instances where there is a substantive change from the L&I regulations.

Section 207.302 (relating to definitions) retains the L&I definitions for "outside air" and "pure air." Outside air is air from aboveground. Pure air is air containing at least 19.5% oxygen, no more than .5% carbon dioxide and no harmful levels of other gases or particulates.

Under § 207.303 (relating to approvals), persons are only allowed to work in portions of developed facilities approved by the Department. Also, the developed facility must be constructed and maintained in accordance with the requirements of this subchapter.

Sections 207.311—207.319 are performance specifications. Section 207.311 (relating to roof areas) requires that normal roof control measures be employed in a developed facility. Section 207.312 (relating to lighting) requires the developed facility to be equipped with permanent and emergency lighting systems. In determining the adequacy of emergency and permanent lighting systems, the Department will utilize the analogous MSHA standards for lighting systems in underground metal and nonmetal mines. Section 207.313 (relating to entrances and exits) requires each area of the developed facility to be connected to the surface by two passageways. Section 207.314 (relating to ventilation) requires the developed facility to be ventilated with an adequate quantity of outside air. At a minimum, an adequate amount of pure air is 20 cubic feet per person per second. If necessary, mechanical ventilation methods (that is, fans) shall be used. These mechanical means of ventilation must be approved by the Department. Section 207.315 (relating to closing underground sections) requires that noncombustible material shall be used to permanently seal off or enclose any portion of a developed facility.

Section 207.316 (relating to inspections) specifies the owner's/operator's obligation to inspect a developed facility. Ceilings, roof supports, walls, entrances and doorways shall be inspected monthly. Emergency and personal

lighting systems shall be inspected biweekly. The ventilation system shall be inspected weekly. All discovered defects shall be corrected. Section 207.317 (relating to record of inspection) requires a log recording the results of the inspection and subsequent corrective actions. Orders issued by the Department to correct a condition shall be added to the log.

Section 207.318 (relating to storage of flammable liquids) prohibits storing more than 5 gallons of flammable liquid in a developed facility, unless otherwise approved by the Department. The flammable liquid is to be stored in a safety container. It is the Board's opinion that safety containers approved by MSHA for storing flammable liquids in underground metal and nonmetal mines are acceptable under this section. Unlike the L&I regulations, the Department is expressly authorized to allow flammable liquids to be stored in something other than a safety container. The proposed regulation addresses those storage caverns used to store vehicles. In this instance, gasoline is left in the vehicles' tanks.

Section 207.319 (relating to check-in/check-out system) requires the owner/operator of a developed facility to maintain a check-in/check-out system for tracking who is in the developed facility. The L&I regulations did not require a check-in/check-out system. Nonetheless, this is not a new requirement. The proposed regulation merely codifies what the Department established through case-by-case adjudication in 1980. See *Butler County Mushroom Farms, Id.* In *Butler County Mushroom Farms*, the Supreme Court upheld the Department's authority under section 2(f) of the act to require mushroom farms, which are located in mined-out noncoal underground mines, to establish a check-in/check-out system.

F. Benefits, Costs and Compliance

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

Benefits

The benefits, albeit unquantifiable, are those that result from having regulations modernized, clarified and simplified. For persons working at these facilities, the benefit will be fewer accidents and injuries. This will result because the safety standards contained in the regulations will be more effectively implemented. The greatest impact will be on the 350 workers at underground noncoal mines where the proposed regulations will eliminate duplicative and out-of-date requirements. For the regulated community, the benefit will be greater certainty in implementing the regulations. The operators will no longer be confronted with having to implement two different sets of standards.

Compliance Costs

The compliance costs for the underground noncoal mine operators should be reduced. Replacing the L&I regulations with the MSHA regulations eliminates duplicative reporting requirements. Under this proposal the operator only has to submit to the Department a copy of the materials required by MSHA. There will be no change in the compliance costs faced by mined-out underground mines housing other businesses. The proposal does not affect either substantive or reporting requirements.

Compliance Assistance

The Department is not planning to initiate a new compliance assistance program to assist with the implementation of this proposal. This proposal is not imposing new requirements; they either incorporate by reference

existing Federal requirements or recodifies existing L&I requirements. The Department will continue its practice of meeting with owner/operators of noncoal underground mines and developed facilities to ensure compliance with these regulations.

Paperwork Requirements

The paperwork requirements applicable to the noncoal underground mining industry will be reduced. The duplicative paperwork requirements established by the L&I regulations are being eliminated. The operator will only have to maintain the MSHA record or submit to the Department a copy of the materials submitted to MSHA. For mined-out noncoal underground mines housing other businesses, there is no change in the existing minimal paperwork requirements.

G. *Sunset Review*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 27, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria 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 Department, the General Assembly and the Governor of objections raised.

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by February 6, 2002. Interested persons may also submit a summary of the comments to the Board. The summary may not exceed one page in length and must also be received by February 6, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by February 6, 2002. A subject heading of the proposal and a return name and address must be included in each transmission.

DAVID E. HESS,
Chairperson

Fiscal Note: 7-357. No fiscal impact; (8) recommends adoption.

Editor's Note: As part of this proposal, the Board is proposing to delete the existing text of Chapter 207, which currently appears at *Pennsylvania Code* pages 207-1 through 207-12, serial numbers (234645) to (234656). The following text is new and is printed in regular type to enhance readability.)

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 207. NONCOAL UNDERGROUND MINES

Subch.

- A. GENERAL
- B. NONCOAL UNDERGROUND MINES
- C. MINED-OUT AREAS

Subchapter A. GENERAL

- | | |
|----------------|--------------------|
| Sec. | |
| 207.1. | (Reserved). |
| 207.2. | (Reserved). |
| 207.11—207.22. | (Reserved). |
| 207.31—207.46. | (Reserved). |
| 207.101. | Scope. |
| 207.102. | Definitions. |
| 207.103. | Responsible party. |
| 207.104. | Enforcement. |

§ 207.1. (Reserved).

§ 207.2. (Reserved).

§§ 207.11—207.22. (Reserved).

§§ 207.31—207.46. (Reserved).

§ 207.101. Scope.

This chapter applies to underground noncoal mines and mined-out underground noncoal mines used to house other businesses in this Commonwealth. The purpose of this chapter is for the protection of life, the promotion of health and safety and the prevention of accidents.

§ 207.102. Definitions.

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

Developed facility—The portion of a mined-out underground noncoal mine developed or being developed for storage, manufacturing or other activities requiring a person to enter the mined-out area. The term includes all roads and means of entering and leaving the mined-out area of the underground noncoal mine.

Mined-out—A portion of the noncoal underground mine where no further mining is planned.

Noncoal underground mine—

(i) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting metals or minerals other than coal from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of the metals or minerals, or the work of preparing metals or minerals other than coal, and includes custom preparation facilities.

(ii) Private ways and roads appurtenant to the areas set forth in subparagraph (i).

Person—A natural person, partnership, association or corporation or any agency, instrumentality or entity of Federal or State government. When used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" does not exclude the members of an association and the directors, officers or agents of a corporation.

§ 207.103. Responsible party.

The person who is the owner or operator of a noncoal underground mine or developed facility shall ensure that the noncoal underground mine or developed facility is constructed and operated in accordance with this chapter. A subcontractor who conducts all or part of the operation shall be jointly and severally responsible with the owner or operator.

§ 207.104. Enforcement.

(a) The Department has the authority to issue orders necessary to ensure compliance with the requirements of section 2(f) of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. § 25-2(f)), known as the General Safety Law, and this chapter. This authority includes orders:

- (1) Revoking, or suspending a certificate of qualification to be a foreman.
- (2) Ceasing or suspending the operation of a noncoal underground mine or developed facility.
- (3) Requiring the abatement of an unsafe condition or practice.

(b) Except for orders abating a condition that is an imminent hazard or ceasing, in whole or in part, the operation of a noncoal underground mine or developed facility due to the existence of an imminent hazard, the Department will not issue an order abating a condition or correcting a violation of this chapter until the owner or operator has had an opportunity to meet with the Department to discuss the matter and the owner or operator has had a reasonable opportunity to abate the condition or correct the violation.

Subchapter B. NONCOAL UNDERGROUND MINES**GENERAL**

- Sec.
207.201. Applicability.
207.202. Definitions.

PERFORMANCE STANDARDS

- 207.211. Safety requirements.
207.212. Employment of foreman.
207.213. Duties of foreman.
207.214. Certificate of qualification application requirements.
207.215. Standards for issuing certificates of qualification.
207.216. Examining committee.
207.217. Blasting activity.

GENERAL**§ 207.201. Applicability.**

This subchapter applies to the development, construction and operation of noncoal underground mines in this Commonwealth.

§ 207.202. Definitions.

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

MSHA—The United States Department of Labor, Mine Safety and Health Administration, its employees and its officers.

Magazine—A structure used for the storage of explosives.

PERFORMANCE STANDARDS**§ 207.211. Safety requirements.**

(a) The provisions of 30 CFR Part 57 (relating to Safety and Health Standards—Underground Metal and Non-metal Mines) are incorporated herein by reference.

(b) Alternative safety and health standards for underground metal and nonmetal mines, established by MSHA under section 101(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C.A. § 811(c)) and 30 CFR Part 44 (relating to Rules of Practice for Petitions for Modification of Mandatory Safety Standards), are incorporated herein by reference.

(c) The provisions of 30 CFR Part 57 requiring the submission of a map, plan, notification, report, program description or other materials to MSHA are amended to require the same submission to the Department. A copy of any other material requested by MSHA under 30 CFR Part 57 shall be submitted to the Department.

(d) An owner or operator of a noncoal underground mine maintaining a magazine located on the surface shall comply with the magazine licensing requirements of Chapter 211 (relating to storage, handling and use of explosives).

§ 207.212. Employment of foreman.

The owner or operator of an underground noncoal mine shall employ a foreman who possesses the Department's certificate of qualification to be a foreman.

§ 207.213. Duties of foreman.

The foreman shall have full charge of the inside portions of the noncoal underground mine and the persons employed therein. The foreman's duty shall be to ensure compliance with the requirements of the Commonwealth's mine safety laws and the regulations promulgated thereunder, as well as to secure and promote the health and safety of persons employed in the noncoal underground mine.

§ 207.214. Certificate of qualification application requirements.

To be eligible to apply for a certificate of qualification, the individual shall:

- (1) Be at least 21 years of age.
- (2) Have at least 2 years of practical experience as a noncoal underground miner or have 1 year of practical experience as a noncoal underground miner and either possess a Bachelor of Science Degree in mining engineering, be a certified official under the Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70-101—70-145) or the Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-

101—701-706) or possess an acceptable certificate of qualification issued by another state.

§ 207.215. Standards for issuing certificates of qualification.

(a) The Department will only issue certificates of qualification to be a foreman to applicants who have demonstrated the ability to ensure the safety of persons and the inside portions of a noncoal underground mine under their supervision. Applicants make this demonstration by correctly answering at least 80% of the Department's written examination covering applicable mine safety laws and regulations of the Commonwealth.

(b) The Department may refuse to issue to an applicant a certificate of qualification when the applicant has demonstrated an inability or unwillingness to comply with the mine safety laws and regulations of the Commonwealth or the mine safety laws or regulations administered by MSHA.

§ 207.216. Examining committee.

(a) The Department will appoint a committee consisting of a noncoal underground mine foreman and a representative of the Department to prepare the initial draft of the examination to be given to applicants for the mine foreman's certificate of qualification. A bank of questions will be developed by the committee. The Department will assemble the examination from this bank of questions.

(b) This committee shall review and score the results of the examinations given to applicants for the foreman's certificate of qualification. These results will be transmitted to the Department for issuance of the certificate.

§ 207.217. Blasting activity.

The storage, handling and use of explosives at a noncoal underground mine shall be under the supervision and control of a person licensed as a blaster under Chapter 210 (relating to use of explosives).

Subchapter C. MINED-OUT AREAS

GENERAL PROVISIONS

- Sec. 207.301. Applicability.
- 207.302. Definitions.
- 207.303. Approvals.

SPECIFICATIONS

- 207.311. Roof areas.
- 207.312. Lighting.
- 207.313. Entrances and exits.
- 207.314. Ventilation.
- 207.315. Closing underground sections.
- 207.316. Inspections.
- 207.317. Record of inspection.
- 207.318. Storage of flammable liquids.
- 207.319. Check in/check-out system.

GENERAL PROVISIONS

§ 207.301. Applicability.

This subchapter applies to the use of mined-out underground noncoal mines in this Commonwealth. The activities covered by this subchapter include storage, manufacturing or other activities requiring a person to enter the mined-out area.

§ 207.302. Definitions.

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

Outside air—Air moving through the mined-out passageways after entering them through the main or accessory portals by mechanical or natural forces.

Pure air—Air containing not less than 19.5% oxygen, not more than 0.5% carbon dioxide and no harmful quantities of other noxious or poisonous gases, dust, soot or particulates.

§ 207.303. Approvals.

A person may not operate a business in a mined-out area unless that mined-out area is part of a developed facility, which has been approved by the Department and is constructed and operated in accordance with this subchapter.

SPECIFICATIONS

§ 207.311. Roof areas.

The owner or operator of a developed facility shall ensure that the developed facility's roof shall be scaled, bolted or otherwise supported.

§ 207.312. Lighting.

(a) *Permanent.* The owner or operator of a developed facility shall ensure that a permanent lighting system is installed in the developed facility to provide adequate lighting for the activities to be conducted in the developed facility.

(b) *Emergency.* The owner or operator of a developed facility shall ensure that a person is not allowed to work in a developed facility unless either an emergency lighting system meeting the requirements of the Department has been installed in that area or each worker is provided with an approved personal lamp.

§ 207.313. Entrances and exits.

The owner or operator of a developed facility shall ensure that two separate passages, connecting each area of the developed facility to the surface, shall be provided for personnel use and shall be maintained in a safe, passable condition at all times.

§ 207.314. Ventilation.

(a) *General requirement.* The owner or operator of a developed facility shall ensure that an adequate supply of pure air is provided and maintained in the developed facility as provided in subsection (b). If the Department or the operator determines it is necessary to install mechanical means of ventilation, these mechanical means for providing pure air shall be approved by the Department before the mechanical ventilation system is operated.

(b) *Quantity of air.* A minimum of 20 cubic feet of outside air shall be supplied to every occupied or enclosed space in a developed area, per minute, per person present in that area.

§ 207.315. Closing underground sections.

If it becomes necessary to permanently close or enclose a section or portion of the developed facility, the owner or operator of the developed facility shall ensure that non-combustible material is used to permanently close or enclose that section or portion of the developed facility.

§ 207.316. Inspections.

The owner or operator of a developed facility shall ensure that inspections are made at the following times, and defective conditions that are discovered shall be corrected:

(1) *Monthly*. The ceiling, pier and walls shall be inspected monthly for new cracks. The entrances, shafts, slopes, drifts and roadways leading to them, and the doors or gates shall be inspected monthly to insure they are in safe, usable condition.

(2) *Biweekly*. Emergency lighting systems and approved personal lamps shall be tested biweekly to assure they are in operating condition. Charge, fluid, terminals and visual conditions of batteries shall be checked.

(3) *Weekly*. The ventilating system shall be inspected weekly to ensure that motors and controls are in operating condition.

§ 207.317. Record of inspection.

The owner or operator of the developed facility shall ensure that logs containing the findings of inspections and the repairs and corrective action taken are maintained and kept on file at the developed facility's office. These logs shall be available for inspection by the Department at any time during working hours. The log shall be dated and signed by a person designated by the owner or operator to be responsible for the day-to-day operation of the developed facility. Corrections or orders required by the Department representative shall be in writing and shall become a part of the log.

§ 207.318. Storage of flammable liquids.

(a) The owner or operator of the developed facility shall ensure that flammable liquids are stored in a safety container unless otherwise approved by the Department.

(b) The owner or operator of a developed facility shall ensure that flammable liquids in excess of 5 gallons are not stored in the developed facility unless otherwise approved by the Department.

§ 207.319. Check in/check-out system.

The owner or operator of the developed facility shall ensure that there is a check-in/check-out system, which will inform personnel on the surface of the mine as to who is currently in the developed facility.

[Pa.B. Doc. No. 01-2180. Filed for public inspection December 7, 2001, 9:00 a.m.]

[25 PA. CODE CH. 93]

Stream Redesignations (Class A Wild Trout Waters)

The Environmental Quality Board (Board) proposes to amend Chapter 93 (relating to water quality standards) to read as set forth in Annex A.

This order was adopted by the Board at its meeting of October 16, 2001.

A. Effective Date

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

B. Contact Persons

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 10th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel

Carson State Office Building, P. O. Box 8464, 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 proposal is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. Statutory and Regulatory Authority

The proposed amendments are made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law. In addition, the Federal regulation in 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. Background of the Amendments

The Commonwealth's Water Quality Standards, which are set forth in part in Chapter 93, implement sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters designation in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained at their existing quality. The Department may identify candidates during routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (FBC). In addition, organizations, businesses or individuals may submit a rulemaking petition to the Board.

These streams were evaluated in response to a submittal from the FBC under § 93.4b (relating to qualifying as High Quality or Exceptional Value waters). Section 93.4b(a)(2)(ii) is the Class A wild trout stream qualifier. It states that a surface water that has been designated a Class A wild trout stream by the FBC following public notice and comment qualifies for HQ designation. The FBC published notice and requested comments on the Class A designation of these streams at 29 Pa.B. 4624 (August 28, 1999) and 29 Pa.B. 4831 (September 11, 1999). The FBC Commissioners approved these waters on September 27, 1999, and this action was announced at 29 Pa.B. 6202 (December 4, 1999).

Department staff conducted an independent review of the trout biomass data in the fisheries management reports for these streams. This review was conducted to ensure that the Class A criteria were met.

Copies of the FBC fisheries management reports for these waterbodies are available from Edward R. Brezina whose address and telephone number are listed in Section B of this Preamble.

While preparing Annex A, the Department became aware of two streams that are not listed in Chapter 93. They are Fallentimber Run, a tributary to Clearfield Creek (Drainage List L) and Hungry Run, a tributary to Kishacoquillas Creek (Drainage List N). These streams have been included in Annex A as additions to the appropriate drainage list and have been given the same

use designation as the other listed tributaries in the reach into which they flow. In addition, an error was found in the listing of a tributary to Pohopoco Creek (Drainage List D). The drainage list indicated that Dot-ters Creek is a tributary to Pohopoco Creek, when it is actually a tributary to Middle Creek, which then flows into Pohopoco Creek. Annex A correctly lists Middle Creek as tributary to Pohopoco Creek.

E. *Benefits, Costs and Compliance*

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

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in accordance with the existing use of the stream.

2. *Compliance Costs*—Generally, the changes should have no fiscal impact on, or create additional compliance costs for, the Commonwealth or its political subdivisions. The streams are already protected at their existing use, and therefore the designated use changes will have no impact on treatment requirements. No costs will be imposed directly upon local governments by this recommendation. Political subdivisions that add a new sewage treatment plant or expand an existing plant in these basins may experience changes in costs as noted in the discussion of impacts on the private sector in this Preamble.

Persons conducting or proposing activities or projects that result in new or expanded discharges to streams must comply with the regulatory requirements relating to designated and existing uses. These persons could be adversely affected if they expand a discharge or add a new discharge point since they may need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs.

3. *Compliance Assistance Plan*—The proposed amendments have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with and based on existing Department regulations. The revisions extend additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. Surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The proposed amendments will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable stream discharge effluent limitations. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

4. *Paperwork Requirements*—The proposed amendments should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These proposed amendments are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus an individual permit, and its associated paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification, and the nonfeasibility of nondischarge alternatives, may be required for new or expanded discharges to certain HQ Waters.

F. *Pollution Prevention*

The antidegradation program is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged, and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

G. *Sunset Review*

The proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 27, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria 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 Department, the General Assembly and the Governor.

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted.

The Board must receive comments by January 22, 2002. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by January 22, 2002. The one page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the proposed amendments will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. The

Board must also receive comments submitted electronically by January 22, 2002.

DAVID E. HESS,
Chairperson

Fiscal Note: 7-366. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS
§ 93.9d. Drainage List D.

Delaware River Basin in Pennsylvania

Lehigh River

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|--|---|------------------------------------|----------------------|---------------------------------|
| | * * * * | | | |
| 3—Pohopoco Creek | Basin, Source to [Dotters Creek] SR 3016 Bridge at Merwinsburg | [Carbon] Monroe | CWF | None |
| 3—Pohopoco Creek | Main Stem, SR 3016 Bridge to SR 0209 Bridge at Kresgeville | Monroe | HQ-CWF | None |
| 4—Unnamed Tributaries to Pohopoco Creek | Basins, SR 3016 Bridge to SR 0209 Bridge at Kresgeville | Monroe | CWF | None |
| 4— Sugar Hollow Creek | Basin | Monroe | CWF | None |
| 4— Weir Creek | Basin | Monroe | CWF | None |
| [4— Dotters Creek | Basin | Carbon | HQ-CWF | None] |
| 4— Middle Creek | Basin, Source to T-444 Bridge | Monroe | CWF | None |
| 4— Middle Creek | Basin, T-444 Bridge to Mouth | Monroe | HQ-CWF | None |
| 3—Pohopoco Creek | Basin, [Dotters] Middle Creek to Wild Creek | Carbon | CWF | None |
| | * * * * | | | |
| 3—Saucon Creek | Basin, Source to Black River | Northampton | CWF | None |
| 4— Black River | Basin | Northampton | CWF | None |
| 3—Saucon Creek | Main Stem, Black River to SR 412 Bridge | Northampton | HQ-CWF | None |
| 4—Unnamed Tributaries to Saucon Creek | Basins, Black Creek to SR 412 Bridge | Northampton | CWF | None |
| 3—Saucon Creek | Basin, SR 412 Bridge to Mouth | Northampton | CWF | None |
| 3—Nancy Run | Basin, Source to SR 3007 Bridge | Northampton | CWF, MF | None |
| 3—Nancy Run | Basin, SR 3007 Bridge to Mouth | Northampton | HQ-CWF, MF | None |
| | * * * * | | | |

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania
Schuylkill River

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|--|--|------------|----------------------|---------------------------------|
| | * * * * * | | | |
| 2—Schuylkill River | Main Stem, Source to Little Schuylkill River | Schuylkill | CWF | None |
| | * * * * * | | | |
| 3—Bear Creek | Basin, Source to UNT 02300 at River Mile 7.6 | Schuylkill | [CWF] HQ-CWF | None |
| 4—Unnamed Tributary 02300 to Bear Creek | Basin | Schuylkill | CWF | None |
| 3—Bear Creek | Basin, UNT 02300 to Mouth | Schuylkill | CWF | None |
| | * * * * * | | | |
| 3—Little Schuylkill River | Basin, Still Creek to Owl Creek | Schuylkill | CWF | None |
| 4—Owl Creek | Basin [, source to Lower Tamaqua Dam] | Schuylkill | HQ-CWF | None |
| [4—Owl Creek | Basin, Lower Tamaqua Dam to Mouth | Schuylkill | CWF | None] |
| 3—Little Schuylkill River | Basin, Owl Creek to [Rattling] Cold Run | Schuylkill | CWF | None |
| 4—Cold Run | Basin, Source to Beaver Creek | Schuylkill | HQ-CWF | None |
| 5—Beaver Creek | Basin, Source to Church Lane at River Mile 1.5 | Schuylkill | HQ-CWF | None |
| 5—Beaver Creek | Basin, River Mile 1.5 to Mouth | Schuylkill | CWF | None |
| 4—Cold Run | Basin, Beaver Creek to Mouth | Schuylkill | CWF | None |
| 3—Little Schuylkill River | Basin, Cold Run to UNT 02206 at River Mile 4.3 | Schuylkill | CWF | None |
| 4—Unnamed Tributary 02206 to Little Schuylkill River | Basin | Schuylkill | HQ-CWF | None |
| 3—Little Schuylkill River | Basin, UNT 02206 to Rattling Run | Schuylkill | CWF | None |
| | * * * * * | | | |
| 3—Maiden Creek | Main Stem, Pine Creek to Moselem Creek | Berks | TSF | None |
| | * * * * * | | | |
| 4—Furnace Creek | Basin, Source to River Mile 3.0 | Berks | [TSF] HQ-CWF | None |
| 4—Furnace Creek | Basin, River Mile 3.0 to Mouth | Berks | TSF | None |
| | * * * * * | | | |
| 3—Wyomissing Creek | Basin, Source to Inlet of Pond at Reading Public Museum | Berks | [CWF] HQ-CWF | None |
| 3—Wyomissing Creek | Basin, Inlet of Pond at Reading Public Museum to Mouth | Berks | CWF | None |
| | * * * * * | | | |
| 3—Perkiomen Creek | Basin, Source to [LR 06119 () SR 1010 ()] Bridge at Hereford | Berks | [CWF] HQ-CWF | None |
| 3—Perkiomen Creek | Main Stem, [LR 06119] SR 1010 Bridge to Green Lane Reservoir Dam | Montgomery | TSF | None |
| | * * * * * | | | |

§ 93.9h. Drainage List H.

Susquehanna River Basin in Pennsylvania

Tioga River

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|------------------------|--|--------------|----------------------|---------------------------------|
| | * * * * | * | | |
| 3—Cowanesque River | Main Stem, North Fork to PA-NY State Border | Tioga | WWF | None |
| | * * * * | * | | |
| 4—Jemison Creek | Basin, Source to T-559 Bridge at Azelta | Tioga | [WWF] HQ-CWF | None |
| 4—Jemison Creek | Basin, T-559 Bridge to Mouth | Tioga | WWF | None |
| | * * * * | * | | |

§ 93.9j. Drainage List J.

Susquehanna River Basin in Pennsylvania

Lackawanna River

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|---|---|------------------------------|----------------------|---------------------------------|
| | * * * * | * | | |
| 2—Lackawanna River | Main Stem, Confluence East and West Branches to [Rush Brook] SR 0347 Bridge at Dickson City | Lackawanna | [TSF] HQ-CWF | None |
| 3—Unnamed Tributaries to Lackawanna River | Basins, Confluence of East and West Branches to [Rush Brook] SR 0347 Bridge at Dickson City | Susquehanna-Wayne-Lackawanna | CWF | None |
| | * * * * | * | | |
| [2—Lackawanna River | Main Stem, Rush Brook to Mouth | Luzerne | WWF | None |
| 3—Unnamed Tributaries to Lackawanna River | Basins, Rush Brook to Mouth | Lackawanna | CWF | None] |
| | * * * * | * | | |
| 3—Hull Creek | Basin | Lackawanna | CWF | None |
| 2—Lackawanna River | Main Stem, SR 0347 Bridge to Mouth | Luzerne | CWF | None |
| 3—Unnamed Tributaries to Lackawanna River | Basins, SR 0347 Bridge to Mouth | Luzerne | CWF | None |
| 3—Eddy Creek | Basin | Lackawanna | WWF | None |
| | * * * * | * | | |

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania

Susquehanna River

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|-----------------|--|----------------|----------------------|---------------------------------|
| | * * * * | * | | |
| 2—Solomon Creek | Basin, Source to Pine Creek | Luzerne | [CWF] HQ-CWF | None |
| 3—Pine Creek | Basin | Luzerne | CWF | None |
| 2—Solomon Creek | Basin, Pine Creek to Mouth | Luzerne | CWF | None |
| | * * * * | * | | |
| 2—Tenmile Run | Basin, Source to UNT 28081 at River Mile 2.49 | Columbia | [CWF] HQ-CWF | None |

| Stream | Zone | County | Water Uses Protected | Exceptions To Specific Criteria |
|---|---|-----------------------------------|---------------------------|---------------------------------|
| 3—Unnamed Tributary 28081 to Tenmile Run | Basin | Columbia | CWF | None |
| 2—Tenmile Run | Basin, UNT 28081 to Mouth | Columbia | CWF | None |
| | * * * * | * | | |
| 2—Catawissa Creek | Main Stem, Source to Rattling Run | [Luzerne] Schuylkill | CWF | None |
| | * * * * | * | | |
| 3—Rattling Run | Basin | Schuylkill | [CWF] HQ-CWF | None |
| | * * * * | * | | |
| 3—Little Catawissa Creek | Basin, Source to T431 | Schuylkill | HQ-CWF | None |
| 3—Little Catawissa Creek | Basin, T431 to [Mouth] Trexler Run | Schuylkill | CWF | None |
| 4—Trexler Run | Basin | Schuylkill | HQ-CWF | None |
| 3—Little Catawissa Creek | Basin, Trexler Run to Mouth | Schuylkill | CWF | None |
| 3—Tomhicken Creek | Basin, Source to Little Crooked Run | Schuylkill | CWF | None |
| 4—Little Crooked Run | Basin | Schuylkill | HQ-CWF | None |
| 3—Tomhicken Creek | Basin, Little Crooked Run to Raccoon Creek | Schuylkill | CWF | None |
| 4—Raccoon Creek | Basin | Schuylkill | HQ-CWF | None |
| 3—Tomhicken Creek | Basin, Raccoon Creek to Mouth | Schuylkill | CWF | None |
| 3—Crooked Run | Basin | Schuylkill | [CWF] HQ-CWF | None |
| | * * * * | * | | |
| 3—Klingermans Run | Basin | Columbia | [CWF] HQ-CWF | None |
| | * * * * | * | | |
| 3—Fisher Run | Basin | Columbia | [CWF] HQ-CWF | None |
| | * * * * | * | | |
| 3—Furnace Run | Basin | Columbia | [CWF] HQ-CWF | None |
| | * * * * | * | | |

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania

West Branch Susquehanna River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---------------------------|--------------|----------------|-----------------------------|--|
| | | | | |
| | * * * * | * | | |
| 3—Clearfield Creek | Main Stem | Clearfield | WWF | None |
| | * * * * | * | | |
| 4—Sandy Run | Basin | Cambria | [CWF] HQ-CWF | None |
| 4—Powell Run | Basin | Cambria | CWF | None |
| 4—Fallentimber Run | Basin | Cambria | CWF | None |
| 4—Beaverdam Run | Basin | Cambria | CWF | None |

PROPOSED RULEMAKING

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|--|--|--------------------|-----------------------------|--|
| 3—Moshannon Creek | [Main Stem] Basin, Source to Roup Run | Clearfield-Centre | [TSF] HQ-CWF | None |
| 4—Unnamed Tributaries to Moshannon Creek | Basins, Roup Run to Mouth | Clearfield-Centre | CWF | None |
| [4—Wilson Run | Basin | Clearfield | CWF | None] |
| 4—Laurel Run | Basin, Source to Simeling Run | Clearfield | CWF | None |
| 5—Simeling Run | Basin | Clearfield | HQ-CWF | None |
| 4—Laurel Run | Basin, Simeling Run to Mouth | Clearfield | CWF | None |
| 4—Bennett Branch Sinnemahoning Creek | Main Stem, Mill Run to Confluence with Driftwood Branch | Cameron | WWF | None |
| 5—Trout Run | Basin, Source to Spring Run | Elk | CWF | None |
| 6—Spring Run | Basin | Elk | HQ-CWF | None |
| 5—Trout Run | Basin, Spring Run to Mouth | Elk | CWF | None |
| 5—Dents Run | Basin | Elk | [CWF] HQ-CWF | None |
| 5—Miller Run | Basin | Cameron | [CWF] HQ-CWF | None |
| 4—Driftwood Branch Sinnemahoning Creek | [Main Stem, Source to Confluence with Bennett Branch] Basin, Source to Elk Fork | Cameron | [TSF] HQ-CWF | None |
| [5—Unnamed Tributaries to Driftwood Branch Sinnemahoning Creek | Basins, Source to Confluence with Bennett Branch | Elk-Cameron | HQ-CWF | None |
| 5—Devils Hole | Basin | Elk | HQ-CWF | None |
| 5—Billy Buck Run | Basin | Elk | HQ-CWF | None |
| 5—Cherry Run | Basin | Elk | HQ-CWF | None |
| 5—Windfall Run | Basin | Elk | HQ-CWF | None |
| 5—Robinson Run | Basin | Cameron | HQ-CWF | None |
| 5—Indian Camp Run | Basin | Cameron | HQ-CWF | None] |
| 5—Elk Fork | Basin, Nichols Run to Mouth | Cameron | HQ-CWF | None |
| 4—Driftwood Branch Sinnemahoning Creek | Main Stem, Elk Fork to Confluence with Bennett Branch | Cameron | TSF | None |
| 5—Unnamed Tributaries to Driftwood Branch Sinnemahoning Creek | Basins, Elk Fork to Confluence with Bennett Branch | Cameron | HQ-CWF | None |
| 3—Kettle Creek | Basin, Alvin Bush Dam to [Mouth] Twomile Run | Clinton | TSF | None |

PROPOSED RULEMAKING

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| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---|--|----------------|-----------------------------|--|
| 4—Twomile Run | Basin, Source to Middle Branch Twomile Run | Clinton | HQ-CWF | None |
| 5—Middle Branch Twomile Run | Basin | Clinton | TSF | None |
| 4—Twomile Run | Basin, Middle Branch to Mouth | Clinton | TSF | None |
| 3—Kettle Creek | Basin, Twomile Run to Mouth | Clinton | TSF | None |
| | * * * * | | | |
| 3—Bald Eagle Creek | Main Stem, Laurel Run to Nittany Creek | Centre | TSF | None |
| | * * * * | | | |
| 4—Wallace Run | Basin, Unnamed Tributary at Gum Stump to Mouth | Centre | [CWF] HQ-CWF | None |
| | * * * * | | | |
| 4—Spring Creek | Main Stem, Source to PA 550 Bridge | Centre | HQ-CWF | None |
| | * * * * | | | |
| 5—Slab Cabin Run | Basin, PA 26 at RM 9.0 to [Mouth] UNT 23037 | Centre | CWF | None |
| 6—Unnamed Tributary 23037 (locally Thompson Run) | Basin | Centre | HQ-CWF | None |
| 5—Slab Cabin Run | Basin, UNT 23037 to Mouth | Centre | CWF | None |
| 4—Spring Creek | Main Stem, PA 550 Bridge to Mouth | Centre | [CWF] HQ-CWF | None |
| | * * * * | | | |
| 5—Logan Branch | Basin, Source to T-371 Bridge | Centre | CWF | None |
| 5—Logan Branch | Main Stem, T-371 Bridge to Mouth to Mouth | Centre | HQ-CWF | None |
| 6—Unnamed Tributaries to Logan Branch | Basins, T-371 Bridge to Mouth | Centre | CWF | None |
| | * * * * | | | |
| 4—Nittany Creek | Basin, Source to I-80 | Centre | CWF | None |
| 4—Nittany Creek | Basin, I-80 to Mouth | Centre | HQ-CWF | None |
| | * * * * | | | |
| 3—Henry Run | Basin | Clinton | [CWF] HQ-CWF | None |
| | * * * * | | | |
| 3—Pine Creek | Main Stem, South Branch Pine Creek to Marsh Creek | Tioga | EV | None |
| | * * * * | | | |
| 4—Marsh Creek | Main Stem, Source to Straight Run | Tioga | WWF | None |
| | * * * * | | | |
| 5—Baldwin Run | Basin | Tioga | [CWF] HQ-CWF | None |
| | * * * * | | | |
| 5—Canada Run | Basin | Tioga | [CWF] HQ-CWF | None |
| | * * * * | | | |
| 5—Blockhouse Creek | Basin, Source to [Confluence with Texas Creek] Flicks Run | Lycoming | CWF | None |

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|----------------------------------|--|-----------------|-----------------------------|--|
| 6—Flicks Run | Basin | Lycoming | HQ-CWF | None |
| 5—Blockhouse Creek | Basin, Flicks Run to Confluence with Texas Creek | Lycoming | CWF | None |
| | * * * * * | | | |
| 3—Aughanbaugh Run | Basin | Lycoming | [CWF] HQ-CWF | None |
| 3—Antes Creek | [Basin | Lycoming | CWF | None] |
| 4—Unnamed Tributary 21134 | Basin, Source to Rauchtown Creek | Lycoming | CWF | None |
| 5—Rauchtown Creek | Basin, Source to Confluence of Rocky Run and Gottshall Run | Clinton | HQ-CWF | None |
| 5—Rauchtown Creek | Basin, Confluence of Rocky Run and Gottshall Run to Mouth | Lycoming | CWF | None |
| 4—UNT 21134 | Basin, Rauchtown Creek to Confluence with UNT 21135 | Lycoming | CWF | None |
| 4—UNT 21135 | Basin, Source to McMurrin Run | Lycoming | CWF | None |
| 5—McMurrin Run | Basin | Lycoming | HQ-CWF | None |
| 4—UNT 21135 | Basin, McMurrin Run to Confluence with UNT 21134 | Lycoming | CWF | None |
| 3—Antes Creek | Basin, Confluence of UNT 21134 and 21135 to Morgan Valley Run | Lycoming | CWF | None |
| 4—Morgan Valley Run | Basin | Lycoming | HQ-CWF | None |
| 3—Antes Creek | Basin, Morgan Valley Run to Mouth | Lycoming | CWF | None |
| | * * * * * | | | |
| 3—Big Run | Basin | Lycoming | [CWF] HQ-CWF | None |
| | * * * * * | | | |

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

Juniata River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---|--|------------------|-----------------------------|--|
| | * * * * * | | | |
| 3—Frankstown Branch Juniata River | Main Stem, Piney Creek to US 22 Bridge | Huntingdon | TSF | None |
| | * * * * * | | | |
| 4—Fox Run | Basin | Blair-Huntingdon | [WWF] HQ-CWF | None |
| | * * * * * | | | |
| 3—Kishacoquillas Creek | Basin, Source to [Tea Creek] Frog Hollow | Mifflin | CWF | None |
| 4—Frog Hollow | Basin | Mifflin | HQ-CWF | None |
| 3—Kishacoquillas Creek | Basin, Frog Hollow to Tea Creek | Mifflin | CWF | None |
| 4—Tea Creek | Basin | Mifflin | HQ-CWF | None |
| 3—Kishacoquillas Creek | Main Stem, Tea Creek to [Mouth] Railroad Bridge between Yeagertown and Burnham | Mifflin | TSF | None |
| 4—Unnamed Tributaries to Kishacoquillas Creek | Basins, Tea Creek to [Mouth] Yeagertown/Burnham Railroad Bridge | Mifflin | TSF | None |

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|--|--|----------------|-----------------------------|--|
| 4—Honey Creek | Basin | Mifflin | HQ-CWF, MF | None |
| 3—Kishacoquillas Creek | Main Stem, Yeagertown/Burnham Railroad Bridge to SR 2005 (Mill Road) Bridge at Mount Rock | Mifflin | HQ-CWF | None |
| 4—Unnamed Tributaries to Kishacoquillas Creek | Basins, Yeagertown/Burnham Railroad Bridge to Mill Road Bridge | Mifflin | TSF | None |
| 4—Hungry Run | Basin | Mifflin | TSF | None |
| 4—Buck Run | Basin | Mifflin | TSF | None |
| 3—Kishacoquillas Creek | Main Stem, Mill Road Bridge to Mouth | Mifflin | TSF | None |
| 4—Unnamed Tributaries to Kishacoquillas Creek | Basins, Mill Road Bridge to Mouth | Mifflin | TSF | None |
| | * * * * * | | | |
| 3—Lost Creek | Basin, Source to [Little Lost Creek] SR 35 Bridge at Oakland Mills | Juniata | [CWF] HQ-CWF | None |
| [4—Little Lost Creek | Basin | Juniata | TSF | None |
| 3—Lost Creek | Main Stem, Little Lost Creek to Mouth | Juniata | TSF | None |
| 4—Unnamed Tributaries to Lost Creek | Basins, Little Lost Creek to Mouth | Juniata | TSF | None |
| 4—Laurel Run | Basin | Juniata | TSF | None] |
| 3—Lost Creek | Basin, SR 35 Bridge to Little Lost Creek | Juniata | CWF | None |
| 3—Lost Creek | Basin, Little Lost Creek to Big Run | Juniata | TSF | None |
| 4—Big Run | Basin | Juniata | CWF | None |
| 3—Lost Creek | Basin, Big Run to Mouth | Juniata | TSF | None |
| | * * * * * | | | |

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|-----------------------------|---|-------------------|-----------------------------|--|
| | * * * * * | | | |
| 2—Conodoquinet Creek | Main Stem, PA 997 at Roxbury to Mouth | Franklin | WWF | None |
| | * * * * * | | | |
| 3—Letort Spring Run | Basin, Railroad Bridge at Letort Park to [Mouth] T-710 (Post Road) Bridge | Cumberland | [CWF] HQ-CWF | None |
| 3—Letort Spring Run | Basin, T-710 Bridge to Mouth | Cumberland | CWF | None |
| | * * * * * | | | |
| 3—Trindle Spring Run | Basin, Source to Spring near the Silver Spring Meeting House | Cumberland | CWF | None |
| 3—Trindle Spring Run | Basin, Spring near the Silver Spring Meeting House to Mouth | Cumberland | HQ-CWF | None |

PROPOSED RULEMAKING

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|--|---|------------------|-----------------------------|--|
| | * * * * * | | | |
| 2—Codorus Creek | Main Stem, West Branch to Oil Creek | York | [CWF] HQ-CWF | None |
| | * * * * * | | | |
| 2—Conowingo Creek | [Main Stem, Source to PA-MD State Border] Basin, Source to SR 3005 Bridge | Lancaster | [CWF] HQ-CWF | None |
| 2—Conowingo Creek | Main Stem, SR 3005 to Mouth | Lancaster | CWF | None |
| 3—Unnamed Tributaries to Conowingo Creek | Basins (all sections in PA), [Source] SR 3005 to PA-MD State Border | Lancaster | HQ-CWF | None |
| | * * * * * | | | |

§ 93.9p. Drainage List P.

Ohio River Basin in Pennsylvania

Allegheny River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|--|--|----------------------|-----------------------------|--|
| | * * * * * | | | |
| 3—Dwight Creek | Basin | Potter | [CWF] HQ-CWF | None |
| | * * * * * | | | |
| 3—Allegheny Portage Creek | Main Stem, Source to Brown Hollow | [McKean] Potter | TSF | None |
| 4—Unnamed Tributaries to Allegheny Portage Creek | Basins | Potter-McKean | CWF | None |
| 4—Planing Mill Hollow | Basin | Potter | CWF | None |
| 4—Brown Hollow | Basin | Potter | HQ-CWF | None |
| 3—Allegheny Portage Creek | Main Stem, Brown Hollow to Scaffold Lick Run | McKean | HQ-CWF | None |
| 4—Indian Run | Basin | McKean | CWF | None |
| | * * * * * | | | |
| 4—Scaffold Lick Run | Basin | McKean | CWF | None |
| 3—Allegheny Portage Creek | Main Stem, Scaffold Lick Run to Mouth | McKean | TSF | None |
| 4—Cady Hollow | Basin | McKean | CWF | None |
| | * * * * * | | | |
| 4—East Branch Tunungwant Creek | Basin, Railroad Run to T-331 Bridge | McKean | HQ-CWF | None |
| 4—East Branch Tunungwant Creek | [Basin] Main Stem, T-331 Bridge to [Minard Run] SR 4002 Bridge | McKean | [CWF] HQ-CWF | None |
| 5—Unnamed Tributaries to East Branch Tunungwant Creek | Basins, T-331 Bridge to SR 4002 | McKean | CWF | None |
| 5—Sheppard Run | Basin | McKean | CWF | None |
| 5—Minard Run | Basin | McKean | EV | None |
| 4—East Branch Tunungwant Creek | Basin, [Minard Run] SR 4002 to Confluence with West Branch | McKean | CWF | None |
| | * * * * * | | | |

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania
Allegheny River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---------------------------|---|---------------------------------|-----------------------------|--|
| | | * * * * * | | |
| 3—French Creek | Main Stem, PA-NY State Border to Mouth | Venango | WWF | None |
| | | * * * * * | | |
| 4—Le Boeuf Creek | Basin, Source to Trout Run | Erie | TSF | None |
| 5—Trout Run | Basin | Erie | [CWF] HQ-CWF | None |
| | | * * * * * | | |
| 4—Sugar Creek | Basin, Source to East Branch Sugar Creek (RM 17.0) | [Venango] Crawford | CWF | None |
| 5—East Branch Sugar Creek | Basin, Source to SR 0428 Bridge | Crawford | CWF | None |
| 5—East Branch Sugar Creek | Basin, SR 0428 Bridge to Mouth | Crawford | HQ-CWF | None |
| 4—Sugar Creek | Basin, East Branch Sugar Creek to Mouth | Venango | CWF | None |
| | | * * * * * | | |

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania
Clarion River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---------------------|-------------|------------------------------|-----------------------------|--|
| | | * * * * * | | |
| 4—Little Toby Creek | Main Stem | Elk | CWF | None |
| | | * * * * * | | |
| 5—Vineyard Run | Basin | [Jefferson] Elk | [CWF] HQ-CWF | None |
| | | * * * * * | | |

§ 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania
Kiskiminetas River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|--------------------------------------|--|-----------------|-----------------------------|--|
| | | * * * * * | | |
| 6—Quemahoning Creek | Main Stem | Somerset | CWF | None |
| | | * * * * * | | |
| 7—Higgins Run | Basin, Source to River Mile (RM) 1.37 | Somerset | CWF | None |
| 7—Higgins Run | Main Stem, RM 1.37 To Mouth | Somerset | HQ-CWF | None |
| 8—Unnamed Tributaries to Higgins Run | Basins, RM 1.37 to Mouth | Somerset | CWF | None |
| | | * * * * * | | |
| 6—Shade Creek | Main Stem | Somerset | CWF | None |
| | | * * * * * | | |
| 7—Dark Shade Creek | Basin, Source to Laurel Run | Somerset | CWF | None |

PROPOSED RULEMAKING

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---------------------------|---------------------------------------|-----------------|-----------------------------|--|
| 8—Laurel Run | Basin, Source to Beaverdam Run | Somerset | CWF | None |
| 9—Beaverdam Run | Basin, Source to River RM 1.93 | Somerset | HQ-CWF | None |
| 9—Beaverdam Run | Basin, RM 1.93 to Mouth | Somerset | CWF | None |
| 8—Laurel Run | Basin, Beaverdam Run to Mouth | Somerset | CWF | None |
| 7—Dark Shade Creek | Basin, Laurel Run to Mouth | Somerset | CWF | None |
| | * * * * * | | | |

§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania

Monongahela River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|---------------------|---------------------------------------|----------------|---------------------------------|--|
| | * * * * * | | | |
| 4—Indian Creek | Basin, Camp Run to Champion Creek | Fayette | HQ-CWF | None |
| | * * * * * | | | |
| 5—Laurel Run | Basin, Source to Buck Run | Fayette | CWF | None |
| 6—Buck Run | Source to River Mile (RM) 1.38 | Fayette | HQ-CWF | None |
| 6—Buck Run | Basin, RM 1.38 to Mouth | Fayette | CWF | None |
| 5—Laurel Run | Basin, Buck Run to Mouth | Fayette | CWF | None |
| | * * * * * | | | |
| 5—Rasler Run | Basin | Fayette | [CWF] HQ-CWF | None |
| | * * * * * | | | |

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania

Potomac River

| <i>Stream</i> | <i>Zone</i> | <i>County</i> | <i>Water Uses Protected</i> | <i>Exceptions To Specific Criteria</i> |
|-------------------------------------|---|-----------------|---------------------------------|--|
| | * * * * * | | | |
| 3—West Branch Antietam Creek | Basin, Source to [Confluence with East Branch] SR 997 Bridge | Franklin | [CWF] HQ-CWF | None |
| 3—West Branch Antietam Creek | Basin, SR 997 Bridge to Confluence with East Branch | Franklin | CWF | None |
| | * * * * * | | | |

[Pa.B. Doc. No. 01-2181. Filed for public inspection December 7, 2001, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Notice to Extend the Public Comment Period

On September 8, 2001, the Fish and Boat Commission (Commission) published a notice of proposed rulemaking at 31 Pa. B. 5106 seeking public comments regarding its proposal to reduce the daily creel limit for panfish (sunfish, yellow perch, crappies, catfish, rock bass, suckers, carp and white bass) on inland waters from 50 (combined species) to 25 (combined species). The notice of proposed rulemaking provided for a public comment period of 90 days or until December 7, 2001.

The Commission is extending the public comment period for this proposal until January 15, 2002. Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically at ra-pfbcrgs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The Commission also will hold at least one public meeting regarding this proposal. A public meeting will be held on December 19, 2001, at 7 p.m. at the Huntingdon County Court House, Court Room No. 1. Individuals who plan to attend should use the Washington Street entrance.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 01-2182. Filed for public inspection December 7, 2001, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia

The State Board of Dentistry (Board) proposes revisions to its anesthesia regulations in Chapter 33, Subchapter E (relating to administration of general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia) to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The Board is authorized to adopt regulations concerning anesthesia under sections 3(o) and 11.2(a) of the Dental Law (law) (63 P. S. §§ 122(o) and 130c.(a)).

C. Background and Purpose

The proposed amendments are in response to a Commonwealth Court opinion in the matter of *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999), which vacated and remanded the decision of the State Board of Dentistry imposing an 18 month suspension on Dr. Watkins for failing to assure that his office contained "appropriate monitoring equipment."

Dr. William E. Watkins had been charged with and found by the Board to have engaged in unprofessional conduct under section 4.1(8) of the law (63 P. S. § 123.1(8)). The charge and finding of unprofessional conduct relevant to the issue resulted from his failure to have the "appropriate monitoring equipment" required by § 33.340(a)(2) (relating to duties of dentists who are unrestricted permit holders). The incident which triggered the disciplinary action involved the administration of anesthesia by another dentist to a 3-1/2 year old child in Dr. Watkins' office. The child lost all pulse during a procedure and was pronounced dead after being taken to hospital.

At the formal hearing the Commonwealth presented experts who maintained that "appropriate monitoring equipment" which should have been, but was not, in the office included a pulse oximeter, a blood pressure apparatus, a stethoscope and an EKG machine.

In appealing his disciplinary suspension to the Commonwealth Court, Dr. Watkins argued that the Board's regulation requiring "appropriate monitoring equipment" was unconstitutionally vague because it did not give notice to the practitioner of what equipment would be considered appropriate. After reviewing cases under which statutes or regulations were declared unconstitutionally vague, the court held that "the term 'appropriate monitoring equipment' is not defined in the regulation and what is 'appropriate' is subject to many different meanings." *Watkins*, 740 A.2d at 765. Again, in footnote number 8 of the decision the Court focused on the term "appropriate monitoring equipment": "Because we have decided that the term 'appropriate monitoring equipment' is too vague. . . .Id.

While the Board focused its attention primarily upon clarifying necessary monitoring equipment, it also updated and improved other anesthesia requirements, and attempted to respond to numerous legislative concerns.

The *Watkins* decision was issued by Commonwealth Court on November 8, 1999. On December 2, 1999, the first meeting of the Dental Board's Anesthesia Committee was held. This Committee was tasked with reviewing state of the art equipment, procedures and protocols for safe and effective delivery of anesthesia and analgesia in dental offices. An initial draft was prepared and presented to the Committee at its January 21, 2000, meeting. At subsequent meetings on March 9, 2000, a second draft was presented and reviewed and on March 12, 2000, a third draft was developed.

A fourth draft was completed on April 10, 2000, and on April 28, 2000, sent to 138 dental associations, schools and interested individuals for predraft comments. In response to predraft comments received, a fifth draft was prepared on May 30, 2000. Legal and Board changes resulted in a sixth draft on June 9, 2000, and a seventh draft on June 27, 2000. Further development was postponed temporarily until the Anesthesia Committee could review information concerning a new oral anesthesia and reports of child deaths due to anesthesia in another state, and consider appropriate regulation of deep sedation. As a

result, on October 12, 2000, an eighth draft was prepared and discussed by the Committee with the full Board on December 1, 2000. From those discussions, a ninth draft was prepared on December 14, 2000, and reviewed by the Committee. This draft was provided to the entire Board on January 24, 2001. Board, legal, and additional legislative suggestions comprised a tenth draft on March 9, 2001, and a 10A draft on March 22, 2001. On March 23, 2001, the Board approved draft 10B for promulgation as proposed rulemaking. On April 5, 2001, draft 10B was sent to the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment prior to official promulgation as proposed amendments.

D. Description of Amendments

The revisions to Subchapter E make substantive and editorial changes to §§ 33.331—333.342.

§ 33.331. Definitions.

The Board proposes to add a definition for deep sedation derived from the American Academy of Pediatric Dentistry's (AAPD) *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients*. This was done in recognition of the fact that even though sedation is on a continuum, deep sedation is a defined stage between general anesthesia and conscious sedation. The AAPD, the American Association of Oral and Maxillofacial Surgeons (AAOMS) and the American Dental Association (ADA) all recognize distinctions between general anesthesia and deep sedation.

Deep sedation is a state of depressed consciousness accompanied by a partial loss of protective reflexes, including the ability to continually maintain an airway independently. General anesthesia is a state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the ability to continually maintain an airway independently. ADA *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* (emphasis added). Because of the partial loss of protective reflexes with deep sedation, and the necessity to have similar monitoring and resuscitation equipment as with general anesthesia, deep sedation was grouped with general anesthesia under the unrestricted permit. Consequently, only a licensee holding an unrestricted permit may administer general anesthesia or deep sedation.

§ 33.332. Requirement of permit to administer general anesthesia, conscious sedation or nitrous oxide/oxygen analgesia.

This amendment would clarify that a permit is required to administer deep sedation in a dental office.

§ 33.333. Types of permits.

This amendment would clarify that an unrestricted permit is required to administer deep sedation.

§ 33.334. Application for permit.

This section makes permit application requirements applicable to permission to administer deep sedation.

§ 33.335. Requirements for unrestricted permit.

This amendment would remove one of the three possible requirements that must be met for securing an unrestricted permit, specifically that of having administered general anesthesia on a regular basis in the course of dental practice for 5 years prior to January 1, 1986.

The 1985 "grandparenting" clause of section 11.2(b) of the law (63 P. S. § 130c(d)), tracked in the regulation is no longer necessary.

All permit applicants would be required to have successfully completed and maintained current certification in Advanced Cardiac Life Support (ACLS) and attest that the administration of general anesthesia, deep sedation, and conscious sedation will be conducted in conformance with the American Association of Oral and Maxillofacial Surgeons' (AAOMS) *Parameters and Pathways 2000: Clinical Practice, Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities*. For administration to children age 10 and under, applicants would have to attest that the administration will be conducted in conformance with the AAPD *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients*.

The dental office of an unrestricted permit holder would have to pass an inspection conducted in accordance with the AAOMS *Office Anesthesia Evaluation Manual* and the American Dental Association's (ADA) *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists*. A reinspection would occur at least every 6 years, and the make, model and serial number of all equipment would have to be available and noted in the inspection report.

Unrestricted permit holders would have to pass a clinical evaluation as part of the office inspection conducted in accordance with the AAOMS *Office Anesthesia Evaluation Manual*.

§ 33.336. Requirements for restricted permit I.

This section would remove one of the two possible requirements for securing a restricted permit I, specifically that of having administered conscious sedation on a regular basis in the course of dental practice for 5 years prior to January 1, 1986. As described previously, the section is no longer necessary.

Restricted permit I applicants would be required to have successfully completed and maintained current certification in ACLS and attest that the administration of conscious sedation will be conducted in accordance with the AAOMS *Parameters and Pathways 2000: Clinical Practice, Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities*.

Applicants administering conscious sedation to children age 10 and under would have to attest that the administration is conducted in accordance with the AAPD *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Patients*.

Dental offices of restricted permit I holders would have to pass an inspection in accordance with the AAOMS *Office Anesthesia Manual* and the ADA *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists*. Reinspection would have to be done at least every 6 years and the make, model and serial number of all equipment must be available.

Restricted permit I applicants would have to pass a clinical evaluation as part of the office inspection conducted in accordance with the AAOMS *Office Anesthesia Evaluation Manual*.

§ 33.337. Requirements for restricted permit II.

This section would remove one of the two possible requirements that must be met for securing a restricted permit II, specifically that of having administered nitrous oxide/oxygen analgesia on a regular basis in the course of

dental practice for 5 or more years prior to January 1, 1986, for the reasons set forth previously. Also, the Board proposes to reduce the number of required hours of undergraduate or postgraduate didactic instruction and clinical experience in a conforming program from 40 to 20.

Restricted permit II holders would have to attest that they have written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies and that the equipment has been installed and calibrated according to the equipment manufacturer's guidelines and contains a failsafe system.

§ 33.338. Expiration and renewal of permits.

Under the proposal, renewal requirements have been amended to include proof of current certification in ACLS for unrestricted and restricted I permits, an attestation that the administration of general anesthesia, deep sedation and conscious sedation has been conducted during the preceding biennial period in accordance with the appropriate guidelines, and an attestation that equipment has been installed and calibrated according to the equipment manufacturer's guidelines and contains a failsafe system.

§ 33.340. Duties of dentists who are unrestricted permit holders.

This section has been amended to require that a history be taken prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

The equipment list for unrestricted permit holders has been amended to require suction equipment with appropriate oropharyngeal suction; age appropriate monitoring equipment, procedures and documentation conforming to the AAOMS *Office Anesthesia Evaluation Manual/AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients*; a pulse oximeter; an ECG; an automatic blood pressure monitoring device; an automatic external defibrillation device; results of patient history and physical evaluations; and signed patient consent.

This section was also amended to require that both the permit holder and auxiliary personnel assisting unrestricted permit holders in the administration of general anesthesia, deep sedation or conscious sedation (deletes reference to nitrous oxide/oxygen analgesia) be currently certified in ACLS.

A proposed amendment to this section would require that any general anesthesia requiring intubation be administered by the permit holder, certified registered nurse anesthetist, physician or other unrestricted permit holder to whom is delegated the duties of administration, while the dental procedures are performed by a dental licensee not involved in the anesthesia administration.

All monitoring equipment would have to be installed and calibrated according to equipment manufacturer guidelines, in proper working condition prior to administration, and used during the administration of general anesthesia.

Any equipment used for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia must pass an inspection through the Board's authorized agents in accordance with the AAOMS *Office Anesthesia Manual*. The make, model and serial number of all equipment must be available and noted on the inspection report

§ 33.340a. Duties of dentists who are restricted permit I holders.

This section would be amended to require that a history be taken and a patient be given a physical evaluation to determine his/her suitability to receive conscious sedation or nitrous oxide/oxygen analgesia.

Equipment requirements would be amended, and would conform to the new equipment requirements for an unrestricted permit. Auxillary personnel and the certified registered nurse anesthetists assisting the permit holder in the administration of conscious sedation, as well as the permit holder, must be currently certified in ACLS.

Requirements for reporting and other equipment requirements are the same as for unrestricted permit holders.

§ 33.340b. Duties of dentists who are restricted permit II holders.

This section is amended to require that patients be given a physical evaluation prior to the administration of nitrous oxide/oxygen analgesia.

Equipment and operating room requirements are similar to those of restrictive permit I holders, with the exception that restricted permit II holders are not required to have a recovery area, patient transport equipment, an oximeter, an ECG, an automatic blood pressure monitoring device automatic defibrillation device and results of patient history.

§ 33.341. Duties of dentists who are not permit holders.

This section would require that a permit may not be issued unless the dental office has been inspected and meets the appropriate equipment and facility requirements.

Anyone administering general anesthesia, deep sedation or conscious sedation must possess current certification in ACLS.

A nonpermit holding dentist would be required to verify with the permit holder that all monitoring equipment is present in the nonpermit holder's office, is properly calibrated and in proper working condition, and is being used during the administration of general anesthesia.

All equipment transported to a nonpermit holder dentist's office would have to pass an inspection through the Board's authorized agents in accordance with the AAOMS *Office Anesthesia Manual*. The make, model and serial number of all equipment must be available and noted on the inspection report.

§ 33.342. Inspection of dental offices.

Under the proposal, subsection (f) has been amended to provide that a permit may be subject to an immediate temporary suspension and other disciplinary action if inspection reveals that the dental office is not in compliance with equipment, facility or procedure requirements prescribed in § 33.340(a)(2) or §§ 33.340a(a)(2) or 33.340b(a)(2) (relating to duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders) and the noncompliance presents an immediate and clear danger to public health and safety.

E. Compliance With Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1. The proposal addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

F. Fiscal Impact and Paperwork Requirements

Some of the provisions of this proposed rulemaking will have a fiscal impact upon permit holders. It may be necessary to set fees for office inspections and clinical evaluations or to raise existing permit fees to cover the cost of the issuance of a permit. In addition, requirements for current certification in ACLS and some additional required monitoring equipment may entail increased costs to permit holders. At this stage, it is not possible to estimate the fiscal impact with precision; however, cost data will be available at a later date.

G. Sunset Date

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

H. 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 to 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 that regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Board, the General Assembly and the Governor, of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Deborah B. Eskin, Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of the proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4610 (Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia) when submitting comments.

NORBERT O. GANNON, D.D.S.
Chairperson

Fiscal Note: 16A-4610. 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 33. STATE BOARD OF DENTISTRY

Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA

§ 33.331. Definitions.

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

AAOMS—American Association of Oral and Maxillofacial Surgeons.

AAPD—American Academy of Pediatric Dentistry.

ACLS—Advanced Cardiac Life Support.

ADA—American Dental Association.

* * * * *

Deep sedation—A controlled, pharmacologically induced state of depressed consciousness from which the patient is not easily aroused and which may be accompanied by a partial loss of protective reflexes, including the ability to maintain a patent airway independently or respond purposefully to physical stimulation or verbal command.

* * * * *

§ 33.332. Requirement of permit to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

(a) *Permit required for administration of anesthetic modality in dental office.* [**Effective January 9, 1990, a**] A dentist shall possess a current permit issued by the Board under this subchapter before administering, or supervising the administration of, general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in a dental office.

(b) *Permit not required for administration of anesthetic modality in other facilities.* A dentist is not required to possess a permit under this subchapter before administering, or supervising the administration of, general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in a State- or Federally-regulated facility other than a dental office.

* * * * *

§ 33.333. Types of permits.

The Board will issue the following permits to licensees qualified under this subchapter:

(1) *Unrestricted permit.* A permit which authorizes the holder to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

* * * * *

§ 33.334. Application for permit.

(a) A dentist who desires to obtain a permit to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia shall submit an application on a form provided by the Board, pay the

permit fee prescribed in § 33.339 (relating to fees for issuance of permits) and meet the requirements for the permit applied for as prescribed in this subchapter.

* * * * *

§ 33.335. Requirements for unrestricted permit.

(a) To secure an unrestricted permit, a dentist shall have done one of the following:

(1) Successfully completed at least 1 year in a post-graduate program for advanced training in anesthesiology and related academic subjects that conforms to Part II of the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* or subsequent edition.

(2) [**Be certified**] Possess current certification as a Diploma of the American Board of Oral and Maxillofacial Surgeons, a Fellow of the American Association of Oral and Maxillofacial Surgeons or a Fellow of the American Society of Dental Anesthesiology, or be eligible for examination by the American Board of Oral and Maxillofacial Surgeons.

[(3) Administered general anesthesia on a regular basis in the course of his dental practice for at least 5 years prior to January 1, 1986, if the applicant:

(i) Is competent to administer general anesthesia.

(ii) Administers general anesthesia in a properly equipped dental office as prescribed in § 33.340(a) (2) (relating to duties of dentists who are permit holders).

(b) To determine whether the requirements of subsection (a)(3) are satisfied, the Board will require the applicant to undergo a clinical evaluation and office inspection conducted by the Board through its authorized agents. The clinical evaluation and office inspection will be conducted in accordance with the American Association of Oral and Maxillofacial Surgeons' *Office Anesthesia Evaluation Manual*.

(c) A dentist who applies for a permit under subsection (a)(3) shall do so by January 9, 1990.]

(b) An applicant, prior to the administration of general anesthesia, deep sedation or conscious sedation, shall have successfully completed and maintained current certification in ACLS and attest that the administration of general anesthesia, deep sedation and conscious sedation will be conducted in conformance with the standards outlined in the AAOMS *Parameters and Pathways 2000: Clinical Practice, Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* or subsequent edition.

(c) If the applicant desires to administer general anesthesia, deep sedation or conscious sedation to children age 10 and under, prior to the administration of general anesthesia, deep sedation and conscious sedation will be conducted in conformance with the standards outlined in the AAPD *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* or subsequent edition.

(d) Office inspection requirements are as follows:

(1) The dental office where the applicant intends to exercise an unrestricted permit shall meet the requirements of § 33.340(a)(2) (relating to duties of dentists who are unrestricted permit holders), and the office shall pass an inspection conducted by the Board through its authorized agents in accordance with the AAOMS *Office Anesthesia Evaluation Manual* or subsequent edition and the ADA *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* or subsequent edition. Reinspection will take place at least every 6 years, or more frequently, as necessary. The make, model and serial number of all equipment shall be available and noted on the inspection report.

(2) As part of the office inspection, the applicant shall pass a clinical evaluation conducted by the Board through its authorized agents in accordance with the AAOMS *Office Anesthesia Evaluation Manual* or subsequent edition.

§ 33.336. Requirements for restricted permit I.

(a) To secure a restricted permit I, a dentist shall have [done one of the following:

(1) Successfully] successfully completed a course on conscious sedation comprising at least 80 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a [post graduate] postgraduate program) of the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* or subsequent edition.

[(2) Administered conscious sedation on a regular basis in the course of his dental practice for 5 or more years prior to January 1, 1986, if the applicant:

(i) Is competent to administer conscious sedation.

(ii) Administers conscious sedation in a properly equipped dental office as prescribed in § 33.340(a) (2) (relating to duties of dentists who are permit holders).

(b) To determine whether the requirements of subsection (a)(2) are satisfied, the Board will require the applicant to undergo a clinical evaluation and office inspection conducted by the Board through its authorized agents. The clinical evaluation and office inspection will be conducted in accordance with the American Association of Oral and Maxillofacial Surgeons' *Office Anesthesia Evaluation Manual*.

(c) A dentist who applies for a permit under subsection (a)(2) shall do so by January 9, 1990.]

(b) An applicant, prior to the administration of conscious sedation, shall have successfully completed and maintained current certification in ACLS and attest that the administration will be conducted in conformance with the standards outlined in the AAOMS *Parameters and Pathways 2000: Clinical Practice, Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* or subsequent edition.

(c) If the applicant desires to administer conscious sedation to children age 10 and under, prior

to the administration, the applicant shall attest that the administration of conscious sedation will be conducted in conformance with standards outlined in the *AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Patients* or subsequent edition.

(d) Office inspection requirements are as follows:

(1) The dental office where the applicant intends to exercise a restricted permit I shall meet the requirements of § 33.340a(a)(2) (relating to duties of dentists who are restricted permit I holders), and the office shall pass an inspection conducted by the Board through its authorized agents in accordance with the *AAOMS Office Anesthesia Evaluation Manual or subsequent edition and the ADA Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* or subsequent edition. Reinspection will take place at least every 6 years, or more frequently, as necessary. The make, model and serial number of all equipment shall be available and noted on the inspection report.

(2) As part of the office inspection, the applicant shall pass a clinical evaluation conducted by the Board through its authorized agents in accordance with the *AAOMS Office Anesthesia Evaluation Manual* or subsequent edition.

§ 33.337. Requirements for restricted permit II.

(a) To secure a restricted permit II, a dentist shall have [done one of the following:

(1) Successfully] successfully completed a course in nitrous oxide/oxygen analgesia comprising at least [40] 20 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* or subsequent edition.

[(2) Administered nitrous oxide/oxygen analgesia on a regular basis in the course of his dental practice for 5 or more years prior to January 1, 1986, if the applicant:

(i) Is competent to administer nitrous oxide/oxygen analgesia. The Board will consider an applicant competent if there are no reported or discovered incidents of mortality or morbidity resulting from the applicant's administration of nitrous oxide/oxygen analgesia.

(ii) Administers nitrous oxide/oxygen analgesia in a properly equipped dental office as prescribed in § 33.340(a)(2) (relating to duties of dentists who are permit holders).

(b) A dentist who applies for a permit under subsection (a)(2) shall do so by January 9, 1990.]

(b) Applicants who administer nitrous oxide analgesia to adults or children shall attest to the following:

(1) That the applicant has written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies resulting therefrom.

(2) That the equipment for administering the nitrous oxide/oxygen analgesia has been installed and calibrated according to the equipment manufacturer's guidelines and contains a fail-safe system.

§ 33.338. Expiration and renewal of permits.

* * * * *

(b) A dentist who desires to renew a permit shall submit [a] the following:

(1) A renewal application on a form provided by the Board. [and pay the].

(2) The permit renewal fee.

(3) Proof of current certification in ACLS (for unrestricted permits and restricted I permits).

(4) An attestation, on the renewal application, as appropriate to the type of permit requested, that the administration of general anesthesia, deep sedation and conscious sedation has been conducted during the preceding biennial period for adults (if appropriate) with the standards outlined in the *AAOMS Guidelines and Parameters of Care for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* or subsequent edition; and for children (if appropriate) in conformance with standards outlined in the *AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia for Pediatric Patients* or subsequent edition.

(5) An attestation, on the renewal application, that the nitrous oxide/oxygen analgesia equipment has been installed and calibrated according to the equipment manufacturer's guidelines and contains a fail-safe system.

§ 33.340. Duties of dentists who are unrestricted permit holders.

(a) A dentist who possesses [a] an unrestricted permit issued under this subchapter shall ensure that:

(1) Prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia a history is taken and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

* * * * *

(iv) Suction equipment with appropriate oropharyngeal suction.

* * * * *

(xii) [Appropriate monitoring] Monitoring equipment, procedures and documentation to conform to the age of the patient and the *AAOMS Office Anesthesia Evaluation Manual* or subsequent edition and the *AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation, and General Anesthesia in Pediatric Dental Patients* or subsequent edition.

(xiii) Pulse oximeter.

(xiv) ECG.

- (xv) Automatic blood pressure monitoring device.
- (xvi) Automatic external defibrillation device.
- (xvii) Results of patient history and physical evaluation.
- (xviii) Signed patient consent.

(3) Auxiliary personnel who assist the permit holder in the administration of general anesthesia, **deep sedation or conscious sedation [or nitrous oxide/oxygen analgesia]**:

(i) Are trained to perform the duties that the permit holder delegates to them, if the duties do not require the professional judgment and skill of the permit holder and do not involve the administration of general anesthesia, **deep sedation or conscious sedation [or nitrous oxide/oxygen analgesia]**.

* * * * *

(iv) Are currently certified in ACLS.

(4) Certified registered nurse anesthetists who are delegated the duties of administering general anesthesia, **deep sedation, or conscious sedation [or nitrous oxide/oxygen analgesia]**:

* * * * *

(iii) Are currently certified in ACLS.

(5) He possesses a current certification [to administer cardiopulmonary resuscitation (CPR)] in ACLS.

(6) The Board receives a complete report of a death or [unusual] incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, **deep sedation, conscious sedation or nitrous oxide/oxygen analgesia** by the permit holder or by a certified registered nurse anesthetist working under the supervision of the permit holder. The permit holder shall submit the report within 30 days of the death or [unusual] incident.

(7) The Board receives prior notice of the first time that a dental office of the permit holder will be used for the administration of general anesthesia, **deep sedation, conscious sedation or nitrous oxide/oxygen analgesia**.

(8) General anesthesia requiring intubation is administered by the permit holder, certified registered nurse anesthetist, physician or other unrestricted permit holder to whom is delegated the duties of administration, while the dental procedures are performed by a dental licensee who is not involved in the administration of the general anesthesia.

(9) Monitoring equipment is installed and calibrated according to the equipment manufacturer's guidelines; is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia; and is being used during the administration of general anesthesia.

(10) Equipment transported to a nonpermit holder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permit holder shall pass an inspection by the Board through its authorized agents in accordance with the AAOMS *Office Anesthesia Manual* or subse-

quent edition. The make, model and serial number of all equipment shall be available and noted on the inspection report.

* * * * *

§ 33.340a. Duties of dentists who are restricted permit I holders.

(a) A dentist who possesses a restricted permit I issued under this subchapter shall ensure that:

(1) Prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, a history is taken and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
- (ii) An operating table or chair.
- (iii) A lighting system.
- (iv) Suction equipment with appropriate oropharyngeal suction.
- (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
- (vi) A sterilization area.
- (vii) A recovery area.
- (viii) A gas storage area and scavenger system.
- (ix) Emergency airway equipment and medications, including intravenous emergency equipment.
- (x) Communications equipment.
- (xi) Patient transport equipment.
- (xii) Monitoring equipment, procedures and documentation to conform to the age of the patient and the AAOMS *Office Anesthesia Evaluation Manual* or subsequent edition and the AAPD *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation, and General Anesthesia in Pediatric Dental Patients* or subsequent edition.

- (xiii) Pulse oximeter.
- (xiv) ECG.
- (xv) Automatic blood pressure monitoring device.
- (xvi) Automatic external defibrillation device.
- (xvii) Results of patient history and physical evaluation.
- (xviii) Signed patient consent.

(3) Auxiliary personnel who assist the permit holder in the administration of conscious sedation:

(i) Are trained to perform the duties that the permit holder delegates to them, if the duties do not require the professional judgment and skill of the permit holder and do not involve the administration of conscious sedation.

(ii) Perform their duties under the direct on-premises supervision of the permit holder, who shall assume full responsibility for the performance of the duties.

(iii) Do not render assistance in areas that are beyond the scope of the permit holder's authority.

(iv) Are currently certified in ACLS.

(4) Certified registered nurse anesthetists to whom are delegated the duties of administering conscious sedation:

(i) Perform their duties under the direct on-premises supervision of the permit holder, who shall assume full responsibility for the performance of the duties.

(ii) Do not perform duties that are beyond the scope of the permit holder's authority.

(iii) Are currently certified in ACLS.

(5) He possesses a current certification in ACLS.

(6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of conscious sedation or nitrous oxide/oxygen analgesia by the permit holder or by a certified registered nurse anesthetist working under the supervision of the permit holder. The permit holder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permit holder will be used for the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(8) Monitoring equipment is installed and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(9) Equipment transported to a nonpermit holder dentist's office for the administration of conscious sedation or nitrous/oxide oxygen analgesia by a permit holder shall pass an inspection by the Board through its authorized agents in accordance with the requirements of the AAOMS Office Anesthesia Manual or subsequent edition. The make, model and serial number of all equipment shall be available and noted on the inspection report.

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.340b. Duties of dentists who are restricted permit II holders.

(a) A dentist who possesses a restricted permit II issued under this subchapter shall ensure that:

(1) Prior to the administration of nitrous oxide/oxygen analgesia a history is taken and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

(i) An operating room.

(ii) An operating table or chair.

(iii) A lighting system.

(iv) Suction equipment with appropriate oropharyngeal suction.

(v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.

(vi) A sterilization area.

(vii) A gas storage area and scavenger system.

(viii) Emergency airway equipment and medications, including intravenous emergency equipment.

(ix) Communications equipment.

(x) Monitoring equipment, procedures, and documentation to conform to the age of the patient and the AAOMS Office Anesthesia Evaluation Manual or subsequent edition and the AAPD *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation, and General Anesthesia in Pediatric Dental Patients* or subsequent edition.

(xi) Results of patient history and physical evaluation.

(xii) Signed patient consent.

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.341. Duties of dentists who are not permit holders.

(a) [Effective January 9, 1990, a] A dentist who does not possess a permit issued under this subchapter may not allow general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia to be administered on an outpatient basis in his dental office unless the following conditions are met:

(1) The Board receives prior notice of the first time that the dental office will be used for the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office **has been inspected** and meets the **appropriate** equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are permit holders; **duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders**) and the Board receives a written certification from the dentist to that effect.

(3) The general anesthesia, **deep sedation**, conscious sedation and nitrous oxide/oxygen analgesia, are administered by one of the following:

* * * * *

(4) Either the dentist who performs the dental procedure or the [**person**] **certified registered nurse anesthetist, physician or other unrestricted permit holder** who administers the general anesthesia, **deep sedation** or conscious sedation [**or nitrous oxide/oxygen analgesia**] possesses a current certification [**to administer cardiopulmonary resuscitation (CPR)**] in ACLS.

(5) The nonpermit holder dentist verifies with the permit holder that all monitoring equipment is present in the nonpermit holder's office, is properly installed and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the

administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, and is being used during the administration of general anesthesia.

(6) Equipment transported to a nonpermit holder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide analgesia by a permit holder shall pass an inspection by the Board through its authorized agents in accordance with the requirements of the AAOMS Office Anesthesia Manual or subsequent edition. The make, model and serial numbers of all equipment shall be available and noted on the inspection report.

(b) A dentist shall submit to the Board a complete written report on a death or [unusual] an incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in his dental office. The report shall be submitted within 30 days of the death or [unusual] an incident.

* * * * *

§ 33.342. Inspection of dental offices.

(a) Routine inspections. No more than once a year during regular business hours, the Board, through its authorized agents, may conduct a routine inspection of a dental office with or without prior notice, for the purpose of determining whether the office is in compliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are permit holders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders).

(b) Special inspections. In addition to the routine inspections authorized by subsection (a), the Board, through its authorized agents, may conduct a special inspection of a dental office:

(1) Upon a death or injury related to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in the office.

* * * * *

(4) As a follow-up to a previous inspection that revealed the office's noncompliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or 33.340b(a)(2).

* * * * *

(d) Access during inspection. For purposes of a routine or special inspection, a dentist shall give the Board's authorized agents access to:

(1) Areas of the dental office where general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia are administered.

(2) Equipment, supplies, records and documents relating to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

* * * * *

(e) Guideline for inspection. A routine inspection, with or without prior notice, will be conducted under provisions pertaining to office facilities, and equipment and procedures in the [American Association of Oral and Maxillofacial Surgeons'] AAOMS' Office Anesthesia Evaluation Manual or subsequent edition, and the ADA Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists or subsequent edition.

(f) Inspection showing noncompliance.

(1) If a routine or special inspection reveals that a dental office is not in compliance with the equipment [and], facility or procedure requirements prescribed in § 33.340(a)(2), [the Board will give the dentist whose office was inspected] 33.340a(a)(2) or 33.340b(a)(2), written notice of the deficiencies and of the deadline for correcting the deficiencies will be given to the dentist whose office was inspected. A reinspection will take place within 30 days, and, if noncompliance is still shown, formal administrative charges may be initiated.

(2) If a routine or special inspection reveals that a dental office is not in compliance with the equipment, facility or procedure requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2), and the noncompliance presents an immediate and clear danger to the public health and safety, the permit holder's permit may be subject to an immediate temporary suspension and other disciplinary action.

[Pa.B. Doc. No. 01-2183. Filed for public inspection December 7, 2001, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Environmental Protection

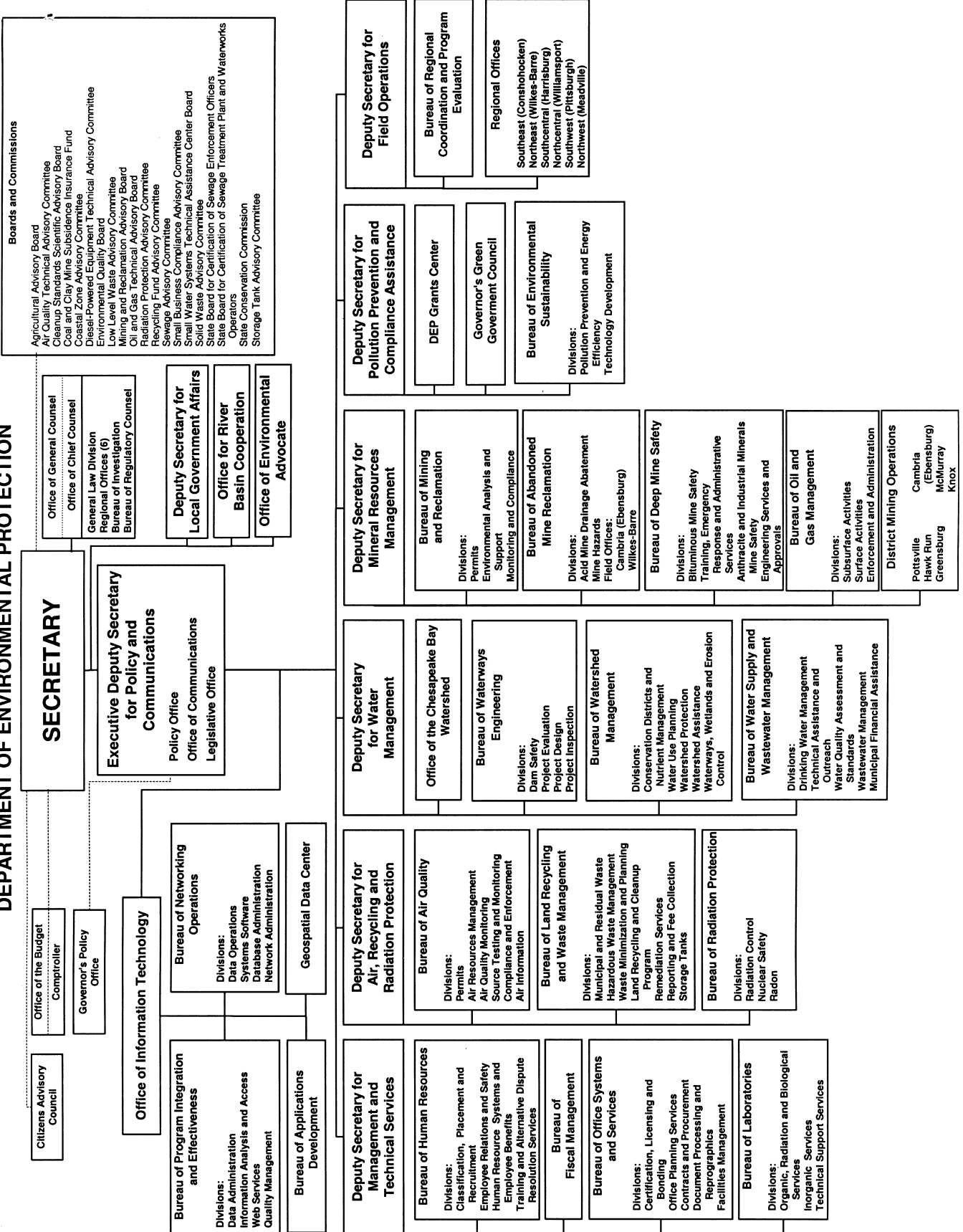
The Executive Board approved a reorganization of the Department of Environmental Protection effective November 26, 2001.

The organization chart at 30 Pa.B. 6701 (December 8, 2001) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 01-2184. Filed for public inspection December 7, 2001, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION



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 27, 2001.

BANKING INSTITUTIONS

New Charter Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 11-21-01 | Counsel Trust Company York York County <i>Correspondent:</i> Laura H. Williams, Esq. McNees, Wallace & Nurick, LLC 100 Pine Street Harrisburg, PA 17101 | York | Filed |

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 11-19-01 | Northwest Savings Bank Warren Warren County Purchase of assets/assumption of liabilities of one branch of Reliance Savings Bank, Altoona, located at: 873 Lovell Avenue Ebensburg Cambria County | Warren | Effective |
| 11-26-01 | Earthstar Bank Southampton Bucks County Purchase of assets/assumption of liabilities of Cornerstone Savings Association, Glenside <i>Branch Acquired:</i> 4800 Richmond Street Philadelphia Philadelphia County <i>Note:</i> The main office of Cornerstone Savings Association located at 219 South Easton Road will be discontinued upon the effective date of the transaction. | Southampton | Approved |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 11-15-01 | Peoples Home Savings Bank Beaver Falls Beaver County | 101 Golfview Drive Centre Township Beaver County | Opened |
| 11-19-01 | AmeriServ Financial Bank Johnstown Cambria County | 5 Gateway Center Pittsburgh Allegheny County | Opened |

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 11-19-01 | Fulton Bank Lancaster Lancaster County | The Shoppes at Jenner's Village Old Baltimore Pike and Route 796 Jennersville Penn Township Chester County | Filed |
| 11-20-01 | Northwest Savings Bank Warren Warren County | 950 E. Main Street Bradford McKean County | Approved |
| 11-20-01 | Jersey Shore State Bank Jersey Shore Lycoming County | 1665 N. Atherton Plc. State College Patton Township Centre County | Approved |
| 11-20-01 | Reliance Savings Bank Altoona Blair County | 904 Blair Street Hollidaysburg Blair County | Approved |
| 11-26-01 | The Bryn Mawr Trust Company Bryn Mawr Montgomery County | Rosemont Presbyterian Village 404 Cheswick Place Rosemont Radnor Township Delaware County (Limited Service Facility) | Approved |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 11-3-01 | Commonwealth Bank Norristown Montgomery County | 350 W. Main Street Birdsboro Berks County | Effective |
| 11-21-01 | Wilmington Trust of Pennsylvania Villanova Delaware County | 402 Lancaster Ave. Haverford Montgomery County | Filed |
| 11-26-01 | First Commonwealth Bank Indiana Indiana County | 100 Plaza South New Castle Lawrence County | Approved |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2185. Filed for public inspection December 7, 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

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

| NPDES No. (Type) | Facility Name & Address | County & Municipality | Stream Name (Watershed #) | EPA Waived Y/N ? |
|---------------------|---|-----------------------------------|------------------------------|---------------------|
| PA0020851 | Hyndman Borough Municipal Authority P. O. Box 346 Hyndman, PA 15545-0346 | Bedford County Hyndman Borough | Wills Creek/13-A | Y |

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

| NPDES No. (Type) | Facility Name & Address | County & Municipality | Stream Name (Watershed #) | EPA Waived Y/N ? |
|-----------------------|--|-----------------------------------|------------------------------|---------------------|
| PA0111058 Sewerage | TravelCenters of America 5600 Nittany Valley Drive P. O. Box 278 Lamar, PA 16848-0278 | Porter Township Clinton County | UNT Fishing Creek 9-C | Y |

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

PA0046418, Sewage. **Municipal Authority of Middleboro**, Municipal Building, P. O. Box 189, McKean, PA 16426. This proposed facility is located in McKean Borough, **Erie County**.

Description of Proposed Activity: Treatment of sanitary waste from a municipality.

The receiving stream, Elk Creek, is in watershed 15 (Lake Erie) and classified for: WWF; MF.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to consider for this evaluation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.10 MGD.

| Parameter | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
|--------------------------------------|---------------------------|----------------------------------|---------------------------------|
| CBOD ₅ (5-1 to 10-31) | 10 | 15 | 20 |
| (11-1 to 4-30) | 20 | 30 | 40 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N (5-1 to 10-31) | 2.5 | | 5.0 |
| (11-1 to 4-30) | 7.5 | | 15 |
| Phosphorus as "P" | 1.0 | | |
| Dissolved Oxygen | | minimum of 4.0 mg/l at all times | |
| Total Residual Chlorine | 0.5 | | 1.6 |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|---|-----------------------------------|----------------------------------|---|
| Fecal Coliform (5-1 to 9-30) (10-1 to 4-30) | | | 200/100 ml as a geometric average 34,500/100 ml as a geometric average |
| pH | | | 6.0 to 9.0 standard units at all times |

The EPA Waiver is in effect.

PA0001449, Industrial Waste. **Barnsteel Abrasives**, 681 East Butler Road, Butler, PA 16001. This proposed facility is located in the City of Butler, **Butler County**.

Description of Proposed discharge of contact cooling water and stormwater, is in watershed 20-C and classified for: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Zelienople Water Works on Connoquenessing Creek located at Zelienople, approximately 22 miles below point of discharge.

The proposed effluent limits for Outfall 002 are based on a design flow of 0.03 MGD.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------------|--|--------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow | XX | | | | |
| Total Suspended Solids | 5 | 11.2 | 20 | 45 | |
| Iron (Total) | 0.8 | 1.6 | 3.2 | 6.4 | 8.0 |
| Aluminum | 0.2 | 0.4 | 0.8 | 1.6 | 2.0 |
| Manganese | 0.05 | 0.1 | 0.2 | 0.4 | 0.5 |
| pH | Within limits of 6.0 to 9.0 standard units at all times. | | | | |

The proposed effluent limits for Outfall 004 are based on a design flow of 0.03 MGD.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------------|--|--------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow | XX | | | | |
| Total Suspended Solids | 5 | 11.2 | 20 | 45 | |
| Iron (Total) | 0.8 | 1.6 | 3.2 | 6.4 | 8.0 |
| Aluminum | 0.2 | 0.4 | 0.8 | 1.6 | 2.0 |
| Manganese | 0.05 | 0.1 | 0.2 | 0.4 | 0.5 |
| pH | Within limits of 6.0 to 9.0 standard units at all times. | | | | |

The proposed effluent limits for Outfall 001 are based on a design flow of n/a MGD.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|--|----------------------------|--------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| All discharges shall consist of uncontaminated stormwater runoff only. | | | | | |

The proposed effluent limits for Outfall 003 are based on a design flow of n/a MGD.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|--|----------------------------|--------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| All discharges shall consist of uncontaminated stormwater runoff only. | | | | | |

XX—Monitor and report.

The EPA Waiver is in effect.

PA0104353, Sewage. **Lemick, Inc. Oakleaf Estates Manufactured Home Park**, 88 Mitchell Road, West Middlesex, PA 16159. This proposed facility is located in Shenango Township, **Mercer County**.

Description of Proposed Activity: renewal of a treated sewage discharge from a privately owned treatment works.

The receiving stream, unnamed tributary to the Shenango River, is in watershed 20-A and classified for: warm water fishery, 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 New Castle District Pennsylvania-American Water Company on the Shenango River located at river mile 4.7 and is located 17.3 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.035 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 |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 3 | | 6 |
| (11-1 to 4-30) | 9 | | 18 |
| Fecal Coliform | | | |
| (5-1 to 9-30) | | 200/100 ml as a geometric average | |
| (10-1 to 4-30) | | 2,000/100 ml as a geometric average | |
| Total Residual Chlorine | 0.5 | | 1.2 |
| Dissolved Oxygen | | minimum of 3 mg/l at all times | |
| 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. PA0057126, Industrial Waste, **Amerada Hess Corporation**, 1 Hess Plaza, Woodbridge, NJ 07095.

This application is for renewal of an NPDES permit to discharge treated groundwater from a former Amerada Hess Gas Service Station located at 602 East Lincoln Highway in City of Coatesville, **Chester County**. This is an existing discharge to West Branch of Brandywine Creek.

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 7,200 gpd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|--|---------------------------------|---|
| Benzene | 0.001 | 0.002 | 0.0025 |
| Total BETX | 0.1 | 0.2 | 0.25 |
| Ethylbenzene | Monitor/Report | Monitor/Report | |
| Toluene | Monitor/Report | Monitor/Report | |
| Xylenes, Total | Monitor/Report | Monitor/Report | |
| MTBE | Monitor/Report | Monitor/Report | |
| pH | Within limits of 6.0—9.0 standard units at all times | | |

Other Conditions:

The EPA Waiver is in effect.

Conditions for future permit modification.

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

PA-0064157, Sewage, **New Ringgold Borough**. This proposed facility is located in New Ringgold Borough, **Schuylkill County**.

Description of Proposed Activity: Application is for a new NPDES permit to discharge treated wastewater from proposed new treatment facility.

The receiving stream, Little Schuylkill, is in the State Water Plan watershed #03A and is classified for: cold water fishery. The nearest downstream public water supply intake for Pottstown Borough Water Authority is located on Schuylkill River is 45 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.04 MGD.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> |
|-------------------------|---|----------------------------------|---------------------------------|
| CBOD ₅ | 25.0 | 40.0 | 50.0 |
| Total Suspended Solids | 30.0 | 45.0 | 60.0 |
| Fecal Coliform | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | |
| pH | 6.0 to 9.0 standard units at all times. | | |
| Total Residual Chlorine | 1.2 | | 2.8 |

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

PAG# 123525. CAFO, **Joe Sweeney**, Rocky Knoll Farm, 1266 Gypsy Hill Road, Lancaster, PA 17602. This proposed facility is located in West Lampeter Township, **Lancaster County**.

Description of Proposed Activity: The Rocky Knoll Farm is an existing swine operation with a total AEU of 505.3. The farm currently contains two 2,200 head finishing swine barns. The manure from these buildings runs through a methane digester located on the property and is then stored in a 134' diameter x 12' deep concrete manure storage facility. These two storages allow for approximately 1,475,000 gallons of manure storage. Approximately 11,969.7 tons of swine manure is produced a year.

The receiving stream, tributary to Mill Creek, is in the State Water Plan watershed 7-J 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 general 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.

PAG# 123526. CAFO, **Tom Bross**, Honey Locust Swine Farm (Huntington Farms), 2454 Stoney Point Road, East Berlin, PA 17316-9710. This proposed facility is located in Huntington Township, **Adams County**.

Description of Proposed Activity: The Honey Locust Swine Farm—Huntington Farms is a new operation with a total AEU of 652.4. The proposed activity is construction of a 1,400 head sow farrow to wean unit. This will include the construction of two new buildings each with adjoined underground deep pit manure storage structures. Two wells will supply the facility with water. The facility will contain an onsite septic system or sand mound system. All manure produced on site will be utilized on the farm will be injected into the soil.

The receiving stream, unnamed tributary to Bermudian Creek, is in the State Water Plan watershed 7-F 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 general 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.

Application No. PA 0021067, SIC Code 4952, Sewage, **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552. This application is for renewal of an NPDES permit for an existing discharge of treated sewage to the Little Chickies Creek, in Watershed 7-G, in East Donegal Township, **Lancaster County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Columbia Water Company located in Columbia Borough, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.53 MGD are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-----------------------------------|-------------------------------------|---|
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 4.5 | - | 9 |
| (11-1 to 4-30) | 13.5 | - | 27 |
| Total Phosphorus | 2 | - | 4 |
| Total Residual Chlorine | 0.43 | - | 1.4 |
| Dissolved Oxygen | | Minimum of 5.0 at all times | |
| pH | | 6.0 to 9.0 inclusive | |
| Fecal Coliforms | | 200/100 ml as a geometric average | |
| (5-1 to 9-30) | | 2,100/100 ml as a geometric average | |
| (10-1 to 4-30) | | Monitor Only | |
| Total Nitrogen | | Monitor Only | |

Individuals may make an appointment to review the DEP files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Application No. PA 0042269, SIC Code 4952, Sewage, **Lancaster Area Sewer Authority**, 130 Centerville Road, Lancaster, PA 17603. This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Dry Run in Watershed 7-J, in Manor Township, **Lancaster County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Safe Harbor Power Plant located in Manor Township, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 15.0 MGD are:

| Parameter | Average | | Instantaneous Maximum (mg/l) |
|--------------------------------------|-------------------------------------|---------------|------------------------------|
| | Monthly (mg/l) | Weekly (mg/l) | |
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N (5-1 to 10-31) | 8.5 | - | 17 |
| Total Phosphorus | 2 | - | 4 |
| Total Residual Chlorine | 0.5 | - | 1.6 |
| Dissolved Oxygen | Minimum of 5.0 at all times | | |
| pH | From 6.0 to 9.0 inclusive | | |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric average | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric average | | |
| Total Nitrogen | Monitor | | |

Individuals may make an appointment to review DEP files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

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

PA0001287, Industrial Waste, SIC 3296, **Armstrong World Industries, Inc.**, 1018 11th Street, Beaver Falls, PA 15010. This application is for renewal of an NPDES permit to discharge untreated cooling water and stormwater from the Beaver Falls Plant in Beaver Falls, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Walnut Bottom Run and Brighton Alley Run, classified as warm water fisheries with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) considered during the evaluation is Beaver Falls Municipal Authority, New Brighton Plant, located 2 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.242 mgd (from permit issuance through 3 years).

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|-------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Temperature | | | | | 81°F |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfalls 002—010, 012: existing discharges of stormwater runoff.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|------------------------|-----------------|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Ammonia Nitrogen | | | Monitor and Report | | |
| BOD | | | Monitor and Report | | |
| Bromide | | | Monitor and Report | | |
| Nitrate-Nitrite | | | Monitor and Report | | |
| Oil and Grease | | | Monitor and Report | | |
| Phosphate | | | Monitor and Report | | |
| TKN | | | Monitor and Report | | |
| Zinc | | | Monitor and Report | | |
| Triethylamine | | | Monitor and Report | | |
| Formaldehyde | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Total Suspended Solids | | | Monitor and Report | | |
| pH | | | Monitor and Report | | |

Outfalls 011: existing

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|------------------|-----------------|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Ammonia Nitrogen | | | Monitor and Report | | |
| BOD | | | Monitor and Report | | |
| Bromide | | | Monitor and Report | | |
| Nitrate-Nitrite | | | Monitor and Report | | |
| Oil and Grease | | | Monitor and Report | | |
| Phosphate | | | Monitor and Report | | |

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------------------|-----------------|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| TKN | | | Monitor and Report | | |
| Zinc | | | Monitor and Report | | |
| Triethylamine | | | Monitor and Report | | |
| Formaldehyde | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Total Suspended Solids | | | Monitor and Report | | |
| pH | | | Monitor and Report | | |

The EPA waiver is in effect.

PA0217298, Industrial Waste, SIC 4449, **Mon River Towing, Inc.**, 200 Speers Street, Belle Vernon, PA 15012. This application is for renewal of an NPDES permit to discharge treated process water from a bilge water plant in Speers Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, the Monongahela River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is the Charleroi Borough Water Plant, located at Charleroi, 5 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.0024 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|----------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow | Monitor and Report | | | | |
| TSS | | | 30 | | 60 |
| Oil and Grease | | 15 | | 30 | |
| Dissolved Iron | | | | | 7 |
| Benzene | | | 0.001 | | 0.0025 |
| BTEX | | | 0.1 | | 0.25 |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

The EPA waiver is in effect.

PA0026751, Sewage, **Indiana Borough**, 80 North Eighth Street, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from the Borough of Indiana Water Pollution Control Plant in Center Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Stoney Run, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: PA-American Water Company.

Outfall 001: existing discharge, design flow of 6.0 mgd.

| Parameter | Concentration (mg/l) | | | |
|------------------------------------|----------------------|--|--------------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 25 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 10 | 15 | | 20 |
| (11-1 to 4-30) | | | Monitor and Report | |
| Fecal Coliform (5-1 to 9-30) | | 200/100 ml as a geometric mean | | |
| (10-1 to 4-30) | | 2,000/100 ml as a geometric mean | | |
| Total Residual Chlorine | | Monitor and Report | | |
| Dissolved Oxygen | | not less than 5.0 mg/l | | |
| pH | | not less than 6.0 nor greater than 9.0 | | |

Other Conditions: The Indiana Borough WPCP is undergoing an expansion and upgrade. The previous limitations are interim and apply from issue date through July 1, 2003.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick Creek, which are classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: PA-American Water Company.

Outfall 001: relocated discharge, design flow of 8.2 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------|--|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 4.0 | 6.0 | | 8.0 |
| (11-1 to 4-30) | 11.0 | 16.5 | | 22.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Dissolved Oxygen | not less than 6.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

Other Conditions: The previous limitations are final and become effective July 2, 2003 which is the date the expansion and upgrade is to be completed.

The EPA waiver is not in effect.

PA0090824, Sewage, **New Plan of Laurel Mall, Inc.**, c/o NPXL, 1120 Avenue of the Americas, New York, NY 10036. This application is for Renewal of an NPDES permit to discharge treated sewage from Laurel Mall Sewage Treatment Plant in Dunbar Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Gist Run, which are classified as a trout stock 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: Westmoreland County Municipal Authority—McKeesport.

Outfall 001: existing discharge, design flow of 0.032 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|--|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 5.0 | | | 10.0 |
| (11-1 to 4-30) | 15.0 | | | 30.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| Dissolved Oxygen | not less than 3 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0205338, Sewage, **Donald W. Walch**, 48 Brallier Drive, Ligonier, PA 15658. This application is for renewal of an NPDES permit to discharge treated sewage from Donald W. Walch Single Residence STP in Ligonier Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Loyalhanna Creek, which are classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Latrobe Municipal Authority on Loyalhanna Creek.

Outfall 001: existing discharge, design flow of 0.0004 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|--|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | Monitor and Report | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is 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).

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

WQM Permit No. 2101410, Sewerage, **Monroe Township Municipal Authority**, 1220 Boiling Springs Road, Mechanicsburg, PA 17055. This proposed facility is located in Monroe Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of a sewer extension and pump station to serve portions of the following roads: Creek Road, York Road, West Lisburn Road, Simmons Road, North Loop Road, Pin Oak Drive, Maple Lane and Boiling Springs Road.

WQM Permit No. 2295403, Amendment 01-1, Sewerage, **East Hanover Township**, 8848 Jonestown Road, Grantville, PA 17028-8650. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Renovations at the existing treatment plant to enable them to meet their NPDES effluent limits for ammonia-nitrogen.

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

WQM Permit No. 5901404, Sewerage, **Elkland Borough Authority**, 105 Parkhurst Street, Elkland, PA 16920. This proposed facility is located in Elkland Borough, **Tioga County**.

Description of Proposed Action/Activity: The Elkland Borough Authority requests a permit modification which would reroute the facility for a maximum average hydraulic design flow of 0.7 MGD and allow for the installation of an overflow pipe to retain excessive flows in a lagoon.

WQM Permit No. 4901201, Industrial Waste SIC 2833, **Merck & Company Inc.**, P. O. Box 600, Danville, PA 17821-0600. This proposed facility is located in Riverside Borough, **Northumberland County**.

Description of Proposed Action/Activity: Replacement of primary clarifiers and biofilters with activated sludge units.

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

WQM Permit No. 1001413, Sewerage, **Brandy One LLC**, Brandywine Village, P. O. Box 449, Mars, PA 16046. This proposed facility is located in Connoquenessing Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve a proposed light commercial building and a multi-family residential lot.

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 (BMPs) 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 DEP 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 G496, Stormwater. **Stephen E. Cushman**, P. O. Box 294, Thorndale, PA 19372, has applied to discharge stormwater associated with a construction activity located in West Caln Township, **Chester County** to Birch Run (HQ).

NPDES Permit PAS10 G497, Stormwater. **Roger Evans**, 135 Watson Mill Road, Landenberg, PA 19350 has applied to discharge stormwater associated with a construction activity located in New London Township, **Chester County** to tributary to Hodgson Run (HQ-TSF-MF).

NPDES Permit PAS10 J054, Stormwater. **Fieldstone Partners**, 347 East Conestoga Road, Wayne, PA 19087, has applied to discharge stormwater associated with a construction activity located in Edgmont and Thornbury Townships, **Delaware County** to Chester Creek (TSF).

NPDES Permit PAS10 5313, Stormwater. **AT&T Corporation**, 1200 Peach Street, Atlanta, GA 30309 and **PF.NET Network Services Corporation**, 600 Kenrick Street, Suite A5. Houston, TX 77060, has applied to discharge stormwater associated with a construction activity located in Chadds Ford, Concord, Haverford, Marple, Middletown, Nether Providence, Upper Providence, Springfield and Upper Darby Townships and Chester Heights, Lansdowne, Media, Milbourne and Swarthmore Boroughs, **Delaware County** and Kennett and Pennsbury Townships, **Chester County** and the City of Philadelphia, **Philadelphia County** to Delaware River (WWF), Schuylkill River (CWF), Cobbs Creek (WWF, MF), tributary to Darby Creek (CWF, MF), Darby Creek (TSF, MF), Crum Creek (CWF), tributary to Ridley Creek (WWF, MF), Ridley Creek (WWF, MF), tributary to Chester Creek (TSF), Chester Creek (TSF), tributary to West Branch Chester Creek (TSF, MF), West Branch Chester Creek (TSF, MF), tributary to Harvey Run (WWF, MF), Brandywine Creek (WWF, MF), tributary to Ring Run (WWF, MF), Ring Run (WWF, MF), Springgreen Creek, tributary to Bennetts Run (WWF, MF), tributary to Craigs Mill Run (CWF) and tributary to Shadowbrook Pond.

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

Franklin County Conservation District: 550 Cleveland Avenue Chambersburg, PA 17201, (717) 264-8074.

| <i>NPDES No.</i> | <i>Applicant Name & Address</i> | <i>County & Municipality</i> | <i>Receiving Water/Use</i> |
|------------------|---|--------------------------------------|---------------------------------|
| PAS10M111 | Falling Spring Greenways, Inc. 8903 Flagstone Circle Randallstown, MD 21033 | Guilford Township Franklin County | Falling Spring Branch HQ-CWF |

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

Clearfield County Conservation District, 650 Leonard St., Clearfield, PA 16830, (814) 765-2629.

NPDES Permit PAS10 101716, Stormwater. **Bureau of Abandoned Mine Reclamation**, 286 Industrial Park Rd., Ebensburg, PA 15931 has applied to discharge stormwater associated with a construction activity located in Lawrence Township, **Clearfield County** to Little Clearfield Creek, HQ-CWF.

| <i>NPDES No.</i> | <i>Applicant Name & Address</i> | <i>County & Municipality</i> | <i>Receiving Water/Use</i> |
|------------------|--|--|-----------------------------------|
| PAS101716 | Bureau of Abandoned Mine Reclamation 286 Industrial Park Rd. Ebensburg, PA 15931 | Lawrence Township Clearfield County | Little Clearfield Creek 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. 5001501, Public Water Supply.

| | |
|---------------------------|--|
| Applicant | Republic Development Corp. |
| Municipality | Newport Borough |
| County | Perry |
| Responsible Official | David M. Bomberger P. O. Box 36 Mexico, PA 17056 |
| 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 | July 13, 2001 |
| Description of Action | Construction Permit Application for Well No. 3 of the Hillside Manor Development community water system. Well No. 3, which is to be operated at a rate of 10 gpm, will be used to replace existing Well No. 1. Treatment will be provided via existing, previously permitted facilities. |

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

Permit No. 1001502, Public Water Supply.

| | |
|----------------------|---|
| Applicant | Peter Rabbit Campground 551 Mahood Road Butler, PA 16001 |
| Township or Borough | Brady Township, Butler County |
| Responsible Official | Robert K. Hilliard, Owner |
| Type of Facility | New well |
| Consulting Engineer | McGarvey Engineering 172 Woodcrest Road Butler, PA 16002 |

| | |
|---------------------------|---------------------------------------|
| Application Received Date | November 26, 2001 |
| Description of Action | Drill new well #5 to replace well #3. |

MINOR AMENDMENT

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

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

Application No. 2301502, Minor Amendment.

| | |
|---------------------------|--|
| Applicant | Chester Water Authority |
| Township | Little Britain |
| Responsible Official | Robert W. Naef P. O. Box 467 Chester, PA 19016-0467 |
| Type of Facility | Public Water Supply System |
| Consulting Engineer | Gannett Fleming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100 |
| Application Received Date | November 19, 2001 |
| Description of Action | Demolition of an existing 250,000 gallon prestress concrete washwater tank and construction of a 250,000 gallon welded steel washwater tank. |

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

Application No. Minor Amendment.

| | |
|---------------------------|---|
| Applicant | United Water Pennsylvania |
| Township or Borough | North Union Township |
| Responsible Official | Nancy J. Trushell, P.E. Engineering Manager 4211 East Park Circle Harrisburg, PA 17111 |
| Type of Facility | PWS |
| Consulting Engineer | Michael Gephart, P.E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111 |
| Application Received Date | November 16, 2001 |
| Description of Action | Construction of a 16,000 gallon bolted steel water storage tank to serve the Nuremberg System. |

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

Application No. Minor Amendment.

| | |
|----------------------|--|
| Applicant | Catawissa Water Authority |
| Borough | Catawissa Borough |
| Responsible Official | Herbert A. Maurer, President Catawissa Water Authority P. O. Box 54 Catawissa, PA 17820 |
| Type of Facility | Public Water Supply |

Consulting Engineer Alfred Benesch & Company
P. O. Box 1090
Pottsville, PA 17901

Application Received November 26, 2001
Date

Description of Action Change in coagulant chemicals
from alum to polyaluminum chlo-
ride and installation of new air
scour distribution laterals.

Application No. Minor Amendment.

Applicant **Spring Township Municipal Authority**

Township Spring Township

Responsible Official Steven Aumiller, Operator
Spring Township Municipal Au-
thority
P. O. Box 133
Beaver Springs, PA 17812

Type of Facility Public Water Supply

Consulting Engineer John R. Williams, P.E.
305 Evergreen Road
New Cumberland, PA 17070-2814

Application Received November 1, 2001
Date

Description of Action Change in pretreatment chemicals
and installation of automatic
filter-to-waste at filter plant.

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

Application No. 1097503-MA1, Minor Amendment.

Applicant **Concordia Lutheran Minis-tries**
134 Marwood Road
Cabot, PA 16023-2299

Township or Borough Jefferson Township, **Butler County**

Responsible Official Keith Frndak, Administrator

Type of Facility PWS

Consulting Engineer Gray-Warnick Engineering
662 West New Castle Road
Butler, PA 16001

Application Received November 16, 2001
Date

Description of Action Construction of a new 88,000 gal-
lon water storage standpipe to
increase storage capacity.

Application No. 3791502-MA1, Minor Amendment.

Applicant **Bessemer Borough**
201 1/2 East Poland Avenue
P. O. Box 789
Bessemer, PA 16112

Township or Borough Bessemer Borough, **Lawrence County**

Responsible Official Stanley Grebenz, Council Presi-
dent

Type of Facility PWS

Consulting Engineer Gannett Fleming Inc.
601 Holiday Drive
Pittsburgh, PA 15220

Application Received November 21, 2001
Date

Description of Action Change disinfection agent from
gas chlorine to sodium
hypochlorite.

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 of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate

Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

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

Rhodia, Inc., Falls Township, **Bucks County**. Paul Nemanic, Rhodia, Inc., 2300 S. Pennsylvania Ave., Morrisville, PA 19067, on behalf of Rhodia, Inc., Cranbury, NJ, 08512-7500, has submitted a Notice of Intent to Remediate site groundwater contaminated with heavy metals. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier* on November 7, 2001.

James Spring & Wire Company, East Whiteland Township, **Chester County**. Peter A. Malik, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of James Spring & Wire Co., 6 Bacton Hill Rd, Frazer, PA 19355, has submitted a revised Notice of Intent to Remediate site groundwater contaminated with heavy metals, solvents and cadmium. 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 Inquirer* on October 25, 2001.

Hill Farm, Caln and Valley Township, **Chester County**. Joseph W. Standen, Jr., Leggette, Brashears & Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380 on behalf of Realen Homes, 1040 Stoney Hill Rd., Suite 100, Yardley, PA 19067, has submitted a Notice of Intent to Remediate site soil contaminated with heavy metals and pesticides. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on September 7, 2001.

Moyer Packing Co.—Hackman Property, Franconia Township, **Montgomery County**. Hudson S. Green, Jr., Earth Data, Inc., 924 Springdale Dr., Exton, PA 19341, on behalf of Moyer Packing Co., P. O. Box 395, Souderton, PA 18964, has submitted a Notice of Intent to Remediate site soil contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Reporter* on August 30, 2001.

Action Manufacturing Co., City of Philadelphia, **Philadelphia County**. Gloria G. Hunsberger, P.G., Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380, on behalf of Action Manufacturing Co., 500 Bailey Crossroads, Atglen, PA 19319, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet Statewide Health and Background Standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Star* on October 31, 2001.

4800 Pine Street Apartments, City of Philadelphia, **Philadelphia County**. William G. Murray, URS Corporation, 1400 Union Meeting Rd., Suite 202, Blue Bell, PA

19422-1972, on behalf of NPDF Pine Associates LP, St. Leonards Court Site, 310, 3819-33 Chestnut St., Philadelphia, PA 19104, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX, cumene, fluorine, phenanthrene and naphthalene; and site groundwater contaminated with naphthalene. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on November 7, 2001.

Southcentral Region: Environmental Cleanup Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

R. R. Donnelley & Sons Company Lancaster East Facility, City of Lancaster, **Lancaster County**. R. R. Donnelley & Sons Company, 216 Greenfield Road, Lancaster, PA 17601 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX and solvents. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era/Intelligencer Journal* on October 29, 2001.

R. R. Donnelley & Sons Company Lancaster Financial Printing Division, City of Lancaster, **Lancaster County**. URS Corporation, 2325 Maryland Road, 2nd Floor, Willow Grove, PA 19090 (on behalf of R. R. Donnelley & Sons Company, 391 Steel Way, Lancaster, PA 17601) has submitted a Notice of Intent to Remediate site soils contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer Journal-New Era* on April 9, 2001.

Homewood Retirement Center of the United Church of Christ, Inc., Martinsburg Borough, **Blair County**. RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 (on behalf of Homewood Retirement Center of The UCC, Inc., 430 South Market Street, Martinsburg, PA 16662) has submitted a Notice of Intent to Remediate site groundwater contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Morrison's Cove Herald* on November 20, 2001.

Heritage Metal Finishing, Inc., Borough of Elizabethtown, **Lancaster County**. Heritage Metal Finishing, Inc., 800 South Market Street, Elizabethtown, PA has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Elizabethtown Chronicle* on November 30, 2001.

Mobil Pipeline, Fahnestock Property, Rapho Township, **Lancaster County**. ExxonMobile Refining & Supply Company, 1900 East Linden Avenue, Linden NJ has submitted a Notice of Intent to Remediate site soils contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era* on October 25, 2001.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Withhold Facility (former), City of Sunbury, **Northumberland County**. Cummings/Ritter Consultants, Inc., on behalf of its client NewellRubbermaid, 6833 Stalter Drive, Suite 101, Rockford, IL 61108, has submitted a Notice of Intent to Remediate soil contaminated with lead, nickel, TCE and PCE. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Item* on October 5, 2001.

OSRAM Sylvania, Wellsboro Borough, **Tioga County**. OSRAM Sylvania, 1 Jackson Street, Wellsboro, PA 16901 has submitted a Notice of Intent to Remediate soil contaminated with heavy metals. The applicant proposes to remediate the site to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Williamsport Sun Gazette* on October 12, 2001.

State College Service Station, Ferguson Township, **Centre County**. Chambers Environmental Group, Inc., on behalf of its client Centre Oil & Gas, Inc., 769 Westerly Parkway, State College, PA 16801, has submitted a Notice of Intent to Remediate soil contaminated with BTEX and PHCs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Centre Daily Times* on October 22, 2001.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), 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.

RENEWAL APPLICATIONS RECEIVED

University of Pittsburgh of the Commonwealth System of Higher Education, 3700 O'Hara Street, B-50 Benedum Hall, Pittsburgh, PA 15261. License No. **PA-HC 0183**. Received on November 19, 2001.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Southeast Region: Regional Solid Waste Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

PAD000824805. BetzDearborn Inc., 4636 Somerton Road, Trevoise, PA 19053. Middletown Township, **Bucks County**. This closure plan application was received for the existing captive storage facility. Application was received in the Southeast Regional Office on November 26, 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.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 100022. Chrin Brothers Sanitary Landfill, Chrin Brothers, Inc., 635 Industrial Drive, Easton, PA 18042. A major permit modification for the installation of a Leachate Evaporation System (E-Vap) and a recirculation system at this municipal waste landfill located in Williams Township, **Northampton County**. Currently, Chrin Sanitary Landfill manages leachate by collection tanks and discharge to the local POTW. This installation will provide a more cost-effective and environmentally compatible leachate treatment and disposal option. This equipment uses landfill gas (LFG) to reduce leachate volumes to roughly 3% of their original volume. During this reduction, all vapor generated in the evaporator is passed through an enclosed flare for destruction. The application was received in the Regional Office on October 25, 2001; and as of November 6, 2001, the application was deemed to be administratively complete.

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

Permit Application No. 100172. Arden Landfill, Inc., 1550 Coraopolis Heights Road, West Pointe Corporate Center I, Moon Township, PA 15108. Arden Landfill, Arden Station Road, Washington, PA 15301. 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 Chartiers Township, **Washington County** was received in the Regional Office on November 19, 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.

Notice is hereby given that 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. Any 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 the Department 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 through 143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

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

06-05087A: Haines and Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) for installation of a fabric collector to control the emissions from an asphalt plant in Colebrookdale Township, **Berks County**. The facility is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

36-03041B: County Line Quarry, Inc. (P. O. Box 99, Wrightsville, PA 17368) for construction of a cone crusher, quad deck screen and associated conveyors controlled by a fabric filter and water suppression at the Wrightsville Quarry located in Hellam Township, **York County**. The modification to the stone crushing facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

36-05019E: Anvil International, Inc. (1411 Lancaster Avenue, Columbia, PA 17512) for construction of two fabric collectors at the Columbia Plant located in Columbia Borough, **Lancaster County**.

36-05026A: R. R. Donnelley & Sons Co. (1375 Harrisburg Pike, Lancaster, PA 17601) for construction of one heatset web offset printing press controlled by a thermal oxidizer at the Lancaster West Facility in the City of Lancaster, **Lancaster County**.

67-03028A: Dentsply International Trubyte Division (570 West College Avenue, P. O. Box 872, York, PA 17405-0872) for construction of a new electroplating unit controlled by a multi-stage mist eliminator at the facility in the City of York, **York County**. The project is subject to 40 CFR Part 63, Subpart N—National Emission Stan-

dards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

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

59-00005D: Dominion Transmission Corp. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) for installation of a replacement air cleaning device (a screw-in prechamber) on a 2000 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine #7) at the Sabinsville Compressor Station in Clymer Township, **Tioga County**.

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.

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

48-320-012: Wheaton USA, Inc. (2400 Baglyos Circle, Bethlehem, PA 18020) for construction and operation of a heat-set printing operation consisting of two offset, sheet-fed printing presses in Bethlehem Township, **Northampton County**. The facility is a non-Title V (State only) facility. The operation of the heat-set printing operation will result in the emission of 6.4 tons per year of volatile organic compounds and 1.2 tons per year of particulate. The plan approval will include monitoring, reporting and recordkeeping requirements designed to keep the source operating within all applicable air quality requirements.

40-303-013A: Bartlett Materials and Construction, Inc. (East Broad Street, P. O. Box 550, Tamaqua, PA 18252) for modification of an asphalt plant by addition of a Recycled Asphalt Pavement Feed System and the replacement of existing baghouse with a newer better efficient baghouse in Tamaqua, **Luzerne County**. This facility is a non-Title V facility. Modification will not increase the existing emission rates for the pollutants. The modification will provide the facility to use RAP material. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

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

01-05002A: MasterBrand Cabinets, Inc. (P. O. Box 5, Littlestown, PA 17340) for construction of four spray booths and installation of a regenerative thermal oxidizer in Littlestown Borough, **Adams County**. The facility is a Title V facility. The potential to emit volatile organic compounds (VOCs) from this modification is about 10.7 tons per year. The facility is subject to a Plantwide Applicability Limit (PAL) of 107.7 tons per year and is subject to 40 CFR Part 63, Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations. The plan approval will include emission limitations, testing, monitoring, record keeping, reporting requirements and work practice standards designed to keep the facility within all applicable air quality requirements.

01-05032: Pella Corporation (102 Main Street, Pella, IA 50219) for construction of a window manufacturing

operation at its Gettysburg Plant in Straban Township, **Adams County**. The facility is a non-Title V (State only) facility. The facility's potential annual emissions of VOC, PM-10 and NOx will be 76 tons, 6 tons and 3 tons, respectively. The primary sources are five wood treatment units controlled by a catalytic oxidizer. Performance testing of the catalytic oxidizer for inlet and outlet VOC emissions, capture efficiency and visible emissions will be required. A minimum catalytic oxidizer outlet temperature of 650°F will be required during operation of any of the wood treatment units. Facility emission restrictions for criteria pollutants and HAPs have been included for the facility to maintain its Synthetic Minor status. The plan approval will also contain additional work practice standards and emission restrictions, as well as monitoring, record keeping and reporting requirements.

36-03119A: Esh's Toys, LLC (343 Furnace Road, Quarryville, PA 17566) for the construction of a sealer spray booth and a topcoat spray booth in Bart Township, **Lancaster County**. The facility is a non-Title V (State only) facility. The operation annually emits about 7.1 tons of VOC and has a potential to emit less than 25 tons per year. The plan approval/operating permit will include emission limitations, testing, monitoring, record keeping, reporting requirements and work practice standards designed to keep the facility within all applicable air quality requirements.

36-05011A: ExxonMobil Oil Corp. (600 Billingsport Road, Paulsboro, NJ 08066) for modification to a loading rack at Lancaster Terminal, 1360 Manheim Pike, Manheim Township, **Lancaster County**. The modification is to incorporate a gasoline bay into the existing distillate bay and provide more flexibility to load gasoline product in the tanker trucks. The facility VOC emissions will be kept at less than 50 tons per year. The Plan Approval and administrative amendment to synthetic minor operating permit 36-05011 shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

07-03034B: Fry Metals, Inc. (4100 Sixth Avenue, Altoona, PA 16602) for installation of eight new melting kettles to soft metal melting area or Casting Department at the facility in the City of Altoona, **Blair County**. Three kettles will be controlled by an existing Aeropulse baghouse and five will be controlled by a United Process Control baghouse to be installed under this Plan Approval. Approval of this request will increase the potential emissions from the facility by the following amounts: NOx = 2.06 tons, VOC = 0.20 ton, CO = 0.69 ton and particulate = 20.12 lbs. The plan approval will include provisions for emission testing, monitoring, recordkeeping and reporting designed to ensure compliance with the applicable requirements.

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

26-00535A: Duke Energy Fayette, LLC (5400 Westheimer Court, Houston, TX 77056) for construction of the Fayette Energy Facility in German Township, **Fayette County**.

The proposed facility is subject to the applicable requirements of 25 Pa. Code, Chapter 127 (related to construction, modification, reactivation and operation of sources, including the nonattainment New Source Review provisions of Subchapter E), 40 CFR 52.21 (related to Prevention of Significant Deterioration), 40 CFR Part 60,

Subparts Da, Dc, GG and Kb (related to standards of performance for small and large steam generating units, turbines and VOL storage tanks), 40 CFR Parts 72, 73, 75 and 77 (related to acid rain) and 25 Pa. Code §§ 123.102—123.120 (related to the NOx budget program). The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. The facility is to be constructed in accordance with the plans submitted with the application (as approved herein).

2. Upon completion of the construction of the facility, an operating permit must be obtained. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

3. This Plan Approval authorizes Duke Energy Fayette, LLC to construct an electrical generation facility at their Fayette Energy Facility located in German Township, Fayette County. (25 Pa. Code § 127.12b)

4. The main sources at this facility will be two GE Model PG 7241 (FA) turbines. Turbines will be in combined cycle service, each equipped with its own heat recovery steam generator (HRSG), duct burners, a single condensing, reheat steam turbine generator (STG) and a surface condenser serving the STG. Overall rating for each turbine train is 310 MW nominal. (25 Pa. Code § 127.12b)

5. Turbines shall be equipped with dry low NOx combustors for use during the combustion of natural gas and water injection for use during the combustion of fuel oil. (25 Pa. Code § 127.12b)

6. Turbine exhaust gases shall be treated with selective catalytic reduction (SCR) for NOx control and oxidation catalyst (OC) for VOC and CO control. (25 Pa. Code § 127.12b)

7. Supporting equipment at this site will include an auxiliary boiler (rated at 44.1 mmBtu/hr, equipped with low NOx burners), one cooling towers with drift eliminators, four chiller cooling towers with drift eliminators, diesel engine fire pump, emergency diesel generator and two 2.45 million gallon, aboveground, fuel oil storage tanks. (25 Pa. Code § 127.12b)

8. Emission rates from each turbine, with the operation of duct burners, SCR and OC, during the combustion of natural gas, shall not exceed the following, based on a 30 day, rolling average: (25 Pa. Code § 127.12b)

Hourly Emission Rate—Gas

| <i>Pollutant</i> | <i>ppmvd @ 15% O₂</i> | <i>Pound/Hr</i> |
|------------------|----------------------------------|-----------------|
| NOx | 2.5 | 23.2 |
| CO | 5.0 | 28.0 |
| SO ₂ | 1.6 | 14.5 |
| VOCs | 5.3 | 11.5 |
| PM ₁₀ | N/A | 34.8 |
| NH ₃ | 5.0 | 18.9 |

9. Emission rates from each turbine, with the operation of duct burners, SCR and OC, during the combustion of fuel oil, shall not exceed the following, based on a 30-day, rolling average: (25 Pa. Code § 127.12b)

Hourly Emission Rate—Fuel Oil

| <i>Pollutant</i> | <i>ppmvd @ 15% O₂</i> | <i>Pound/Hr</i> |
|------------------|----------------------------------|-----------------|
| NO _x | 6.5 | 68.3 |
| CO | 7.1 | 45.4 |
| SO ₂ | 9.0 | 76.0 |
| VOCs | 6.4 | 28.7 |
| PM ₁₀ | N/A | 61.0 |
| NH ₃ | 5.0 | 22.3 |

10. The hourly emission limits established in Conditions 8, 9 and 34 do not apply during Startup and Shutdown. For purposes of this condition, a Startup shall be considered either a Cold Start (turbine down for more than 72 hours, startup duration 4.2 hours), a Warm Start

(turbine down between 48 and 72 hours, startup duration 1.5 hours or a Hot Start (turbine down less than 48 hours, startup duration 1 hour).

11. Fuel oil combustion shall not exceed 2,000 turbine-hours per 12 consecutive month period. During the period April 1 through August 31, duct firing during fuel oil combustion shall not exceed 50% of maximum rated heat input. (25 Pa. Code § 127.12b)

12. The annual average sulfur content of the fuel oil shall not exceed 0.05 weight percent. (25 Pa. Code § 127.1)

13. Total emissions from the Fayette Energy Facility shall not exceed the following, on a 12 consecutive month rolling average basis: (25 Pa. Code § 127.12b)

Annual Emission Rate

| <i>Pollutant</i> | <i>Combustion Turbines w/Duct Firing</i> | <i>Auxiliary Boiler</i> | <i>Cooling Towers</i> | <i>Fire Pump</i> | <i>Diesel Generator</i> | <i>Fuel Oil Tanks</i> | <i>Total</i> |
|---------------------|--|-------------------------|-----------------------|------------------|-------------------------|-----------------------|--------------|
| Tons/Year | | | | | | | |
| NO _x | 289 | 2.1 | 0 | 1.55 | 3.1 | 0 | 296 |
| CO | 556 | 8.3 | 0 | 0.33 | 3.8 | 0 | 569 |
| VOC | 87 | 0.88 | 0 | 0.13 | 0.44 | 0.99 | 90 |
| SO ₂ | 175 | 0.06 | 0 | 0.10 | 1.0 | 0 | 176 |
| PM/PM ₁₀ | 311 | 0.55 | 1.56 | 0.11 | 0.18 | 0 | 313 |

14. The proposed construction is subject to 25 Pa. Code § 127.206(d)(1) and (2) and other applicable sections of 25 Pa. Code Chapter 127, Subchapter E, for nonattainment New Source Review. In accordance with 25 Pa. Code § 127.205(3), each modification to a facility shall offset in accordance with 25 Pa. Code §§ 127.201 and 127.211, the total of the net increase in potential to emit.

15. The applicable net emission increases from this facility are established at 296 tons NO_x and 90 tons VOC per year. In accordance with 25 Pa. Code § 127.210, new emissions will be offset with Emission Reduction Credits (ERCs) at a ratio of 1.15:1.0.

16. Owner/operator shall secure 341 tons of NO_x ERCs and 104 tons of VOC ERCs. ERCs shall be properly generated, certified by the Department and processed through the registry in accordance with 25 Pa. Code § 127.206(d)(1). Upon transfer, owner/operator shall provide the Department with documentation clearly specifying the details of the ERC transaction.

17. The combustion turbines are subject to the applicable requirements of the 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines.

18. The heat recovery steam generators are subject to the applicable requirements of 40 CFR 60, Subpart Da—Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978.

19. The auxiliary boiler is subject to the applicable requirements of 40 CFR 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

20. The two 2.45 million-gallon fuel oil storage tanks are subject to the applicable requirements of 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels.

21. In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other com-

munications shall be forwarded to both the Environmental Protection Agency and the Department at the following addresses: Director, Air, Toxics and Radiation, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103; and Department of Environmental Protection, Regional Air Quality Manager, Office of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

22. Owner/operator shall comply with the applicable reporting requirements of 40 CFR 60.7, 40 CFR 60.116b(d), 40 CFR 60.49a, 40 CFR 48c and 40 CFR 60.334(c).

23. In accordance with 40 CFR 60.334(a), owner/operator shall install and operate a continuous monitoring system to monitor and record the fuel consumption at all times and the ratio of water to fuel being fired in the turbines. This system shall be accurate to within ±5% and must be approved by the Department.

24. Owner/operator shall monitor the sulfur content and nitrogen content of the fuel being fired in each turbine in accordance with 40 CFR 60.344(a). Upon approval from the EPA, an alternate custom fuel-monitoring program may be utilized. (25 Pa. Code § 127.12b)

25. Owner/operator shall install, certify, maintain and operate continuous emission monitoring systems in accordance with 25 Pa. Code Chapter 139, the Department's *Continuous Source Monitoring Manual*, 40 CFR Part 75 and applicable requirements of 40 CFR 60, Subparts Da, Dc and GG. At a minimum the systems shall measure and record the following for each turbine:

- Nitrogen Oxide emissions (as NO₂)
- % Oxygen or Carbon Dioxide
- Fuel Flow Monitor

26. Prior to operation of the fuel oil-firing components of the system, the owner/operator shall install, certify, maintain and operate continuous emission monitoring systems in accordance with 25 Pa. Code Chapter 139, the

Department's *Continuous Source Monitoring Manual*, 40 CFR Part 75 and applicable requirements of 40 CFR 60, Subparts Da, Dc and Gg. At a minimum the systems shall measure and record the following for each turbine:

Opacity
Sulfur Dioxide

27. Owner/operator shall record the hours of operation of each of the turbines and the amount and type of fuel consumed, on a daily basis. (25 Pa. Code § 127.12b)

28. In accordance with 40 CFR 60.334(c), owner/operator shall record daily and shall report semi-annually, in accordance with 40 CFR 60.7(c), any 1-hour period during which the average water-to-fuel ratio, as measured by the continuous water and fuel measuring system, falls below the ratio that was determined during the stack test to demonstrate compliance with NO_x emission limitations. Owner/operator shall also report any period during which the actual fuel-bound nitrogen content exceeds the fuel-bound nitrogen content determined during the stack test to demonstrate compliance with the NO_x emission limitations.

Substitute recordkeeping and reporting program may be utilized as an alternative to the monitoring requirements of 40 CFR 60.334(a) and 40 CFR 60.335(c)(2) upon approval from the EPA.

Owner/operator shall also report any period of fuel-oil combustion during which the actual fuel-bound sulfur content of the fuel oil exceeds 0.05 weight percent based on sampling results.

29. Compliance with the turbine emission limitations for NO_x, CO, SO₂, VOC, PM₁₀ and NH₃ while using both fuel oil and natural gas shall be demonstrated through performance stack testing on each turbine. (25 Pa. Code § 127.12b)

A. In accordance with 40 CFR 60.335(c)(2), the monitoring device required by 40 CFR 60.334 shall be used to determine the fuel consumption and the water-to-fuel ratio necessary to comply with turbine NO_x emission limitations at 30, 50, 75 and 100% of peak load or at four points in the normal operating range of the gas turbine, including the minimum point in the range and peak load. All loads shall be corrected to ISO conditions using the appropriate equations as supplied by the turbine manufacturer.

B. Upon approval by the EPA, the following alternative testing requirement shall be used: the performance testing for nitrogen oxides shall only be required to be conducted at or near the maximum load of each turbine. The alternative is for each turbine to be monitored by a CEMS for nitrogen oxides, which is required by 40 CFR 75.

C. All stack testing shall be performed in accordance with 40 CFR 60.8 and 60.335, 25 Pa. Code Chapter 139 regulations and the most recent version of the Department's *Source Testing Manual*.

D. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance of the stack test date. Stack testing shall not take place until owner/operator has received written approval of the stack test protocol.

E. Company shall notify the Department of the date and the time of the stack test at least 2 weeks prior to the tests so that an observer may be present.

F. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

G. Stack testing shall be performed within 60 days of achieving maximum firing rate but no later than 180 days after the initial startup.

H. Owner/operator shall record all pertinent operating data during the stack test and include this data with the stack test results

30. The combustion turbines are subject to the Title IV Acid Rain Program of the 1990 Clean Air Act Amendments and shall comply with all applicable provisions of that Title, including the following:

| | |
|----------------|---------------------------------|
| 40 CFR Part 72 | Permits Regulations |
| 40 CFR Part 73 | Sulfur Dioxide Allowance System |
| 40 CFR Part 75 | Continuous Emissions Monitoring |
| 40 CFR Part 77 | Excess Emissions |

31. The combustion turbines are subject to the applicable requirements of the NO_x Budget Program established at 25 Pa. Code, §§ 123.102—123.120.

32. In accordance with 25 Pa. Code §§ 123.1—123.2, there shall be no fugitive emissions from this facility except those that arise from the use of roads. All reasonable actions shall be taken to minimize fugitive emissions that arise from use of roads. Reasonable actions shall include, but shall not be limited to paving, sweeping and application of water or other dust suppressants. In no case shall fugitive emissions arising from the use of roads be permitted to cross the property line.

33. In accordance with 25 Pa. Code § 123.31, owner/operator shall not permit the emission of any malodorous air contaminants from any source in a manner that the malodors, as determined by the Department, are detectable outside the owner/operator's property.

34. The opacity of the exhaust from all sources at this facility shall not exceed 10% at any time. Opacity shall be measured using EPA Reference Method 9, found at 40 CFR 60, Appendix A. (25 Pa. Code § 127.1)

35. The equipment at this gas turbine generating station shall be equipped with silencers and/or mufflers. The turbines, generators and gas compressors at this gas turbine generating station shall be enclosed in structures designed to minimize sound levels. (25 Pa. Code § 127.12b)

36. Per 25 Pa. Code § 127.13, if the construction is not commenced within 18 months of issuance of this Plan Approval or if there is more than an 18-month lapse in construction, a new Plan Approval application shall be submitted and the ERCs specified shall expire for use as offsets.

37. Owner/operator shall submit a Title V Operating Permit Application within 120 days of startup of the sources and/or pollution control devices. (25 Pa. Code § 127.505(a))

38. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided that the following conditions are met: (25 Pa. Code § 127.12b(d))

A. The Department must receive written notice from the owner/operator of the anticipated date that sources will commence operation.

B. Operation is authorized only to facilitate the startup and shakedown of the sources, to permit operation of the sources pending the issuance of an Operating Permit or

to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

C. This condition authorizes temporary operation of the sources for a period of 180 days from the start of commencement of operation, provided that the Department receives notice from the owner/operator under Subpart (A).

D. Owner/operator may request an extension of this Plan Approval if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons that compliance has not been established.

E. The notice submitted by the owner/operator under Subpart (A), prior to the expiration date of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of the start-up.

PSD air quality modeling shows that the maximum impacts for CO, NO₂ and PM₁₀ are below the class II area significance levels. A full impact analysis to determine PSD increment consumption and compliance with the National Ambient Air Quality Standards was therefore not necessary. Class I area analyses for visibility and increment were conducted for the Otter Creek and Dolly Sods Wilderness Areas in West Virginia. Refined CALPUFF modeling shows that the project will not have significant impact on visibility or deposition in these areas.

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.

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

56-00262: Mostoller Landfill Inc. (7095 Glades Pike, Somerset, PA 15501) for their municipal waste landfill in Brothersvalley Township, **Somerset County**. This source is defined as a Title V facility and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code, Chapter 127, Subchapter G.

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

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

09-0112A: Superior Woodcraft, Inc. (160 N. Hamilton Street, Doylestown, PA 18901) for surface coating operations and control equipment at the wood cabinet manufacturing facility in Doylestown Borough, **Bucks County**. Surface coating operations consist of the three Binks spray booths, equipped with the exhaust filters to control particulate matter (PM) emissions and a staining operation. This facility permit is a synthetic minor for emissions of volatile organic compounds (VOC) and hazardous air pollutants (HAP). The permit will contain emission limits along with 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: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

35-00012: Community Central Energy (1220 North Washington Avenue, Scranton, PA 18509) for boilers and storage tanks the City of Scranton, **Lackawanna County**.

40-00001: Fairchild Semiconductor Corp. (125 Crestwood Road, Mountaintop, PA 18707-2189) for semiconductor manufacturing processes, boilers and associated air pollution control devices in Fairview Township, **Luzerne County**.

54-00001: Gold Mills, Inc. (1 Penn Dye Street, Pine Grove, PA 17963) for a textile mill and fabric finishing process, boilers, space heaters and associated air pollution control device in Pine Grove Borough, **Schuylkill County**.

54-00024: The Miller Group, dba Pottsville Bleaching & Dyeing (P. O. Box 348, Schuylkill Haven, PA 17972) for a textile mill and boilers in the Port Carbon Borough, **Schuylkill County**.

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

06-05062: Reading Housing Authority (P. O. Box 8, Macungie, PA 18062) for operation of an apartment building facility located in the City of Reading, **Berks County**. The facility's nitrogen oxides and sulfur oxides emissions shall be kept below 100 tons per year. The Synthetic Minor Operating Permit shall contain additional monitoring, record keeping and reporting designed to keep the facility operating within the applicable air quality requirements.

36-03011: Wilbur Chocolate Co., Inc. (48 North Broad Street, Lititz, PA 17543) for operation of a sugar processing operation at their headquarters in Lititz Borough, **Lancaster County**. There is a potential to emit 30 tons per year of particulate matter, 14 tons per year of nitrogen oxides, 6 tons per year of carbon monoxide and less than 1 ton per year each of sulfur oxides and volatile organic compounds. The 16.8 mmBtu/hr boiler is subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. The natural minor operating permit shall contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

38-03017: Keystone Spikes Corp., Inc. (P. O. Box 13613, Reading, PA 19612) for operation of an iron forging operation in the City of Lebanon, **Lebanon County**. There is a potential to emit 40 tons of sulfur dioxide per year and 6-7 tons of nitrogen oxides per year. The natural minor operating permit shall contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

36-03043: Wilbur Chocolate Company, Inc. (48 North Broad Street, Lititz, PA 17543) for operation of a candy coating facility at their distribution center in Lititz Borough, **Lancaster County**. There is a potential to emit less than 1 ton per year each of particulate matter and sulfur oxides; and less than 6 tons per year each of carbon monoxide and nitrogen oxides. The natural minor operating permit shall contain additional record keeping

and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

67-05084: GTY, Inc. (2075 Loucks Road, York, PA 17404) for operation of a wallpaper printing facility in West Manchester Township, **York County**. The facility's volatile organic compounds shall be 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 the applicable air quality requirements.

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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54850205R3. Lehigh Coal & Navigation Company (P. O. Box 311, Tamaqua, PA 18252), renewal of an existing coal refuse reprocessing operation in Tamaqua Borough, **Schuylkill County** affecting 62.5 acres, receiving stream—none (no discharge). Application received: November 14, 2001.

49910201R2. Rosini Enterprises, Inc. (P. O. Box 568, Shamokin, PA 17872-0568), renewal of an existing coal refuse reprocessing operation in Coal Township, **Northumberland County** affecting 68.0 acres, receiving stream—none (no discharge). Application received: November 16, 2001.

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

17000110 and NPDES Permit No. PA 0243019. Hepburnia Coal Company, P. O. Box I, Grampian, PA 16838. Major revision to an existing bituminous surface mine permit for a Change in Permit Acres from 51.0 to 75.4 acres. Receiving streams: unnamed tributaries to West Branch Susquehanna River, unnamed tributaries to Kratzer Run, classified for the following uses: Cold Water Fishery. Application received: November 6, 2001.

17940115 and NPDES Permit No. PA 0219894. Hepburnia Coal Company, P. O. Box I, Grampian, PA 16838. Transfer of an existing bituminous surface mine-auger permit from Penn Grampian Coal Company. The permit is located in Beccaria Township, **Clearfield County** and affects 164.4 acres. Receiving streams: Muddy Run, unnamed tributaries to Muddy run classified for the following uses: Cold Water Fishery. Application received: October 19, 2001.

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

02860201. Minerals Technology, Inc. (100 High Tower Blvd., Suite 301, Pittsburgh, PA 15205). Revision to add 11.7 acres of a coal refuse reprocessing surface mine located in Harmar Township, **Allegheny County**, affecting 156.6 acres. Receiving stream: Guys Run; classified for the follow use: warm water fishery. The first downstream potable water supply intake from the point of discharge is the City of Pittsburgh Water Authority. Revision application received: November 16, 2001.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

44010301. Glenn O. Hawbaker, Inc. (P. O. Box 135, 1952 Waddle Road, State College, PA 16804), commencement, operation and restoration of a quarry operation in

Armagh Township, **Mifflin County** affecting 26.5 acres, receiving stream—Honey Creek, High Quality, Cold Water Fishery, Migratory Fishes. Application received: November 9, 2001.

7975SM4C3 and NPDES Permit #PA0254270. Edison Quarry, Inc. (25 Quarry Road, Doylestown, PA 18901), renewal of NPDES Permit in Doylestown Township, **Bucks County**, receiving stream—Neshaminy Creek, designated as Trout Stocking Fishes and Migratory Fishes. Application received: November 14, 2001.

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

53012802. Fessenden Construction Company, Inc., 94 Main Street, P. O. Box 271, Roulette, PA 16746. Commencement, operation and restoration of a Small Industrial Minerals (Rock) permit in Roulette Township, **Potter County** affecting 2 acres. Receiving streams: tributary to Allegheny River. Application received: October 29, 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 and 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.

E09-829. Ashley Development Corporation, 559 Main Street, Suite 300, Bethlehem, PA 18018, Springfield Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a 24-foot long box culvert consisting of a 26-foot span and 2-foot rise situated in and along an unnamed tributary to Cooks Creek (EV) associated with construction of a residential development. Work will also include the construction of a temporary ford crossing for equipment access during construction. The site is located approximately 1,000 feet north of the intersection of Greenwood Avenue and Drifting Drive (Hellertown, PA US Quadrangle, N: 11.25 inches; W: 4.00 inches).

E23-417. Township of Marple, 227 South Sproul Road, Broomall, PA 19008-2397, Marple Township, **Delaware County**, ACOE Philadelphia District.

To construct and maintain 2,000 linear-feet of rip-rap protection and top soil stabilization along the northern stream bank of the Darby Creek (TSF-MF), for the purpose of erosion control. The site is located approximately 700 feet southeast of the intersection of Old West Chester Pike and Lawrence Road (Lansdowne, PA-USGS Quadrangle, N: 18.20 inches, W: 11.90 inches).

E51-139. Delaware Avenue Enterprises, Inc., P. O. Box 1800, Philadelphia, PA 19101, City of Philadelphia, **County of Philadelphia**, ACOE Philadelphia District.

To amend and extend permit E51-139 for the second time, for the construction and maintenance of a multipurpose terminal facility situated in and along the Delaware River (WWF MF). The amendment would allow for the construction of a modified bulkhead design, which eliminates the need to demolish the existing piers and requires an extension of the previously approved bulkhead line approximately 8 feet riverward. This facility is located immediately upstream of the Walt Whitman Bridge and encompasses Piers 103 through 108 (Philadelphia, PA NJ Quadrangle N: 5.9 inches; W: 2.5 inches).

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

E64-223. James Mohrmann, R. R. 4, Honesdale, PA 18431, in Berlin Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a road crossing of PSS wetlands for the purpose of expanding an existing grass airport runway. The runway extension will cross 120 L.F. of wetlands, impacting approximately 0.09 acre of wetlands. The project is located on the south side of S.R. 0652, approximately 0.2 mile west of S.R. 1013. (White Mills, PA, Quadrangle N: 17.2 inches; W: 0.9 inch).

E45-419. Borough of Stroudsburg, 700 Sarah Street, Stroudsburg, PA 18306, in Stroudsburg Borough, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove an existing structure and to modify and maintain a stream enclosure of a tributary to Brodhead Creek (HQ-CWF), with work consisting of extending the stream enclosure at its downstream end by approximately 400 L.F., utilizing 48-inch CPP and RCP sections. The project is located between S.R. 0191 and North First Street, near the northern borough boundary. (Stroudsburg, PA-NJ, Quadrangle N: 22.0 inches; W: 9.1 inches).

E48-316. Eastupland Associates by its General Partner Cetro Corporation, 54 South Commerce Way, Bethlehem, PA 18017, in Hanover Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a stream enclosure consisting of 437-foot long 3' x 6' concrete box culvert in a tributary to Monocacy Creek (HQ-CWF) for the purpose of developing a commercial property. The project is located at Uplands Office Park, approximately 0.4 mile north east of the intersection of S.R. 0022 and S.R. 0512 (Catasauqua, PA, Quadrangle N: 7.5 inches; W: 0.6 inch).

E45-420. Ellen L. Hagelgans, R. R. 5, Box 5234, East Stroudsburg, PA 18301, in Middle Smithfield Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in a de minimis area of wetlands equal to 0.04 acre for the purpose of constructing a house on Lot 14, Section I of the Lake of the Pines residential subdivision. The project is located approximately 0.1 mile north west of the intersection S.R. 0209 and T631. (Bushkill, PA-NJ, Quadrangle N: 12.9 inches; W: 6.1 inches).

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

E05-297. PennDOT District 9-0, 1620 N. Juniata Street, Hollidaysburg, PA 16648, in Snake Valley Township, **Bedford County**, ACOE Baltimore District.

To rehabilitate an existing bridge and to construct and maintain (1) a bridge across the Raystown Branch of the Juniata River (TSF) at Route 30; (2) to impact 0.054 acre of wetlands along Route 30; and (3) to extend three existing culverts and construct one culvert in an unnamed tributary to the Raystown Branch of the Juniata River (WWF) by permit waiver for the purpose of upgrading Route 30 (Everette, PA Quadrangle N: 2.6 inches; W: 13.5 inches and N: 2.8 inches; W: 13.1 inches respectively) in Snake Valley Township, **Bedford County**.

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

E49-254. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Stream Culverts, in Rush Township, **Northumberland County**, ACOE Baltimore District (Danville, PA Quadrangle N: 7.0 inches; W: 5.3 inches).

To construct and maintain the culvert pipe extensions and channel relocations for the following locations and distances. The centroid of the work is to be performed adjacent to SR 0054, Section 037 approximately 1 mile north of Elysburg in Rush Township, Northumberland County.

| <i>Stream</i> | <i>Direct Impacts Lineal Ft. (sq. ft.)</i> | <i>Description of Work</i> |
|---|--|---|
| Unnamed tributary to the Susquehanna River | 13.1 (39.3) | Culvert/Pipe extension for roadway widening |
| Unnamed tributary to Little Roaring Creek near Bowden Road | 105.0 (630.0) | Culvert/Pipe extension for roadway widening |
| Unnamed tributary to Little Roaring Creek near Sicily Road | 27.5 (180.4) | Culvert/Pipe extension for roadway widening |
| Unnamed tributary to Little Roaring Creek near Kaboodle Road | 12.0 (197.0) | Culvert/Pipe extension for roadway widening |
| Unnamed tributary to Little Roaring Creek near Sharp Ridge Road | 26.2 (182.6) | Culvert/Pipe extension for roadway widening |
| Little Roaring Creek near Sharp Ridge Road | 150.0 (1476.8) | Channel relocation due to roadway widening |
| Little Roaring Creek near High Road | 300.00 (1650.0) | Channel relocation, culvert/pipe extension for roadway widening |
| Total Stream Impacts | 633.8 (4356.1) | |

The impacted streams previously listed are Cold Water Fisheries Streams. The project will impact about 0.55 acre of wetlands and 634 feet of waterways.

E55-176. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit Application, in Franklin Township, **Snyder County**, ACOE Susquehanna River Basin District (Middleburg, PA Quadrangle N: 12.4 inches; W: 4.3 inches).

To remove existing corrugated metal pipe, construct and maintain 48 linear feet of 58-inch by 91-inch elliptical concrete pipe in an unnamed tributary to Middle Creek located along S.R. 1001, Segment 0010, offset 0710. This project proposes to impact 48 linear feet of the unnamed tributary, which is designated a Cold Water Fishery and does not propose to impact any jurisdictional wetlands.

E57-096. Borough of Dushore. Box 248, 216 Julia Street, Dushore, PA 18614. Bridge Replacement, in Dushore Borough, **Sullivan County**, ACOE Baltimore District (Dushore, PA Quadrangle N: 4.2 inches; W: 3.8 inches).

To remove the existing single span pony truss bridge on masonry abutments with a clear span of 46.2 feet, a clear roadway width of 15.25 feet and an underclearance of 5.75 feet and to construct and maintain a concrete prestressed spread box beam bridge with reinforced concrete abutments, a clear span of 47.3 feet, a normal span of 33.5 feet, a minimum underclearance of 5.6 feet on a skew of 45° right ahead over Little Loyalsock Creek on Center Street in the Borough of Dushore in Sullivan County. The project will not impact wetlands while impacting approximately 90 feet of waterway. Little Loyalsock Creek is a Cold Water fisheries stream.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Land Recycling and Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 504, 1101—1102) and under 25 Pa. Code Chapter 245, Subchapter C.

*SSIP
Application
No.*

| <i>Application No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Tank Type</i> | <i>Tank Capacity</i> |
|------------------------|---|---------------|---------------------|---|---|
| 01020 | Henry W. Boger John H. Boger & Son, Inc. P. O. Box 310 202 N. Railroad Street Annville, PA 17003-0310 | Lebanon | Annville | 1 AST—storing Diesel Fuel | 12,000 gallons |
| | | | | 1 AST—storing #2 Fuel Oil | 20,000 gallons |
| 01026 | James W. Klickovich Conectiv Mid-Merit, Inc. P. O. Box 6066 Newark, DE 19714-6066 | York | Peach Bottom | 2 ASTs storing Low Sulfur Distillate Fuel Oil | 4 millions gallons each 35,700 gallons total |
| | | | | 11 ASTs storing Regulated Tanks | |

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. The actions are listed in two categories. Section I lists all municipal and industrial permits and Section II lists oil and gas related permits.

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

of this action unless the appropriate statute provides a different time period. Copies of 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).

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

WQM Permit No. 0901412. Sewage, **Geoffrey and Deborah Herring**, 3275 Belgrade Street Philadelphia, PA 19134. This proposed facility is located in New Britain Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow sewage treatment plant.

WQM Permit No. 2392414 Amendment No. 1, Sewerage, **Stone Mill Estates, L.P.**, 3103 Philmont Avenue, Huntingdon Valley, PA 19006. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: To amend and transfer existing permit to serve Valentine Tract.

WQM Permit No. 4601408, Sewerage, **Limerick Township Municipal Authority**, 529 King Road, Royersford, PA 19468. This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of the Possum Hollow Sewerage System.

NPDES Permit No. PA0058351, Sewage, **Dave Clark**, P. O. Box 239, Concordville, PA 19331. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: New NPDES Permit to discharge 500 gpd of treated sewage.

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

NPDES Permit No. PA-0060763, Sewage, **Middle Smithfield Township Municipal Authority**, 25 Municipal Drive, East Stroudsburg, PA 18301. This proposed facility is located in Middle Smithfield Township, **Monroe County**.

Description of Proposed Action/Activity: Renewal and transfer of NPDES Permit to discharge treated sewage into Bushkill Creek.

NPDES Permit No. PA-0060721, Sewage, **Pocono Plateau Camp and Retreat Center**, R. R. 2, Box 2747, Cresco, PA 18326. This proposed facility is located in Barrett Township, **Monroe County**.

Description of Proposed Action/Activity: Renewal of the NPDES Permit to discharge treated sewage into Taylor Creek.

NPDES Permit No. PA-0012475-A2, Industrial Waste, SIC Code 4991, **Reliant Energy Mid-Atlantic Power Holdings, LLC**, River Road, P. O. Box 238, Portland, PA 18351. This proposed facility is located in Upper Mount Bethel Township, **Northampton County**.

Description of Proposed Action/Activity: to modify existing NPDES Permit to discharge process wastewater, cooling tower blowdown, low-volume wastewater, sewage and uncontaminated stormwater to the Delaware River.

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

NPDES Permit No. PA0083861, Sewage, **George Shoemaker**, Benner's Restaurant, R. R. 2, Box 13B, Millerstown, PA 17062. This proposed facility is located in Delaware Township, **Juniata County**.

Description of Proposed Action/Activity: Authorization to discharge to Juniata River in Watershed 12-B.

NPDES Permit No. PA0024902, Sewage, **Upper Allen Township Authority**, 100 Gettysburg Pike, Mechanicsburg, PA 17055. This proposed facility is located in Upper Allen Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 7-E.

NPDES Permit No. PA0084701, Sewage, **Penn Township Municipal Authority**, 100 Municipal Building Road, Duncannon, PA 17020. This proposed facility is located in Penn Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to unnamed tributary to Susquehanna River in Watershed 7-A.

NPDES Permit No. PA0026280, Amendment #2, Sewage, **Borough of Lewistown**, Two East Third Street,

Lewistown, PA 17044. This proposed facility is located in Lewistown Borough, **Mifflin County**.

Description of Proposed Action/Activity: Authorization to remove the ammonia-nitrogen reporting requirement and discharge to Juniata River in Watershed 12-A.

NPDES Permit No. PA0052400, Sewerage, **Harold Spatz**, Irish Creek Village, 552 Irish Creek Road, Morhsville, PA 19541-9333. This proposed facility is located in Centre Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Irish Creek in Watershed 3-B.

NPDES Permit No. PA0020711, Sewerage, **Borough of Topton**, 205 South Callowhill Street, Topton, PA 19562. This proposed facility is located in Longswamp Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Toad Creek in Watershed 2-C

WQM Permit No. 2201407, Sewerage, **Susquehanna Township Authority**, 1900 Linglestown Road, Harrisburg, PA 17110. This proposed facility is located in Susquehanna Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to construct the Pleasant Hill Sewer Replacement and Extension.

WQM Permit No. 2201408, Sewerage, **Susquehanna Township Authority**, 1900 Linglestown Road, Harrisburg, PA 17110. This proposed facility is located in Susquehanna Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to construct the Waverly Woods Sewer Extension.

WQM Permit No. 3801407, Sewerage, **Kristie Smoker**, R. D. 3, Box 471A, Annville, PA 17003. This proposed facility is located in North Annville Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to construct a small flow sewage treatment system to serve their residence.

NPDES Permit No. PA0088137, Amendment #1, Industrial Waste, **Reading Area Water Authority**, Sludge Facility, 815 Washington Street, Reading, PA 19601. This proposed facility is located in Maiden Creek Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Lake Ontelaunee/Maiden Creek in Watershed 3-B

NPDES Permit No. PA0051560, Industrial Waste, **Western Berks Water Authority**, 91 Water Road, Sinking Springs, PA 19608-9633. This proposed facility is located in Lower Heidelberg Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 3-C.

NPDES Permit No. PA0008486, Industrial Waste, **Ahlstrom Technical Specialties, LLC**, 122 West Butler Street, P. O. Box A, Mount Holly Springs, PA 16065-0238. This proposed facility is located in Mount Holly Springs Borough, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to Mountain Creek in Watershed 7-E

NPDES Permit No. PA0088714, CAFO, **John Chapman**, Hibred Pig Company, 524 Pine Hill Road, Lititz, PA 17543. This proposed facility is located in West Cocalico Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate Middle Creek Swine Farm a 676.5-AEU Swine Concentrated Animal Feeding Operation (CAFO) in Watershed 7-J

NPDES Permit No. PA0088706, CAFO, **John Chapman**, Hibred Pig Company, 524 Pine Hill Road, Lititz, PA 17543. This proposed facility is located in West Cocalico Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate Hibred Swine Farm a 568-AEU Swine Concentrated Animal Feeding Operation (CAFO) in Watershed 7-J.

NPDES Permit No. PA0088901, CAFO, **Franklin Family Farms**, 419 West High Street, Elizabethtown, PA 17022-2189. This proposed facility is located in Bethel Township, **Berks County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,796-AEU Swine Concentrated Animal Feeding Operation (CAFO) in Watershed 7-D.

WQM Permit No. 0601201, CAFO, **Hoover Group Management Company**, 410 East Lincoln Avenue, Myerstown, PA 17067. The proposed facility is located in Bethel Township, **Berks County**.

Description of Proposed Action/Activity: Authorization the construction and operation of manure storage facilities for a 829-AEU Concentrated Animal Feeding Operation (CAFO) at Mountain View #2 Farm.

Application No. PA0008486, **Ahlstrom Technical Specialties, LLC**. Final Notice is hereby given that the Department of Environmental Protection, after public notice, has on November 26, 2001, issued an NPDES Permit.

This notice reflects changes from the notice published in the *Pennsylvania Bulletin*.

| Parameter | Monthly Average | Weekly Average | Instantaneous Maximum |
|-------------------|--------------------|-------------------|--------------------------|
| CBOD ₅ | - | - | 45 |

Individuals may make an appointment to review the DEP files on this case by calling the File Review Coordinator at (717) 705-4732.

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

NPDES Permit No. PA0008923-A6, Industrial Waste, **Corning Asahi Video Products Company**. This facility is located in College Township, **Centre County**.

Description of Proposed Action/Activity: This amendment to the NPDES permit, issued on November 9, 2001, for the existing wastewater discharge to Logan Branch of

Spring Creek, incorporates final water quality based effluent limitations on the total plant discharge (Outfall 001) for Lead, Barium, Antimony, Aluminum, as developed in the final Phase I Toxic Reduction Evaluation (TRE) submitted by the permittee. This amendment action also constitutes formal approval of the Phase I TRE report.

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

NPDES Permit No. PA0090573-A2. Sewage. **Hempfield Suburban MHC, LLC**, 9073 Nemo Street, West Hollywood, CA 90069 is authorized to discharge from a facility located at Suburban Acres Mobile Home Park STP, Hempfield Township, **Westmoreland County** to receiving waters named an unnamed tributary of Little Sewickley Creek.

NPDES Permit No. PA0219011. Sewage. **Paul and Claudia Price**, 1323 Trim Tree Road, Indiana, PA 15701 is authorized to discharge from a facility located at Price Single Residence STP, Armstrong Township, **Indiana County** to receiving waters named unnamed tributary to Curry Run.

Permit No. 0271417-A5. Sewerage. **Municipality of Penn Hills**, 12245 Frankstown Road, Pittsburgh, PA 15235. Construction of Interceptor Replacement located in Penn Hills, **Allegheny County** to serve Universal and Stotler Road Area, Thompson Run Watershed.

Permit No. 3201401. Sewerage. **Paul and Claudia Price**, 1323 Trim Tree Road, Indiana, PA 15701. Construction of Single Residence Sewage Treatment Plant located in Armstrong Township, **Indiana County** to serve Price single family home.

Permit No. 6301407. Sewerage. **CZS Development, LLC.**, 90 Chateau Royale Court, Morgantown, WV 26505. Construction of Pump Station and Force Main located in South Strabane Township, **Washington County** to serve Chateau Royale Development.

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.

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

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---|-------------------------------|
| PAS10-G479 | CEL Properties, Inc. 55 Country Club Drive Suite 200 Downingtown, PA 19335-3062 | Chester | East and West Nantmeal Townships and Warwick Township | French Creek (EV) |
| PAS10-G488 | Jand Enterprises, Inc. 126 Aspen Drive Downingtown, PA 19335 | Chester | East Brandywine Township | UNT to Culbertson Run (HQ) |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|----------------------------|---------------------------------------|
| PAS10Q227 | Sunburst Property Management, Inc. 1001 E. Highland St. Allentown, PA 18103 | Lehigh | Upper Macungie Township | Little Lehigh Creek HQ-CWF |
| PAS10Q226 | Brandywine Operating Partnership, L.P. 7535 Windsor Drive Suite B-202 Allentown, PA 18195 | Lehigh | Upper Macungie Township | Little Lehigh Creek HQ-CWF |
| PAS10S043-R | Mount Pocono Borough Mt. Pocono Borough Municipal Bldg. 303 Pocono Blvd. Mount Pocono, PA 18344 | Monroe | Mt. Pocono Borough | Forest Hill Run HQ-CWF |
| PAS105719 | Leonard W. Ostergaard R. D. 1, Box 1169 Tamaqua, PA 18252 | Schuylkill | Walker Township | Beaver Creek, CWF Cold Run, HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|---|
| PAS10O082 | Graywood Farms, LLC 225 Mason Dixon Road Peach Bottom, PA 17563 | Lancaster | Fulton Township | Tributary to Conowingo Creek (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

| <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> |
|---|-------------------|---|--|---|
| Middletown Township Bucks County | PAR10 D504 | LCOR Acquisition, LLC 200 Berwyn Park, Suite 200 Berwyn, PA | Mill Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| New Britain Township Bucks County | PAR10 D553 | James D'Angelo P. O. Box 753 Warrington, PA 18976 | North Branch Neshaminy Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Lower Makefield Township Bucks County | PAR10 D557 | DeLuca Enterprises 842 Durham Road, Suite 200 Newtown, PA | Delaware River (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Warrington Township Bucks County | PAR10 D576 | The Cutler Group 5 Centry Parkway West Blue Bell, PA 19422 | Little Neshaminy Creek (WWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Richland Township Bucks County | PAR10 D585 | TH Properties 345 Main Street Harleysville, PA 19438 | Tohickon Creek (CWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Warrington Township Bucks County | PAR10 D586 | The Cutler Group 5 Centry Parkway West Blue Bell, PA 19422 | Little Neshaminy Creek (WWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Nockamixon Township Bucks County | PAR10 D593 | Archdiocese of Philadelphia 222 North 17th Street Philadelphia, PA 19103 | Haycock Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Middletown Township Bucks County | PAR10 D596 | James Butz 8230 Boon Boulevard Vienna, VA 22182 | Mill Creek (WWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Falls Township Bucks County | PAR10 D599 | Pennsylvania Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406 | Rock Run/Delaware River (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |

| <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> |
|---|-------------------|---|-------------------------------|---|
| New Britain Township Bucks County | PAR10 D601 | New Britain Developers P. O. Box 654 Buckingham, PA 18912 | Neshaminy Creek (TSF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Warrington Township Bucks County | PAR10 D602 | Carmen J. Calvanese 111 Pheasant Hill Drive Philadelphia, PA 19115 | Poquessing Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Hilltown Township Bucks County | PAR10 D605 | Gorski Construction Co, Inc. 864 Mt. Airy Road Collegeville, PA 19426 | Mill Creek (CWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Bensalem Township Bucks County | PAR10 D609 | Gerard Clabbers 4432 Bristol Road Trevose, PA 19053 | Neshaminy Creek (TSF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Nockamixon Township Bucks County | PAR10 D612 | Alfred Funke 6 Sanctuary Hill Lane Upper Black Eddy, PA | Gallows Run (CWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Lower Oxford Township Chester County | PAR10 G436 | James Hilt 5410 Forge Road Oxford, PA 19365 | Tweed Creek (TSF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| East Marlborough Township Chester County | PAR10 G445 | Robert Irwin P. O. Box 809 Unionville, PA 19375 | Pocopson Creek (TSF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| East Marlborough Township Chester County | PAR10 G447 | Anthony Dambro 508 Fox Hollow Road Kennett Square, PA 19438 | South Brook West Branch (TSF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Tredyffrin Township Chester County | PAR10 G450 | Home Properties Suite 110 King of Prussia, PA 19406 | Little Darby Creek (CWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Bethel Township Delaware County | PAR10 J228 | Brandolini Companies 1301 Lancaster Avenue Berwyn, PA 19312 | Green Creek (CWF, MF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Darby Township Delaware County | PAR10 J123-1 | Henderson Coyle Jt. Venture 112 Chelsey Drive, Suite 200 Media, PA 19603 | UNT of Darby Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Trappe Borough Montgomery County | PAR10 T785 | Mark Anthony Homes, Ltd. 2589 Sibel Circle Lansdale, PA 19446 | UNT to Perkiomen Creek (TSF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |

NOTICES

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| <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> |
|--|-------------------|---|---------------------------------|---|
| Whitpain Township Montgomery County | PAR10 T567 | Latham Realty Associates P. O. Box 390 Plymouth Meeting, PA 19462 | Tributary to Stoney Creek (WWF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Perkiomen Township Montgomery County | PAR10 T757 | Eastern Equities Bucks County Office Center G 6 Bristol, PA 19007 | Perkiomen Creek (TSF) | Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000 |
| Lehigh County Washington Township | PAR10Q138-1 | Paul and Linda Kovalchik 7780 Saegersville Rd. Slatington, PA 18080 | Trout Creek CWF | Lehigh County Conservation District (610) 391-9583 |
| Luzerne County Lehman Township | PAR10R237 | Gerald Schraeder R. R. 1, Box 261 Dallas, PA 18612 | Toby's Creek Watershed CWF | Luzerne County Conservation District (570) 674-7991 |
| Northampton County Lower Saucon Township | PAR10U167 | Barry Kunsman 2759 Valley View Rd. Hellertown, PA 18055 | Lehigh River (UNT) CWF | Northampton County Conservation District (610) 746-1971 |
| Northampton County Lehigh Township | PAR10U169 | William Jones, III 4186 Cashew Dr. Walnutport, PA 18088 | Bertsch Creek CWF | Northampton County Conservation District (610) 746-1971 |
| Mount Joy Township Lancaster County | PAR10O508 | Melvin G. Hoffer 1754 Sheaffer Rd Elizabethtown, PA 17022 | UNT Conoy Creek/TSF | Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361 |
| Warwick Township Lancaster County | PAR10O515 | Warwick School District 301 W. Orange St Lititz, PA 17543 | Lititz Run/WWF | Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361 |
| West Lampeter Township Lancaster County | PAR10O516 | Suburban Lancaster Sewer Authority P. O. Box 458 Lancaster, PA 17608 | UNT Big Spring Run/WWF | Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361 |
| Elizabeth Township Lancaster County | PAR10O521 | Deryl Hurst 366 Evans Rd. Lititz, PA 17543 | UNT Hammer Creek/TSF | Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361 |
| West Cocalico Township Lancaster County | PAR10O529 | Luke N. Ulrich 150 Netzley Department of Revenue Denver, PA 17517 | UNT Indian Run/TSF | Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361 |
| Carroll Township York County | PAR10Y540 | Arnold Forbes KATSCO P. O. Box 396 Dillsburg, PA 17019 | Dogwood Run NL | York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430 |
| Middletown Borough Lower Swatara Township Dauphin County | PAR10I284 | Susquehanna Area Regional Airport Authority 208 Airport Road Middletown, PA 17057 | Susquehanna River WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |

| <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> |
|---|-------------------|--|--|--|
| Swatara Township Dauphin County | PAR10I288 | Wal-Mart Stores Inc. 2001 SE 10th Street Bentonville, AR 72716-0550 | Beaver Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| <i>General Permit Type—PAG-3</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> |
| Lebanon County Cleona Borough | PAR213518 | Schott Pharmaceutical Packaging, Inc. 150 North Grant Street Cleona, PA 17042 | Quittapahilla Creek/ WWF | DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Fulton County Ayr Township | PAR803521 | H. J. Culler, Inc. 371 South Second Street McConnellsburg, PA 17233 | Cove Creek/CWF | DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Berks County Cumru Township | PAR603502 | Strunk & Strunk Used Auto Parts 475 Poplar Neck Road Birdsboro, PA 19508 | Schuylkill River/WWF | DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Pennsbury Village Indiana County | PAR806210 | Pennsbury Village Condominium Homeowners Assoc. 1039 Pennsbury Blvd. N. Pittsburgh, PA 15205 | Campbells Run | Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| <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> |
| Cumberland County North Newton Township | PAG043564 | Daniel J. Kyle 838 Oakville Road Newville, PA 17241 | UNT Green Spring Creek/CWF | DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| <i>General Permit Type—PAG-8 (SSN)</i> | | | | |
| <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> |
| Delaware Township Northumberland County | PAG084820 | Lewisburg Area Joint Sewer Auth. P. O. Box 305 Lewisburg, PA 17837-0305 | Fairchild Farm R. D. #2 Watsontown, PA 17777 Delaware Township Northumberland County | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |
| <i>General Permit Type—PAG-12</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> |
| Lancaster County East Donegal Township | PAG123520 | Leroy Zimmerman Farm 327 Stackstown Road Marietta, PA 17547 | UNT Susquehanna River/WWF | DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |

| <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> |
|---|-------------------|--|---|--|
| Terry Township Bradford County | PAG124809 | Patrick and Kathie Blow R. R. 2, Box 251 Towanda, PA 18848 | Unnamed tributary to Susquehanna River (SWP 4D) | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |

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 Environmental Hearing 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).

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

Operations Permit issued to **Sweets Arrow Springs, LLC**, 20th and Herr Streets, P. O. Box 2001, Harrisburg, PA 17105, Pine Grove Township, **Schuylkill County** on November 7, 2001.

Operations Permit issued to **Nis Hollow Estates**, 3180 Route 96, Clifton, NY 14432, Mahoning Township, **Carbon County** on November 7, 2001.

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

Permit No. 0601513, Public Water Supply.

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| Applicant | Specialty Design & Manufacturing Co., Inc. |
| Municipality | Alsace Township |
| County | Berks |
| Type of Facility | Construction of a carbon absorption treatment system for volatile organic compounds on an existing public water supply. |

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| Consulting Engineer | Stephen B. Fulton, P.E. ARM Group Inc. 1129 West Governor Road P. O. Box 797 Hershey, PA 17033-0797 |
| Permit to Construct Issued: | November 21, 2001 |
| Permit No. 3066503 , Public Water Supply. | |
| Applicant | Clover Farms Dairy Co. |
| Municipality | Muhlenberg Township |
| County | Berks |
| Type of Facility | Operation of a new bottled water system at the existing dairy bottling facility. |
| Consulting Engineer | Thomas J. Motley, P.E. Motley Engineering Co. Inc. 1300 New Holland Rd. Kenhorst, PA 19607 |
| Permit to Operate Issued: | November 19, 2001 |
| Permit No. 3801508 , Public Water Supply. | |
| Applicant | Fredericksburg United Methodist Church |
| Municipality | Bethel Township |
| County | Lebanon |
| Type of Facility | Construction of a cation exchange (softening) system and an anion exchange system for nitrate-removal for an existing well source for the church building and parsonage. |
| Consulting Engineer | Charles A. Kehew II, P.E. James R. Holley & Assoc., Inc. 18 South George St. York, PA 17401 |
| Permit to Construct Issued: | November 20, 2001 |
| <i>Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.</i> | |
| Permit No. Emergency Permit , Public Water Supply. | |
| Applicant | Aaronsburg Water Pipes, Inc. Box 234 Aaronsburg, PA 16820 |
| Township | Haines Township |
| County | Centre |

Type of Facility Public Water Supply—permit authorizes operation of Well #4 and hypochlorite facilities for up to 60 days.

Consulting Engineer HRG Engineers, Inc.
474 Windmere Drive
State College, PA 16801

Permit to Construct Issued November 21, 2001

Permit No. 1901501, Public Water Supply.

Applicant **United Water of Pennsylvania**
4211 East Park Circle
Harrisburg, PA 17111-0151

Township South Centre Township

County Columbia

Type of Facility Public Water Supply—permit authorizes operation of Scenic Knolls Pump Station and an interconnection with the Columbia County Industrial Park.

Consulting Engineer None

Permit to Operate Issued November 26, 2001

Permit No. 1700504, Public Water Supply.

Applicant **Pike Township Municipal Authority**
P. O. Box 27
Curwensville, PA 16833

Township Pike Township

County Clearfield

Type of Facility Public Water Supply—permit authorizes operation of booster pump station to serve Norman and Susan Bender Land Development.

Consulting Engineer None

Permit to Operate Issued November 21, 2001

Permit No. 1473501, 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—authorization cancels permit for Well #4 with hypochlorination and the Lemont Pump Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Cancelled November 27, 2001

Permit No. 1488501, 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—authorization cancels permit for Well #5

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Cancelled November 27, 2001

Permit No. 1490503, 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—authorization cancels permit for aspirator for PCE removal at Puddingtown Pump Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Cancelled November 27, 2001

Permit No. 1495507, 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—authorization cancels permit for filter plant to treat Wells #4 and #5

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Cancelled November 27, 2001

Permit No. 6418, 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—authorization cancels permit for Well #3

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. 8696, 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—authoriza-
tion cancels permit for John
Bathgate Spring and second
pump at Puddingtown Pump
Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. A-1028, 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—authoriza-
tion cancels permit for Hamill
Bathgate Spring and Pud-
dingtown Pump Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. 5906, 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—authoriza-
tion cancels portion of original
permit for Wells #1 and #2 and
a spring 1/2 mile east of Lemont

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. Emergency Permit, 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—authoriza-
tion cancels permit for CT treat-
ment of Wells #4 and #5

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. Minor Amendment, 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—authoriza-
tion cancels permit for modifica-
tions to high service pumps at
the Lemont Pump Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. Minor Amendment, 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—authoriza-
tion cancels permit for addi-
tional modifications to high ser-
vice pumps at the Lemont Pump
Station

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate November 27, 2001
Cancelled

Permit No. Minor Amendment, Public Water Supply.

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

Township College Township

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|--|---|--|---|
| County | Centre | Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 |
| Type of Facility | Public Water Supply—authoriza- tion cancels permit for gas chlo- rination at the Lemont Pump Station | Permit to Construct Issued | November 27, 2001 |
| Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 | Permit No. 1401504 , Public Water Supply. | |
| Permit to Operate Cancelled | November 27, 2001 | Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 |
| Permit No. Minor Amendment , Public Water Supply. | | Township | College Township |
| Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 | County | Centre |
| Township | College Township | Type of Facility | Public Water Supply—authoriza- tion for operation of the Matilda Avenue Pump Station and the Struble Road Storage Tank |
| County | Centre | Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 |
| Type of Facility | Public Water Supply—authoriza- tion cancels permit for turbidimeters, flow meters and chart recorders for Wells #4 and #5 | Permit to Operate Is- sued | November 27, 2001 |
| Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 | Permit No. Minor Amendment-T1 , Public Water Supply. | |
| Permit to Operate Cancelled | November 27, 2001 | Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 |
| Permit No. 1497501 , Public Water Supply. | | Township | College Township |
| Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 | County | Centre |
| Township | College Township | Type of Facility | Public Water Supply—authoriza- tion approves transfer of permit for a liner and cover on the Dale Street Reservoir |
| County | Centre | Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 |
| Type of Facility | Public Water Supply—authoriza- tion cancels permit for calcium sequestration at the Pud- dington Pump Station | Permit to Operate Is- sued | November 27, 2001 |
| Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 | Permit No. Minor Amendment-T1 , Public Water Supply. | |
| Permit to Operate Cancelled | November 27, 2001 | Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 |
| Permit No. 1401504 , Public Water Supply. | | Township | College Township |
| Applicant | College Township Water Authority 1481 East College Avenue State College, PA 16801 | County | Centre |
| Township | College Township | Type of Facility | Public Water Supply—authoriza- tion approves transfer of permit for 2500' of 12" and 200' of 8" PVC transmission main |
| County | Centre | Consulting Engineer | Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 |
| Type of Facility | Public Water Supply—authoriza- tion for construction of the Matilda Avenue Pump Station and Strubel Road Storage Tank | Permit to Operate Is- sued | November 27, 2001 |

Permit No. Minor Amendment-T1, 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—authorization approves transfer of permit for 200' pf 2" PVC distribution main

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Issued November 27, 2001

Permit No. 261W008-T1, 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—authorization approves transfer of permit for the Dale Street Reservoir

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Issued November 27, 2001

Permit No. 5906-T1, 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—authorization approves transfer of permit for original distribution system and Nittany Mountain Reservoir

Consulting Engineer Entech Engineering, Inc.
4 South Fourth Street
P. O. Box 32
Reading, PA 19603

Permit to Operate Issued November 27, 2001

Permit No. 1401502, Public Water Supply.

Applicant **Potter Township Supervisors**
124 Short Road
Spring Mills, PA 16875

Township Potter Township

County

Type of Facility

Centre

Public Water Supply—authorization approves construction of Well #2, greens and filtration, finished water storage, hypochlorination and booster pump station

Consulting Engineer

Pellegrini Engineers, Inc
P. O. Box 589
Altoona, PA 16603-0589

Permit to Construct Issued

November 27, 2001

Permit No. 1489507-T2, Public Water Supply.

Applicant

Potter Township Supervisors
124 Short Road
Spring Mills, PA 16875

Township

Potter Township

County

Centre

Type of Facility

Public Water Supply—authorization denies transfer of old Country Club Park water system

Consulting Engineer

None

Permit to Transfer Denied

November 27, 2001

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

Permit No. 1601502, Public Water Supply.

Applicant

Foxburg Area Water and Sewer Authority
P. O. Box 2
Foxburg, PA 16036-0002

Borough or Township

Foxburg Borough

County

Clarion

Type of Facility

PWS

Consulting Engineer

Glace Associates Inc.
3705 Trindle Road
Camp Hill, PA 17011-4334

Permit to Construct Issued

November 15, 2001

WATER ALLOCATIONS

Actions taken on applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

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

WA14-545B, Water Allocations. **College Township Water Authority**, 1481 East College Avenue, State College, PA 16801, College Township, **Centre County**. The Department is canceling this permit that covered John and Hamill Bathgate Springs and an unnamed spring 1/2 mile east of Lemont. Permit cancelled on November 27, 2001.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Dublin Township | 29195 Great Cove Road Fort Littleton, PA 17223 | Fulton |

Plan Description: The approved plan provides for the construction of a gravity wastewater collection system and a recirculating sand filter treatment plant with subsurface discharge to serve the Burnt Cabins area. The plan also provides for a relocation of the treatment plant proposed for the Fort Littleton, Turnpike Interchange and Pleasant Valley areas. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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 of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact 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.

Hill Farm, Caln and Valley Townships, **Chester County**. Joseph W. Standen, Jr., Leggette, Brashears &

Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380 on behalf of Realen Homes, 1040 Stoney Hill Rd., Suite 100, Yardley, PA 19067, has submitted a Final Report concerning remediation of site soil contaminated with heavy metals and pesticides. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Moyer Packing Co.-Hackman Property, Franconia Township, **Montgomery County**. Hudson S. Green, Jr., Earth Data, Inc., 924 Springdale Dr., Exton, PA 19341, on behalf of Moyer Packing Co., P. O. Box 395, Souderton, PA 18964, has submitted a Final Report concerning remediation of site soil contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Hatfield Substation, Franconia Township, **Montgomery County**. Lisa A. Palfey, PPL Generation, LLC, One Scotch Pine Dr., Hazleton, PA 18202-9760, on behalf of PPL Utilities, 2 N. Ninth St., Allentown, PA 18101, has submitted a Final Report concerning remediation of site soil contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

4800 Pine Street Apartments, City of Philadelphia, **Philadelphia County**. William G. Murray, URS Corporation, 1400 Union Meeting Rd., Suite 202, Blue Bell, PA 19422-1972, on behalf of NPDF Pine Associates LP, St. Leonards Court Site, 310-3819-33 Chestnut St., Philadelphia, PA 19104, has submitted a Final Report concerning remediation of site soil contaminated with BTEX, cumene, fluorine, phenanthrene and naphthalene; and site groundwater contaminated with naphthalene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Scholler, Inc., City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Scholler, Inc., c/o Karl Vonder Schmalz, Jr., 2330 Collins St., Philadelphia, PA 19134, has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Fulton Bank Adamstown Branch, Borough of Adamstown, **Lancaster County**. Rettew Associates, Inc., 3020 Columbia Avenue, Lancaster, PA 17603 (on behalf of Fulton Bank, P. O. Box 4887, Lancaster, PA 17604-4887) submitted a Final Report concerning remediation of site soils and groundwater contaminated with BTEX and PHCs. The report is intended to document remediation of the site to the Statewide Health standard.

Ameristeel Facility, Spring Garden Township, **York County**. ARM Group Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033-0797 (on behalf of W. D. Brougher, 1200 Country Club Road, York, PA 17403) submitted a combined Remedial Investigation and Final Report concerning remediation of site groundwater contaminated with solvents. The report is intended to document remediation of the site to the Site-Specific standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

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 Land Recycling and Environmental Remediation Standards 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 of Environmental Protection 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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Doerrman Property, Ruscombmanor Township, **Berks County**. Walter B. Satterthwaite Associates, Inc, 720 Old Fern Hill Road, West Chester, PA 19380 (on behalf of Patrick and Amy Doerrman, 3638 Pricetown Road, Fleetwood, PA 19522 and State Farm Insurance, 108 West Airport Road, Lititz, PA 17543) submitted a submitted a final report concerning the remediation of site soils and groundwater contaminated with BTEX and PAHs. The final report did not demonstrate attainment of the Statewide Health standard and was disapproved by the Department on November 16, 2001.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

ACC Operations, Inc.—Former Coudersport Borough Property, Coudersport Borough, **Potter County**. LaBella Associates, P.C., on behalf of its client ACC Operations, Inc., Main at Water Streets, Coudersport, PA 16915, has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and PHCs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 12, 2001.

ACC Operations, Inc.—Former Vacuum Oil and Witter Oil Property, Coudersport Borough, **Potter County**. LaBella Associates, P.C., on behalf of its client ACC Operations, Inc., Main at Water Streets, Coudersport, PA 16915, has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and PHCs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 12, 2001.

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 RENEWED

Miller Environmental Group, Inc., 538 Edwards Avenue, Calverton, NY 11933. License No. **PA-AH 0501**. Effective November 16, 2001.

Onyx Industrial Services, Inc., 6151 Executive Boulevard, Huber Heights, OH 45424. License No. **PA-AH 0583**. Effective November 16, 2001.

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 VOLUNTARILY TERMINATED

The NDL Organization, Inc., P. O. Box 791, Peekskill, NY 10566. License No. **PA-AH S006**. Effective September 21, 2001.

RESIDUAL WASTE GENERAL PERMITS

Permit Applications Withdrawn 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR075. EME Homer City Generation, L.P., 1750 Power Plant Road, Homer City, PA 15748-9558. Beneficial use of flue gas desulfurization (FGD) residue as a stabilizing agent for coal refuse disposal. The application was withdrawn at the request of the applicant on November 20, 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.

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

35-318-086: McGregor Industries Inc. (46 Line Street, Dunmore, PA 18512) on November 14, 2001, for construction of a paint spray operation and associated air cleaning device in Dunmore Borough, **Lackawanna County**.

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

06-05088B: EJB Paving Materials Co. (1119 Snyder Road, West Lawn, PA 19609-1100) on November 14, 2001, for modification of a batch asphalt plant controlled by a fabric collector at its Ontelaunee Plant in Ontelaunee Township, **Berks County**.

07-05001E: Appleton Papers, Inc. (100 Paper Mill Road, Roaring Spring, PA 16673) on November 20, 2001, for construction of HVLC Project—Phase II, HVLC system venting to the no. 3 power boiler and the John Zink Company backup incinerator at its Spring Mill facility in Roaring Spring Borough, **Blair County**. This source is subject to 40 CFR Part 63, Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

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.

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.

67-02004: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362) on November 15, 2001, for operation of three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a Venturi scrubber and a softwood fiber line and causticizing area in Spring Grove Borough, **York County**. This plan approval was extended.

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

19-302-031: Dillon Floral Corp. (P. O. Box 180, Bloomsburg, PA 17815-0180) on November 13, 2001, to specify that the minimum heat content of the reprocessed oil to be used as fuel in two boilers is 125,000 Btu per gallon rather than 140,000 Btu per gallon in the Town of Bloomsburg, **Columbia County**.

08-00004A: Rynone Manufacturing Corp. (P. O. Box 128, Sayre, PA 18840-0128) on November 9, 2001, to revise an allowable methylene chloride emission rate from cleanup operations from 3.0 tons per 12 consecutive month period to 4.5 tons per 12 consecutive month period in Sayre Borough, **Bradford County**.

14-0004B: Graymont (PA), Inc. (P. O. Box 448, Bellefonte, PA 16823) on November 9, 2001, to extend the expiration date for approval to construct various pieces of limestone processing equipment and associated air cleaning devices (three fabric collectors) from November 30, 2001, to May 31, 2002, in Spring Township, **Centre County**.

60-318-010: Nickelson Plastics, Inc. (R. R. 2, Box 575, Lewisburg, PA 17837) on November 14, 2001, to extend the authorization to operate a PVC coating operation on a temporary basis until March 14, 2002, in Buffalo Township, **Union County**.

49-0007A: Merck and Co., Inc. (P. O. Box 600, Danville, PA 17821-0600) on November 15, 2001, to extend the authorization to operate six 100,000 gallon Avermectin wastewater detoxification system tanks on a temporary basis until March 15, 2002, in Riverside Borough, **Northumberland County**.

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

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

46-00049: International Business Systems, Inc. (431 Yerkes Road, King of Prussia, PA 19406) on November 15, 2001, for operation of a Facility Title V Operating Permit in Upper Merion Township, **Montgomery County**.

46-00062: Jefferson Smurfit Corporation (US) (500 Church Road, North Wales, PA 19454) on November 15, 2001, for operation of a Facility Title V Operating Permit in Upper Gwynedd Township, **Montgomery County**.

46-00041: Jefferson Smurfit Corporation (US) (1035 Longford Road, Phoenixville, PA 19460) on November 15, 2001, for operation of a Facility Title V Operating Permit in Upper Providence Township, **Montgomery County**.

46-00040: National Label Company (2025 Joshua Road, Lafayette Hill, PA 19444) on November 15, 2001, for operation of a Facility Title V Operating Permit in Whitmarsh Township, **Montgomery County**.

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

67-05027: York Wallcoverings, Inc. (750 Linden Ave., York, PA 17405) on November 14, 2001, for operation of a wallpaper printing facility in the City of York, **York County**.

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 Corp. (350 Mill Street, PA 18951-1398) 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**.

23-00044: Sunoco, Inc. (R&M) (Commerce Drive Interstate I-95 Industrial Park., Aston, PA 19014) on November 15, 2001, for Facility Title V Operating Permit in Upper Chichester Township, **Delaware County**.

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

41-00002: Koppers Industries, Inc. (436 Seventh Avenue, Pittsburgh, PA 15219-1800) issued a revised operating permit, Revision No. 1, on November 5, 2001, for the Cogeneration Plant to include minor changes of site and source level requirements. This facility is located in Clinton Township, **Lycoming County**. This operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

41-00028: Koppers Industries, Inc. (436 Seventh Avenue, Pittsburgh, PA 15219-1800) issued a revised operating permit, Revision No. 1, on November 5, 2001, for the Railroad Crosstie Treatment Plant to include minor changes of site and source level requirements. This facility is located in Clinton Township, **Lycoming County**. This operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

19-318-007: Kawneer Company, Inc. (P. O. Box 629, Bloomsburg, PA 17815) on November 15, 2001, to lower the required minimum operating temperature for a regenerative thermal oxidizer used for the control of volatile organic compounds from an architectural aluminum products service coating operation from 1,800°F to 1,600°F in the Town of Bloomsburg, **Columbia County**.

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

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

32960101 and NPDES Permit No. PA0213292, Dunamis Resources, Inc., One Energy Place, Suite 4000, Latrobe, PA 15650-9628. Permit renewal for continued operation of a bituminous surface and auger mine and for existing discharge of a treated mine drainage, in Brushvalley Township, **Indiana County**, affecting 87.9 acres. Receiving streams: unnamed tributary to Little Brush Creek to Brush Creek classified for the following uses: cold water fishery and cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: September 24, 2001. Permit issued: November 19, 2001.

11970104 and NPDES Permit No. PA0234486, M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717-7960. Permit revision to add 5.6 acres to the surface mine permit, of which there will be an additional 2.5 coal acres and for existing discharge of a treated mine drainage, in Blacklick and Jackson Townships, **Cambria County**, affecting 449.6 acres. Receiving streams: unnamed tributaries to/and South Branch Blacklick Creek, classified for the following uses: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: August 21, 2001. Permit issued: November 13, 2001.

32010103 and NPDES Permit No. PA0248959, KMP Associates, R. R. 2, Box 194, Avonmore, PA 15618. Commencement, operation and restoration of a bituminous surface mine and for discharge of treated mine drainage in Conemaugh Township, **Indiana County**, affecting 8.5 acres. Receiving streams: unnamed tributary to Big Run classified for the following uses: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 27, 2001. Permit issued: November 19, 2001.

56890110 and NPDES Permit No. PA0598551, Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, from Three S Coal Company, Box 337, Stoystown, PA 15563. Permit transfer for continued operation of a bituminous surface mine and for existing discharge of a treated mine drainage in Shade Township, **Somerset County**, affecting 67.6 acres. Receiving streams: Whiskey Run to Dark Shade Creek classified for

the following uses: cold water fishery. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Water Authority Border Dam. Application received: September 4, 2001. Permit issued: November 19, 2001.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

40960302C. Hanover Nursery (5 Crystal Street, Hanover Green, Wilkes-Barre, PA 18702), renewal of NPDES Permit #PA0223671 in Plymouth Township, **Luzerne County**, receiving stream—Susquehanna River. Application received: September 20, 2001. Renewal issued: November 15, 2001.

38870301C3. Pennsylvania Lime, Inc. (P. O. Box 160, Annville, PA 17003), renewal of NPDES Permit #PA0595543 in Annville Borough, North Londonderry, North Annville and South Annville Townships, **Lebanon County**, receiving stream—Killinger and Quittapahilla Creeks. Application received: September 24, 2001. Permit issued: November 15, 2001.

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

11010801. William Rounsley, 200 Sunset Lane, Northern Cambria, PA 15714. Commencement, operation and restoration of a small industrial minerals (Reddog) permit in Barr Township, **Cambria County**, affecting 10.0 acres. Receiving streams: Moss Creek classified for the following uses: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 19, 2001. Permit issued: November 15, 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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

21014019. Rogele, Inc. (1025 S. 21st Street, P. O. Box 1757, Harrisburg, PA 17105-1757), construction blasting in Upper Allen Township, **Cumberland County** with an expiration date of June 30, 2002. Permit issued: November 19, 2001.

39014004. Bernard J. Hasara (112 E. Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting in Whitehall Township, **Lehigh County** with an expiration date of December 18, 2001. Permit issued: November 19, 2001.

48014013. Musclitz Excavating (586 Morrestown Road, Easton, PA 18014), construction blasting for Eastern Kunkel Athletic Complex in Palmer Township, **Northampton County** with an expiration date of January 14, 2002. Permit issued: November 19, 2001.

64014003. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting in Lake Township, **Wayne County** with an expiration date of December 31, 2001. Permit issued: November 19, 2001.

36014048. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in East Donegal Township, **Lancaster County** with an expiration date of December 31, 2002. Permit issued: November 21, 2001.

36014049. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in West Earl Township, **Lancaster County** with an expiration date of January 15, 2002. Permit issued: November 21, 2001.

38014022. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in South Londonderry Township, **Lebanon County** with an expiration date of January 15, 2002. Permit issued: November 21, 2001.

40014008. EJW Corp. (R. R. 2 Box 189, Kingsley, PA 18826), construction blasting in Dallas Township, **Luzerne County** with an expiration date of January 30, 2002. Permit issued: November 21, 2001.

54014007. Schlouch, Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting for Highridge Distribution Center in Cass Township, **Schuylkill County** with an expiration date of July 31, 2002. Permit issued: November 21, 2001.

54014008. Explo-Tech/AEEI (401 W. High Street, Suite 102, Pottstown, PA 19464), construction blasting for the Humboldt Industrial Park in East Union Township, **Schuylkill County** with an expiration date of April 30, 2002. Permit issued: November 21, 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 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.

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 Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of 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 P. S. §§ 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.

E09-826. Richard M. Welch, P. O. Box 58, Mechanicsville, PA 18934, Solebury Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a 26-foot long by 14-foot wide timber bridge with concrete abutments and wingwalls spanning an unnamed tributary to the Paunacussing Creek (HQ-CWF). This project is associated with lot 2 of the proposed Spring Oak Farm Subdivision. The road crossing will include the installation of utility crossings to be encased in conduits and entrenched under the stream channel at the bridge locations. This site is located 500 feet north of the intersection of Mechanicville Road and Sheffield Drive (Buckingham, PA Quadrangle North: 21.5 inches; West: 7.35 inches).

E09-827. Richard M. Welch, P. O. Box 58, Mechanicsville, PA 18934, Solebury Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a 26-foot long by 14-foot wide timber bridge with concrete abutments and wingwalls spanning an unnamed intermittent tributary to the Paunacussing Creek (HQ-CWF). This project is associated with Lot 3 of the proposed Spring Oak Farm Subdivision. The road crossing will include the installation of utility crossings to be encased in conduits and entrenched under the stream channel at the bridge locations. This site is located 2,000 feet north of the intersection of Mechanicville Road and Sheffield Drive (Buckingham, PA Quadrangle North: 22.2 inches; West: 7.4 inches).

E46-890. Pennsylvania Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525. Montgomery Township, **Montgomery County**, ACOE Philadelphia District.

To extend and maintain an existing 50 linear-foot long concrete arch culvert, consisting of a 16-foot span and an 8.25-foot rise, situated in and along the Little Neshaminy Creek (WWF-MF). This work is associated with the widening of Horsham Road (S.R. 463), which will extend

the culvert 10 feet on the downstream side, 20 feet on the upstream side and maintain the same hydraulic opening. This site is located approximately 800 feet northwest of the intersection of Horsham and Stump Road (Ambler, PA Quadrangle N: 20.5, W: 14.25 inches).

E46-894. ACTS Retirement-Life Communities, Inc., Normandy Farms Estate, 375 Morris Road, P. O. Box 90, West Point, PA 19486, Whitpain Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following activities associated with a residential subdivision in and along an unnamed tributary to the Wissahickon Creek (TSF) and adjacent wetlands:

1. To construct and maintain a 276 linear-foot stream enclosure, consisting of a minimum 36-inch diameter pipe which extends from an area in the vicinity of existing wetlands to a proposed stormwater management basin.

2. To excavate and maintain the impoundment area of an in-stream stormwater management basin in and along an unnamed tributary of Wissahickon Creek and within the assumed 100-year floodway, which will impact a total of 270 linear feet of stream channel.

3. Project includes two minor road crossings and three utility line crossings, which will impact 0.05 acre of wetlands. This work will be done in accordance with the conditions of General Permit No. 7 and General Permit No. 5, respectively.

This permit also authorizes an Environmental Assessment approval for impacts associated with the construction and maintenance of an on-stream nonjurisdictional dam. The site is located approximately 1,000 feet southeast of the intersection of North Wales Road and Township Line Road in Whitpain Township (Lansdale, PA USGS Quadrangle, N: 11.20 inches; W: 6.10 inches).

E51-192. City of Philadelphia, Division of Aviation, Terminal E Departures, Philadelphia International Airport, Philadelphia, PA 19153. City and **County of Philadelphia**, ACOE Philadelphia District.

To extend and maintain a 540 linear-foot long arch stream enclosure in and along Church Creek (WWF), consisting of 30 linear-foot extensions on each end and impacting a total of approximately 190 linear feet of stream channel for both temporary and permanent activities. The work is associated with Runway 17-35 Rehabilitation and Safety Improvements at the Philadelphia International Airport located within the 100-year floodplain of the Delaware River. (Philadelphia, PA—NJ Quadrangle N: 0.5 inch; W: 15.0 inches).

E51-194. Philadelphia Regional Port Authority, 3460 North Delaware Avenue, Philadelphia, PA 19144. City and **County of Philadelphia**, ACOE Philadelphia District.

To perform the following activities associated with the construction of the US Navy LMSR Layberth Project at the existing Tioga Marine Terminal along Delaware River (WWF-MF) (Camden, NJ-PA Quadrangle N: 19.0 inches, W: 11.25 inches):

1. To maintain the existing facility at Tioga Marine Terminal including marginal wharf, downriver slip, cargo ramp, upriver slip, cove area with mooring clusters, outfall structure, rip rap shore protection, relieving platform and other associated facilities within the floodplain

of the Delaware River and along approximately 4,300 feet of shoreline between Ontario Street and Wheatsheaf Lane.

2. To install and maintain two 25-foot wide by 36-foot long by 6-foot thick breasting dolphins.

3. To install and maintain four 20-foot wide by 28.5-foot long by 6-foot thick mooring dolphins.

4. To install and maintain a 5-foot wide by 550-foot long walkway.

5. To install approximately 38 mooring bollards.

6. To modify and maintain the existing facility by installing a security fence, guard house, fender system, sewage grinder pump system, steam generator, sewage holding tanks, trash receptacle, crane-tie down pins and various utility connections.

This work will utilize a total of 200 various diameter pipe piles with a total impact area of approximately 300 square feet in the river.

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

E48-310. Reen Development, LLC, 5303 Cider Press Road, Schnecksville, PA 18078. Washington Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a road crossing consisting of a 30-inch diameter reinforced concrete pipe through 0.21 acre of wetlands within the Martins Creek Watershed for the purpose of constructing an access road within the proposed residential subdivision known as Bennis Hill Farms. The permittee is required to provide 0.21 acre of replacement wetlands. The project is located approximately 1,200 feet northwest of the intersection of T680 (Bennis Hill Road) and T682 (Ackermanville Road) (Bangor, PA Quadrangle N: 12.9 inches; W: 12.4 inches).

E35-343. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501-0111. City of Carbondale, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To remove an existing structure and to construct and maintain a single-span prestressed reinforced concrete box beam bridge, having a normal span of 50 feet and a minimum underclearance of 10.22 feet on a 69 degree skew across the Lackawanna River with a 24-inch RCP stormwater outfall through the southeast wingwall. The project is located at the intersection of S.R. 0106 (Salem Avenue) and the Lackawanna River (Carbondale, PA Quadrangle N: 13.5 inches; W: 0.4 inch).

E48-307. Conectiv Bethlehem, Inc., P. O. Box 6066, Newark, DE 19714-6066. Lower Saucon Township and the City of Bethlehem, **Northampton County**, Army Corps of Engineers Philadelphia District.

To place fill in a de minimis area of wetlands equal to 0.02 acre for the purpose of constructing an electrical substation for a combined cycle electric generating facility and to construct and maintain various utility line stream crossings of a tributary to East Branch Saucon Creek and Saucon Creek and an intake and outfall structure in the Lehigh River. The project is located within the Bethlehem Commerce Center, on the south side of S.R. 2012 (Applebutter Road) with utility line work extending to the confluence of Saucon Creek and the Lehigh River. (Hellertown, PA Quadrangle N: 21.6 inches; W: 8.0 inches).

E45-390. Aventis Pasteur, Inc., Discovery Drive, Swiftwater, PA 18370-0187. Pocono Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To remove an existing overhead utility line stream crossing of Swiftwater Creek, the superstructure of an existing pedestrian bridge across Swiftwater Creek and twin 24-inch diameter C.M.P. culverts in a tributary to Swiftwater Creek and adjacent wetlands and to construct and maintain the following: (1) three road crossings of a tributary to Swiftwater Creek and adjacent wetlands consisting of 8' x 4' concrete box culverts having a total wetland impact of 0.16 acre; (2) a new pedestrian bridge superstructure across Swiftwater Creek set on the existing concrete abutments having a single span of 55 feet and an underclearance of approximately 7.6 feet that includes a utility duct attached to the new superstructure; (3) a 21-inch diameter H.D.P.E. pipe outfall structure, associated energy dissipator and cable concrete lined channel in the floodway of Swiftwater Creek; and (4) superstructure and numerous utility line stream crossings of a tributary to Swiftwater Creek and adjacent wetlands at each of the three road crossings. The permittee is required to provide 0.44 acre of replacement wetlands. The project is located at the existing pharmaceutical manufacturing facility, approximately 0.25 mile downstream of S.R. 0611 (Mount Pocono, PA Quadrangle N: 16.0 inches; W: 9.5 inches).

E52-175. Palmyra Township, HCR Box 15-C, Paupack, PA 18451. Palmyra Township, **Pike County**, Army Corps of Engineers Philadelphia District.

To restore and maintain an existing beach in and along Lake Wallenpaupack, with work including the following: removing an existing retaining wall, removing the existing white sand, regrading the lake bed using a graded sand and stone subbase and placing white sand to a depth of 6 inches. The area to be impacted is approximately 0.8 acre. The project is located on the eastern shore of the lake, approximately 2,000 feet north of the intersection of S.R. 0006 and S.R. 0507 (Hawley, PA Quadrangle N: 13.4 inches; W: 7.6 inches).

E54-288. Stanley L. Staller and Cynthia S. Keeley, 44 Cedar Street, Cressona, PA 17929-1414. Cressona Borough, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To maintain a private pedestrian bridge having a single span of 8 feet and underclearance of approximately 5 feet across Panther Creek. The project is located southwest of the intersection of S.R. 0901 and S.R. 0183 (Pottsville, PA Quadrangle N: 1.6 inches; W: 9.6 inches).

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

E36-718. Clay Township, 870 Durlach Rd., Stevens, PA 17578.

To remove the existing structure and to construct and maintain a box culvert having a span of 25 feet with an underclearance of 8 feet at the channel of Middle Creek (TSF) on Mountain Spring Road (T-640) located near its intersection with Kleinfelertville Road (Ephrata, PA Quadrangle N: 22.4 inches; W: 17.4 inches) in Clay Township, **Lancaster County**.

E67-671. Harry Fox, Stony Brook Manor Residential Development, 15 Montego Court, Dillsburg, PA 17019 in Fairview Township, **York County**, ACOE Baltimore District.

To construct and maintain an 18-foot by 4-foot high box culvert across an unnamed tributary to Bennett Run (WWF) to across the Stony Brook Manor Residential Development located north of Silver Lake Road approximately one mile west of the Siddensburg Road intersec-

tion (Lemoyne, PA Quadrangle N: 3.0 inches; W: 0.75 inch) in Fairview Township, York County.

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

E14-406. Pennsylvania State University, Physical Plant Building, University Park, PA 16802. Duck Pond Improvements, in State College Borough, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 9.5 inches; W: 13.75 inches).

The permit authorizes the stabilization of 800 linear feet of stream channel with a riprap energy dissipater, riprap bedding, vegetative banks and over excavated banks. The upstream limit of the project is located at the stormwater outfall and extends to the duck pond. The project is located in Thompson Run.

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.

E49-251. Revival Tabernacle, P. O. Box 118, West Milton, PA 17886, in Delaware Township, **Northumberland County**, ACOE Baltimore District (Milton, PA Quadrangle N: 11.2 inches; W: 12.0 inches).

To construct and maintain a metal plate arch culvert with a span of 20 feet, a height of 7.33 feet and a length of 71 feet in an unnamed tributary to Muddy Run; and to construct and maintain a corrugated metal culvert 6 feet in diameter by 74 feet long along with two elevated

overflow culverts 6 feet in diameter by 67 feet in length in an unnamed tributary to Muddy Run on private property on the south side of SR 1007 approximately 400 feet west of the intersection of Rt. 147 with SR 1007 in Delaware Township, **Columbia County**. This permit was issued under § 105.13(e) Small Projects.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D29-028EA. DCNR, Bureau of State Parks, P. O. Box 8551, Harrisburg, PA 17105-8551. Todd Township, **Fulton County**, ACOE Baltimore District.

The project proposes to perform maintenance at the Cowans Gap State Park Dam and reservoir including replacing the control tower, replacing the pedestrian bridge across the primary spillway and removing approximately 3.75 acres of accumulated silts and sediments from the inlet end of the reservoir. The dam is located across South Branch Little Aughwick Creek (HQ-CWF) (Burnt Cabins, PA Quadrangle, N: 0.3 inch, W: 6.9 inches).

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

| <i>SSIP Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Tank Type</i> | <i>Tank Capacity</i> |
|------------------------|---|---------------|---------------------|--------------------------------------|----------------------|
| 01-02-020 | Mark A. Scaccia Allegheny Energy Supply Company, LLC 4350 Northern Pike Monroeville, PA 15146-2841 | Allegheny | Springdale | 1 AST storing Aqueous Ammonia | 10,000 gallons |
| | | | | 1 AST storing Sodium Hypochlorite | 6,750 gallons |
| | | | | 1 AST storing Sulfuric Acid | 4,800 gallons |
| | | | | 1 AST storing Caustic Soda | 6,300 gallons |
| | | | | 1 AST storing Ferric Chloride | 6,600 gallons |

SPECIAL NOTICES

Request for Proposals for Municipal Solid Waste Capacity

The following notices are placed through the Department of Environmental Protection as required by section 502(d) of Act 101 of 1988: the Municipal Waste Planning, Recycling and Waste Reduction Act.

Butler County Board of Commissioners, Butler, PA

In accordance with 25 Pa. Code § 272.225 Municipal Waste Planning Recycling and Waste Reduction (as amended December 22, 2000), Butler County Board of Commissioners has determined that additional waste disposal or processing capacity for municipal solid waste

(MSW), including construction/demolition (C/D) waste and sewage sludge generated within the County is required for a period covering the next 10 years. Butler County Board of Commissioners is hereby soliciting proposals for disposal of County generated MSW, to begin on May 1, 2002.

Solicitation for Municipal Solid Waste Disposal Services

The Butler County Board of Commissioners at the Butler County Courthouse, 124 West Diamond Street, P. O. Box 1208, Butler, PA 16003 will receive sealed proposals until 4 p.m. on Friday, January 11, 2002. The Butler County Board of Commissioners will publicly open all proposals at 9 a.m. on Monday, January 14, 2002, at the County Courthouse in the Commissioner's Office Conference Room, 5th Floor of the Butler County Govern-

ment Center. Copies of the Request for Proposals (RFP) may be purchased on or after November 26, 2001, only from Sheryl Kelly, Recycling and Waste Management Coordinator, Butler County Dept. of Recycling and Waste Management in the Planning Commission at the County Courthouse, Butler, PA 16003, (724) 284-5300 by prepayment of a nonrefundable amount of \$50 per proposal. Proposers should make checks payable to the Butler County Treasurer. All sealed proposals must include an executed Representations and Certifications Affidavit as provided in Section 5 of the proposal package. All proposals must be made on the Proposal Forms and be in accordance with the Requirements for Submitting Proposals contained in the Request for Proposals. The Proposer is required to submit one original and five copies of the Proposal to Butler County Board of Commissioners at the address listed. Envelopes containing the proposals must be sealed and clearly labeled to show the name and address of the Proposer, the statement "Proposal for Municipal Solid Waste Disposal Services" and be addressed to Butler County Controller's Office, Fifth Floor, County Government Center, 124 West Diamond Street, P. O. Box 1208, Butler, PA 16003, Attention: John R. McMillan, Butler County Controller. Proposers may withdraw their proposal at any time prior to the scheduled closing time for receipt of proposals. Butler County Board of Commissioners reserve the right to reject any or all proposals, to waive any irregularities and/or information in any proposal and to make an award in any manner, consistent with applicable laws, which is deemed to be in the best interest of the County.

Bureau of Deep Mine Safety

Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (BDMS) has approved Mears Enterprises, Inc.'s request for a variance from the requirements of section 224(b) of the Pennsylvania Bituminous Coal Mine Act at the Ondo Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: Mears Enterprises, Inc. requested a variance from section 224(b) of the Pennsylvania Bituminous Coal Mine Act to drill holes to determine whether or not the projected mining would be negatively impacted by the country banks adjacent to the Ondo Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 224(b).

The basis for the Bureau's approval is summarized as follows:

1. The long horizontal borehole method proposed in lieu of the requirements set forth in section 224 is a proven technology which has been used successfully at the Ondo Mine and other underground mines in this Commonwealth.
2. The long horizontal borehole method proposed is much less labor intensive and provides much less exposure to lifting and strain type injuries, by not having to handle and use hand-held drills and steels. By mining normal depth cuts, the work force will be subjected to less risk associated with equipment place changes, rather than mining the outside entry 8 feet at a time.
3. The long horizontal borehole proposed in lieu of the requirements set forth in section 224(b) will provide a

greater coal barrier than required by section 224(b). Mears Enterprises Inc.'s proposed long horizontal borehole method provides a 267% larger barrier for the protection of miners from contacting the abandoned mine over the requirements of section 224(b).

4. The long horizontal boreholes will provide a quicker method to close the borehole in the event of contacting the abandoned mine by closing the valve located at the end of the pipe grouted in the rib and will be more suitable for grouting, if needed.

5. The long horizontal borehole will provide a much larger area of coverage for protecting the workers against accidentally mining into the abandoned mine.

This approval is limited to the alternate method to drill test holes as required in section 224(b). All other terms and requirements of section 224(b) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Ondo's plan.

[Pa.B. Doc. No. 01-2186. Filed for public inspection December 7, 2001, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's website (www.dep.state.pa.us) at the Public Participation Center page. The "July 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its nonregulatory documents, as necessary, throughout 2001.

Ordering Paper Copies of DEP Technical Guidance

DEP encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Technical Guidance

DEP ID: 385-2000-012 Title: Pennsylvania's Phase II NPDES Stormwater Permitting Strategy, Municipal Separate Storm Sewer Systems-Industrial Stormwater Discharges Description: This strategy is written to provide for an effective and efficient NPDES permitting program for Municipal Separate Storm Sewer systems and Industrial Stormwater Discharges under Phase II of the Federal Clean Water Act NPDES stormwater regulations. It will work to protect water quality and public health and safety through the permitting and control of stormwater

discharges. This document provides the Department's permitting strategy and major program direction for implementation of Phase II of the NPDES stormwater permitting program related to Municipal Separate Storm Sewers and Industrial Stormwater Discharges. This strategy is not applicable to NPDES permits regarding stormwater discharges associated with construction activities. Anticipated Effective Date: June 1, 2002 Sixty-Day Comment Period Ends: February 7, 2002 Contact: R.B. Patel at (717) 787-8184 or email to rpatel@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2187. Filed for public inspection December 7, 2001, 9:00 a.m.]

Coal and Clay Mine Subsidence Insurance Board

A regular meeting of the Coal and Clay Mine Subsidence Board will take place on December 18, 2001, at 10 a.m. in the 12th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The agenda for this meeting will be available through the Public Participation Center on DEP's website at <http://www.dep.state.pa.us>. Questions regarding the agenda may be directed to Lawrence Ruane at (717) 783-9590 or lrwane@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lawrence Ruane directly at (717) 783-9590 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how DEP may accommodate their needs.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2188. Filed for public inspection December 7, 2001, 9:00 a.m.]

Comment Period Extended on Stormwater Management Proposal

DEP announces an extended public comment period on its draft Comprehensive Stormwater Management Policy.

At the 15 water forums DEP and its partners held throughout this Commonwealth last spring, stormwater management was a recurring concern of citizens and local government officials. In addition, Commonwealth residents are demanding a more modernized approach to stormwater management that will reduce incidents of flooding, streambank erosion and other environmental hazards. Poor stormwater management practices result in increased frequencies of flooding, streambank erosion and excessive obstruction of stream flows with silt and other particles.

The new stormwater proposal addresses the need to improve water quality, sustain water quantity (including groundwater recharge and stream baseflow) and integrate upcoming Federal stormwater management obligations. DEP is proposing a best management practices approach

that encourages minimizing runoff by allowing stormwater to soak back into the ground whenever possible. This approach will reduce stream pollution, recharge groundwater tables, enhance stream flow during times of drought and reduce the threat of flooding and streambank erosion resulting from storms.

The Commonwealth also must implement new stormwater controls under the Federal Clean Water Act within the next several years. The Commonwealth has identified a need to ensure that stormwater controls remain operational and efficient throughout the life of a project. Administratively, DEP proposes to integrate its permitting programs with stormwater management plans developed on a watershed basis under the Stormwater Management Act (Act 167). Act 167 county plans will include water quality and quantity protections implemented by municipalities within the watershed. DEP, when appropriate, will also rely on locally sponsored plans to meet the National Pollution Discharge Elimination System permitting requirements for municipalities under the Federal Clean Water Act municipal stormwater permitting program.

The draft stormwater proposal is available on the DEP website (directLINK "Comprehensive Stormwater Policy"), be contacting Kimberly Chism at (717) 787-5267, by e-mailing kchism@state.pa.us or write to DEP, Office of Water Management, Bureau of Watershed Management, 10th Floor, Rachel Carson State Office Building, P. O. Box 8555, Harrisburg, PA 17105-8555.

Comments, which should include the commentor's name, address and telephone number, must be received by January 28, 2002. DEP will accept comments by postal mail or e-mail at the addresses previously listed. Facsimiles or voice mails will not be accepted.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2189. Filed for public inspection December 7, 2001, 9:00 a.m.]

Request for Proposals for a Study to Determine Bluff Recession Hazard Areas in Erie County

DEP's Coastal Zone Management Program is accepting proposals to conduct a comprehensive study of the bluff recession hazard areas along the Lake Erie shoreline in Erie County, PA. The study will evaluate existing bluff recession factors to identify and determine the location and geographic extent of bluff recession hazard areas along the shoreline in this region. The geographic limits of this study shall include all Lake Erie and Presque Isle Bay shoreline/bluff environments and stream interfaces. A copy of the Request for Proposals can be obtained by contacting Scott Pletcher, Coastal Zone Management Program, Office of River Basin Cooperation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-9491, e-mail: scpletcher@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2190. Filed for public inspection December 7, 2001, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Payments to Nursing Facilities; July 1, 2001 Revised Proposed Rates

The purpose of this notice is to announce revised proposed changes in payment rates for nursing facilities beginning July 1, 2001, and to identify the methodology and justification for these revised proposed rates. Under 42 U.S.C.A. § 1902(a)(13)(A), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub.L. No. 105-33), a state must use a public process when it proposes to make changes in payment rates or payment methodologies for nursing facility services under its approved Title XIX State Plan. The Department of Public Welfare (Department) has submitted a State Plan Amendment which will, if approved by the Centers for Medicare and Medicaid Services (CMS) formerly the Health Care Financing Administration, change the methods and standards for setting payment rates for nursing facility services relating to movable property. Final rates cannot be issued until the State Plan Amendment is approved by CMS and changes are promulgated in regulations. Therefore, the Department is issuing revised proposed rates beginning July 1, 2001, to be used pending the approval of the State Plan Amendment and promulgation of regulations.

Rates

The revised proposed July 1, 2001, rates are available at the local County Assistance Offices throughout this Commonwealth, on the Office of Medical Assistance Programs' (OMAP) website at www.dpw.state.pa.us/omap or by contacting Gail Weidman in the Policy Section of the Bureau of Long Term Care Programs at (717) 705-3705.

Methodology

The methodology the Department used to set the revised proposed rates is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting), final omitted regulations pending promulgation and the Commonwealth's pending Title XIX State Plan submitted to CMS on September 21, 2001. To accommodate the transition to the pending regulatory amendments, the Department revised the audited costs in the database used for rate setting. The criteria used to determine the appropriate adjustments is available on the OMAP website or by contacting Gail Weidman. The database used for rate setting is available on the OMAP website.

Justification

The justification for the revised proposed rates is that they were set under the rate-setting methodology required by the Commonwealth's pending State Plan and the final omitted regulations.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 is \$102.576 million (\$46.783 million in State funds).

Interested persons are invited to submit written comments about the revised proposed rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users). Persons who require another

alternative should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-304. (1) General Fund; (2) Implementing Year 2001-02 is \$46,783,000; (3) 1st Succeeding Year 2002-03 is \$51,036,000; 2nd Succeeding Year 2003-04 is \$51,036,000; 3rd Succeeding Year 2004-05 is \$51,036,000; 4th Succeeding Year 2005-06 is \$51,036,000; 5th Succeeding Year 2006-07 is \$51,036,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99—\$721,631,000; (7) Long Term Care; (8) recommends adoption. Funds for these changes were included in the 2001-02 budget.

[Pa.B. Doc. No. 01-2191. Filed for public inspection December 7, 2001, 9:00 a.m.]

Payments to Nursing Facilities; October 1, 2001 Proposed Rates

The purpose of this notice is to announce the proposed changes in payment rates based on case-mix index (CMI) adjustments only, for nursing facilities beginning October 1, 2001, and to identify the methodology and justification for these proposed rates. Under 42 U.S.C.A. § 1902(a)(13)(A), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), a state must use a public process when it proposes to make changes in payment rates or payment methodologies for nursing facility services under its approved Title XIX State Plan.

The Department of Public Welfare (Department) has submitted a State Plan Amendment which will, if approved by the Centers for Medicare and Medicaid Services (CMS) formerly the Health Care Financing Administration, change the methods and standards for setting payment rates for nursing facility services relating to movable property. These proposed rates are contingent upon approval of the State Plan Amendment by CMS and promulgation in regulations.

Rates

The proposed October 1, 2001, rates are available through the local County Assistance Offices throughout this Commonwealth, on the Office of Medical Assistance Programs' website at www.dpw.state.pa.us/omap or by contacting Tom Jayson in the Policy Section of the Bureau of Long Term Care Programs at (717) 772-2525.

Methodology

The methodology that the Department used to set the proposed rates based on CMI adjustments is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting), final-omitted regulations pending promulgation and the Commonwealth's pending Title XIX State Plan submitted to CMS on September 21, 2001.

Justification

The justification for the proposed rates is that they were set under the rate-setting methodology required by the Commonwealth's pending State Plan and final omitted regulations.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 is \$5.045 million (\$2.301 million in State funds).

Interested persons are invited to submit written comments only concerning CMI adjustments to the proposed rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users). Persons who require another alternative should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-305. (1) General Fund; (2) Implementing Year 2001-02 is \$2,301,000; (3) 1st Succeeding Year 2002-03 is \$2,510,000; 2nd Succeeding Year 2003-04 is \$2,510,000; 3rd Succeeding Year 2004-05 is \$2,510,000; 4th Succeeding Year 2005-06 is \$2,510,000; 5th Succeeding Year 2006-07 is \$2,510,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99 Program—\$712,631,000; (7) Long Term Care; (8) recommends adoption. Funds for these changes were included in the 2001-02 budget.

[Pa.B. Doc. No. 01-2192. Filed for public inspection December 7, 2001, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Elvis Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Elvis™.

2. *Price:* The price of a Pennsylvania Elvis instant lottery game ticket is \$2.00.

3. *Play Symbols:* Each Pennsylvania Elvis instant lottery game ticket will contain one play area featuring an "Elvis Numbers" area and a "Your Numbers" area. The play symbols and their captions located in the "Elvis Numbers" area and the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN) and 16 (SIXTN).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the eight "Prize" areas are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$3⁰⁰ (THR DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$15,000 (FTN THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$4, \$5, \$10, \$15, \$20, \$40, \$100, \$500 and \$15,000. A player can win up to eight times on a ticket.

6. *Second Chance Drawings:* The Pennsylvania Lottery will conduct four separate Second Chance Drawings for nonwinning Pennsylvania Elvis instant lottery tickets as provided for in Section 11.

7. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Elvis instant lottery game.

8. *Determination of Prize Winners:* (a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$15,000 (FTN THO) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$40\$ (FORTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$15\$ (FIFTN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$4⁰⁰ (FOR DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$3⁰⁰ (THR DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$3.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis

Numbers" play symbols and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols matches either of the "Elvis Numbers" play symbols and a prize play symbol of \$1.⁰⁰

(ONE DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

9. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match Either of the Elvis Numbers Win With Prize(s) Of:

| | <i>Win</i> | <i>Approximate Odds</i> | <i>Approximate No. of Winners Per 6,000,000 Tickets</i> |
|-----------------------|------------|-------------------------|---|
| \$1 x 2 | \$2 | 1:10.34 | 580,000 |
| \$2 | \$2 | 1:13.64 | 440,000 |
| \$1 x 3 | \$3 | 1:75 | 80,000 |
| \$2 + \$1 | \$3 | 1:75 | 80,000 |
| \$3 | \$3 | 1:150 | 40,000 |
| \$1 x 4 | \$4 | 1:150 | 40,000 |
| \$2 x 2 | \$4 | 1:250 | 24,000 |
| \$4 | \$4 | 1:375 | 16,000 |
| \$1 x 5 | \$5 | 1:75 | 80,000 |
| \$5 | \$5 | 1:150 | 40,000 |
| \$1 x 6 + \$2 x 2 | \$10 | 1:150 | 40,000 |
| \$2 x 5 | \$10 | 1:150 | 40,000 |
| \$10 | \$10 | 1:150 | 40,000 |
| \$2 x 7 + \$1 | \$15 | 1:375 | 16,000 |
| \$5 x 3 | \$15 | 1:750 | 8,000 |
| \$3 x 5 | \$15 | 1:750 | 8,000 |
| \$15 | \$15 | 1:750 | 8,000 |
| \$3 x 6 + \$1 x 2 | \$20 | 1:214.29 | 28,000 |
| \$4 x 5 | \$20 | 1:750 | 8,000 |
| \$20 | \$20 | 1:1,500 | 4,000 |
| \$10 x 4 | \$40 | 1:2,667 | 2,250 |
| \$20 x 2 | \$40 | 1:4,000 | 1,500 |
| \$5 x 8 | \$40 | 1:1,644 | 3,650 |
| \$40 | \$40 | 1:4,800 | 1,250 |
| \$15 x 6 + \$5 x 2 | \$100 | 1:17,143 | 350 |
| \$100 | \$100 | 1:40,000 | 150 |
| \$100 x 5 | \$500 | 1:60,000 | 100 |
| \$500 | \$500 | 1:120,000 | 50 |
| \$15,000 | \$15,000 | 1:1,000,000 | 6 |

10. *Second Chance Drawing Requirements:*

(a) To be eligible for one of the Second Chance Drawings, a player must mail exactly three nonwinning Pennsylvania Elvis instant lottery tickets in an envelope no larger than 4 1/8 by 9 1/2 inches addressed to Elvis Second Chance Drawing, PMB 110, 2033 Linglestown Road, Harrisburg, PA 17110.

(b) Envelopes containing less than or more than three nonwinning Pennsylvania Elvis instant lottery tickets shall be disqualified.

(c) Nonwinning Pennsylvania Elvis instant lottery tickets received in an envelope larger than 4 1/8 by 9 1/2 inches shall be disqualified.

(d) The back of each nonwinning Pennsylvania Elvis instant lottery ticket entered in the Second Chance Drawing must be completed by the same player in a legible manner, including the player's name, complete address, telephone number and signature.

(e) Winning Pennsylvania Elvis instant lottery tickets submitted to the Elvis Second Chance Drawing address may not be paid or honored.

(f) To be eligible for a Second Chance Drawing, nonwinning Pennsylvania Elvis instant lottery tickets must be received by the Pennsylvania Lottery as follows:

| <i>Entry Deadline</i> | <i>Second Chance Drawing</i> |
|------------------------------|------------------------------|
| 1st Drawing—February 1, 2002 | Week of February 4, 2002 |
| 2nd Drawing—March 1, 2002 | Week of March 4, 2002 |
| 3rd Drawing—April 5, 2002 | Week of April 8, 2002 |
| 4th Drawing—May 3, 2002 | Week of May 6, 2002 |

11. *Second Chance Drawing Procedures:*

(a) Frequency. Four Second Chance Drawings will be held at Lottery Headquarters. The first Second Chance Drawing will be held the week of February 4, 2002, the second the week of March 4, 2002, the third the week of April 8, 2002 and the fourth the week of May 6, 2002.

The odds of an entry's being selected in a Second Chance Drawing depend upon the number of entries received.

(b) Eligibility for Second Chance Drawings. To be eligible for a Second Chance Drawing, a player must have complied with the requirements of section 10.

(1) The Lottery will make a reasonable effort to ensure that each Second Chance entry is entered into one of the Second Chance Drawings. The Lottery assumes no responsibility for a lost or misplaced entry not entered into a Second Chance Drawing.

(2) A Second Chance entry is eligible for only one Second Chance Drawing. An entry that is not in one eligible group, may, at the discretion of the Director, remain eligible for a subsequent Second Chance Drawing.

(3) If a Second Chance entry is rejected during or following a Second Chance Drawing, the sole remedy is to select another entry to replace the rejected entry in accordance with Lottery procedure.

(c) Manner of conducting the Second Chance Drawings.

(1) By use of a computer-generated randomizer, four boxes will be selected. From each of the four boxes, one entry envelope will be drawn. Each entry will be opened and its contents will be validated according to the requirements of Section 10. If the entry does not meet the requirements of Section 10, another entry will be selected from that box; and so on, until a qualified entry has been chosen. Each of the four qualified entries will win a Graceland trip and two Elvis Presley prize packages. There is no cash equivalent for the Graceland trip and Elvis Presley prize packages.

(2) The computer-generated randomizer will then be used to select 52 boxes. From each of these 52 boxes, five entries will be drawn. An each entry envelope is opened, its contents will be validated according to the requirements of Section 10. If the entry does not meet the requirements of Section 10, another entry will be selected from that box; and so on, until a qualified entry has been chosen. The 260 validated entries will each win an Elvis Presley prize package.

(3) The procedures described in paragraphs (1) and (2) will be repeated for each of the Second Chance Drawings set forth in subsection (a).

(4) Determination of the winner will be made by the Secretary, whose judgment will be final and binding.

(d) The payment of a prize awarded in the Second Chance drawings to a person who dies before receiving the prize or to a person 17 years of age or younger shall be paid according to 61 Pa. Code §§ 811.16 and 811.27 (relating to prizes payable after death of a prize winner; and payment of prizes to persons under 18 years of age).

12. *Second Chance Prize Descriptions:*

(a) Graceland trip. The Graceland trip includes a 3-day, 2-night trip for two to Graceland. The trip for two includes round trip airfare, ground transfers from the airport to the hotel, a suite at the Heartbreak Hotel, a VIP Platinum EPE Tour Package for two (Graceland Mansion Tour, Elvis Automobile Museum Tour, Elvis Custom Jets Tour and admission to Sincerely Elvis attraction), a dinner for two at Elvis Presley's Memphis restaurant, \$1,000 in gift certificates to be redeemed at EPE gift shops, required Federal Withholding tax and \$500 in cash.

(b) Elvis Presley Prize Package. Each prize package will include one of each of the following items:

(1) Elvis Presley Print. The limited edition artwork, pairing Elvis Presley with Betty Boop, is framed, matted and includes a certificate of authenticity.

(2) Elvis Presley Movies and Music Collection. The three-set movies and music collection contains three of Elvis' greatest movies along with a companion three-set CD collection.

(3) Elvis Presley Jacket. The extra large, two-tone denim jacket includes a customized, embroidered Elvis signature on the front left chest.

(4) Elvis Presley Wristwatch. The black leather watch features an Elvis signed photo, plays "Can't Help Falling in Love" and comes with a silver tone case.

(5) Elvis Presley T-Shirt. The extra large T-shirt is all cotton with a full-color Elvis image.

(6) Elvis Presley Playing Cards. The limited edition playing card set includes two poker sized decks, with one deck featuring the "Early Elvis" in 52 classic black and white photographs and the second deck featuring the "Mature Elvis" in 52 full-color images.

(7) The Lottery reserves the right to substitute a merchandise item set forth in subsection (b) with a merchandise item of equal or greater value.

11. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Elvis instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

12. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Elvis, prize money from winning Pennsylvania Elvis instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Elvis instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

13. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

14. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Elvis or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-2193. Filed for public inspection December 7, 2001, 9:00 a.m.]

Rates of Tax on Aviation Gasoline and Jet Fuel for 2002; Oil Company Franchise Tax Rate for 2002

Aviation Gasoline and Jet Fuels

Under 74 Pa.C.S. § 6121(b), the Secretary of Revenue announces that for the calendar year 2002 the rate of tax on aviation gasoline and all other liquid fuels used or sold

and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines will decrease from the current rate of 4-3/10¢ to 4-1/10¢* per gallon or fractional part thereof.

Under 74 Pa.C.S. § 6131(b), the Secretary of Revenue announces that for the calendar year 2002 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines will decrease from the current rate of 2¢ per gallon to 1-8/10¢ per gallon or fractional part thereof.

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985, and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986, and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b) the rate of each tax increases or decreases 1/10¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the United States Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1, subject to a maximum rate of 6¢ per gallon for aviation gasoline and 2¢ per gallon for jet fuels. On November 1, 2001, the most recently available 12-month period was September 2000 to September 2001, as reported in Bureau of Labor Statistics, United States Department of Labor, Producer Price Indexes, September 2001, USDL 01-347, released October 12, 2001, for which the percentage change was -20.5%. Accordingly, the aviation gasoline tax rate and jet fuel tax rate both decrease by 2/10¢ per gallon.

Oil Company Franchise Tax

The Secretary of Revenue announces that for the calendar year 2002 there is an increase in the current rate of the oil company franchise tax from 14.0¢ per gallon to 14.6¢ per gallon on all liquid fuels and from 18.9¢ per gallon to 19.8¢ per gallon on all fuels used or sold and delivered by distributors within this Commonwealth under 75 Pa.C.S. §§ 9004(b) and 9002, definition of "cents per gallon equivalent basis."

The rate of the oil company franchise tax imposed under Chapter 95 (Taxes for Highway Maintenance and Construction) of the Vehicle Code, 75 Pa.C.S. § 9502, and collected under Chapter 90 (Liquid Fuels and Fuels Tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a "cents per gallon equivalent basis," which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the *Pennsylvania Bulletin* no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Average wholesale price" as used previously is defined as:

*The rate of 4-1/10¢ per gallon consists of the 1-1/2¢ per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(1), and the 2-6/10¢ per gallon additional tax imposed by 74 Pa.C.S. § 6121(a). As limited by 74 Pa.C.S. § 6121(b), the combined rate of these two component taxes may never exceed 6¢ per gallon or be less than 3¢ per gallon.

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 2001, the Department has determined that the average wholesale price of liquid fuels and fuels was 94.7¢ per gallon; accordingly, an average wholesale price of 94.7¢ per gallon is used to determine the rate for 2002.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon is:

| <i>Imposition Section</i> | <i>Liquid Fuels</i> | <i>Fuels</i> |
|--|---------------------|--------------|
| 75 Pa.C.S. § 9502(a)(1) | 60.0 | 60.0 |
| 75 Pa.C.S. § 9502(a)(2) | 55.0 | 55.0 |
| 75 Pa.C.S. § 9502(a)(3) | 38.5 | 38.5 |
| 75 Pa.C.S. § 9502(a)(4) | 00.0 | 55.0 |
| Total Mills per Gallon: | 153.5 | 208.5 |
| Decimal Equivalent: | .1535 | .2085 |
| Multiply by Average Wholesale Price: | x 94.7¢ | x 94.7¢ |
| Product: | 14.536¢ | 19.745¢ |
| Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth): | 14.6¢ | 19.8¢ |

Act 3 of 1997 provides that the oil company franchise tax as previously computed is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2002, the combined rate of tax for liquid fuels (primarily gasoline) is 26.6¢ per gallon and for fuels (primarily diesel fuel) is 31.8¢ per gallon.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-2194. Filed for public inspection December 7, 2001, 9:00 a.m.]

Realty Transfer Tax Revised; 2000 Common Level Ratio Real Estate Valuation Factor

The following real estate valuation factors are based on sales data compiled by the State Tax Equalization Board in 2000. These factors are the mathematical reciprocals of the actual common level ratio. For Pennsylvania Realty Transfer Tax purposes, these factors are applicable for documents accepted from January 1, 2002, to June 30, 2002. The date of acceptance of a document is rebuttably presumed to be its date of execution, that is, the date specified in the body of the document as the date of the instrument, 61 Pa. Code § 91.102 (relating to acceptance of documents).

| <i>County</i> | <i>Adjusted Common Level Ratio Factor</i> |
|---------------|---|
| * Dauphin | 1.00 |
| ** Mercer | 3.62 |
| ** Potter | 2.32 |

| | |
|---------------|---|
| <i>County</i> | <i>Adjusted Common Level Ratio Factor</i> |
| * Tioga | 1.00 |

* Adjusted by the Department of Revenue to reflect assessment base change effective January 1, 2002.

** Adjusted by the Department of Revenue to reflect assessment ratio change effective January 1, 2002.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-2195. Filed for public inspection December 7, 2001, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

Notice is hereby given that pursuant to 67 Pa. Code § 495.4(d), an application to lease highway right-of-way has been submitted to the Department by Susquehanna Area Regional Airport Authority, of 208 Airport Drive, Middletown PA.

Seeking to lease highway right-of-way located at former address of 2094 Harrisburg Pike West, Middletown, Lower Swatara Twp., Dauphin County, PA.

1.30 acres +/- adjacent to SR 1081 Section(s) A04, for the purpose of parking purposes only.

Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Barry G. Hoffman, P.E., District Engineer, Engineering District 8-0, 2140 Herr Street, Harrisburg PA 17103-1699.

Questions regarding this application or the proposed use may be directed to George Achenbach, Right-of-Way Representative, 2140 Herr Street, Harrisburg PA 17103-1699, (717) 772-5117.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 01-2196. Filed for public inspection December 7, 2001, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

At its November 20, 2001, meeting, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy).

The petition was submitted by a watershed organization known as Friends of Pine Creek, and it requests the redesignation of the lower reaches of Pine Creek in Schuylkill County from Cold Water Fishes (CWF) to Exceptional Value Waters (EV). Department of Environ-

mental Protection (DEP) staff will publish notice of its intent to assess the waters before performing any survey work.

The petition is available from the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and on DEP's website at the following address: <http://www.dep.state.pa.us/dep/subject/eqb/2001/Sep/Petition.pdf>.

DAVID E. HESS,
Chairperson

[Pa.B. Doc. No. 01-2197. Filed for public inspection December 7, 2001, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committees' comment period. The Commission's Comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted by the date indicated.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Issued</i> | <i>Final-Form Submission Deadline</i> |
|-----------------|--|---------------|---|
| #47-9 | Milk Marketing Board Over-Order Pre- mium Pool | 11/26/01 | 10/22/03 |

(31 Pa.B. 5367 (September 22, 2001))

Milk Marketing Board Regulation No. 47-9 Over-Order Premium Pool November 26, 2001

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Milk Marketing Board (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 22, 2003, the regulation will be deemed withdrawn.

By Order # A-856 issued on August 10, 1988, the Board established this over-order premium on Class I milk that is produced, processed and sold within Pennsylvania. Through promulgation of this proposed regulation, the Board is amending the distribution of the premium and

establishing a premium pool. We agree that the Board's action to promulgate a regulation is appropriate. (See *DER v. Rushton Mining Co.*, 591 A.2d 1168 (Pa. Cmwlth. 1991), allocatur denied, 600 A.2d 541 (Pa. 1991)). By establishing the pool and providing for distribution of the money collected, the Board is issuing a binding norm with general application and future effect. This rule is binding upon the Board as well as upon all dealers and producers subject to the Board's jurisdiction.

1. Economic and Fiscal Impact; Reasonableness; Feasibility; Clarity.

The Board states in its Preamble to the proposed regulation:

Currently the . . . Board places a premium above the Federal order price of Class I fluid milk that is produced, processed and sold within this Commonwealth . . . This mandated over-order premium is now paid to Class I producers. The Board has determined that 45% of this over-order premium should be placed in a pool and shared with all qualified producers as defined in the proposed rule-making. The remaining 55% of the over-order premium would continue to be paid to the Class I producers.

In response to Question 13 in the Regulatory Analysis Form, the Board states:

"The beneficiaries of this regulation are those Pennsylvania dairy farmers that currently receive little or no direct benefit from the over-order premium. This represents 50% of dairy farmers or approximately 4,500 dairy farmers."

In response to Question 14 in the Regulatory Analysis Form, the Board states:

"Approximately 4,500 or 50% of dairy farmers will be adversely affected."

It is not clear what economic conditions, circumstances or studies formed the basis of the Board's determination to pool a portion of the over-order premium and allocate that portion to other classes. In order to evaluate a regulation, we must determine whether the criteria set forth in the Regulatory Review Act are satisfied. Therefore, we need additional information from the Board to measure the economic and fiscal impact, reasonableness, feasibility and clarity of the regulation. Please provide the data upon which the Board determined the allocation of the over-order premium.

2. Section 148.1. Definitions.—Clarity.

General clarity

To improve readability, the word "Pennsylvania" is not needed to preface defined terms. For example, the term "Pennsylvania producer" could be just "producer" since the definition states the producer is located in Pennsylvania. Hence, the shorter term "producer" could be used throughout the regulation.

Distributing plant

There are two concerns.

First, the term "distributing plant" is only used in the definition of "qualified producer." The definition of "distributing plant" could be deleted. If necessary, clarification could be added to the definition of "qualified producer."

Second, the phrase "a duly constituted regulatory agency" is vague. If any portion of this definition is

retained, the regulation should specify who the Board considers qualified to approve a plant to handle Grade A milk.

Diversion

There are two concerns.

First, the last sentence is substantive. Substantive provisions in a definition are not enforceable. Therefore, this sentence should be moved to the body of the regulation.

Second, a reference to the specific United States Department of Agriculture guidelines the Board will use to make a determination should be added.

Pennsylvania Class I Pounds

This term is not used in the regulation. Should it be "Pennsylvania Class I Utilization" instead?

Pennsylvania milk pool or pool

The second component of this definition is confusing. What does "amount to be redistributed to Pennsylvania producers" define? Is the intent to state, "the sum...that will be redistributed to Pennsylvania producers"?

Pool administrator

There are two concerns.

First, the phrase "The pool administrator" is redundant and should be deleted.

Second, the term "Board" is not defined. For added clarity, this definition should specify the Milk Marketing Board.

Qualified pounds

The second sentence and remainder of this definition are substantive. Because substantive provisions in a definition are not enforceable, these provisions should be moved to the body of the regulation.

3. Section 148.2. Pennsylvania over-order premium dealer's reporting requirements.—Clarity.

This section is vague. It requires filing of "information contained in forms prescribed and furnished by the Board." Is this section referring to PMMB 62, as specified in Section 148.6? Section 148.2 should specify the form(s) to be used.

The title of this section uses the phrase "Pennsylvania over-order premium dealer." The term "dealer" is not defined in Section 148.1. Should the title use the defined term "Pennsylvania Pool Plant"?

4. Section 148.3. Calculation of the contributing pool plant over-order premium value.—Clarity.

Subsection (1)

Is the term "Pennsylvania Production" a total for all Pennsylvania dairy producers, or just one Pennsylvania dairy producer? The Board should clarify this distinction.

Subsection (2)

We have three concerns with the example in this subsection.

First, the result of variable "F" in this subsection is unclear. For clarity, the Board should either show how F is calculated, or use numbers that do not appear to be either the sum or difference of other combinations of numbers in the example.

Second, the equation in the example contained in Subsection (2) appears to be inconsistent with other examples given in this regulation. The product of the

equation “ExFx \times D=G” is not “\$2,000,” but rather \$200,000. The division by 100 is not shown.

Finally, the term “hundredweight” is not mentioned in the text of this subsection. However the term “hundredweight” is used in the text of other sections, such as Section 148.4(3). For clarity, the text of Subsection (2) should include the term “hundredweight.”

5. Section 148.4. Calculation of the pool.—Clarity.

Subsection (3)

The example in this subsection does not show how Dairy C ends up with 192,857 qualified pounds or how its production of 50,000 pounds of Pennsylvania production (A) is considered. The Board should include the formula that results in this figure in the final-form regulation.

6. Section 148.5. Collection and distribution of the pool.—Clarity.

Subsection (2) example

We have two concerns with this example.

First, there appears to be a math error in the calculation. The answer should be “\$0.8125” not “\$0.5417.”

Second, the parentheses in the denominator of the formula at the end of the example are incorrect. It appears the intent is to subtract 100,000 from 300,000 and then divide the difference by 100. However, this is unclear as written in the example.

Subsection (3)

The Board has included numerous examples throughout this regulation. However, there is no example for Subsection (3). As the examples in other subsections lend clarity, the Board should consider inserting an example in Subsection (3).

7. Section 148.6. Pool administrator’s reporting requirements.—Reasonableness; Economic impact.

The dates for reporting requirements set forth in this section and Section 148.2 (relating to Pennsylvania over-order premium dealer’s reporting requirements) may be difficult to meet. For example, a Commentator expressed a concern that data required on the sixteenth of the month is not usually available until the twelfth of the month and can’t be fully submitted to the Board until the twenty-fifth of the month. The Board should explain how the new reporting requirements can be met, and what economic impact these deadlines will have on pool plants.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-2198. Filed for public inspection December 7, 2001, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, 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.

| <i>Final Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> |
|-----------------------|--|-----------------|
| 3-4 | Department of Banking Mortgage Bankers and Brokers; Continuing Education | 11/20/01 |
| 10-156 | Department of Health Reporting of Communicable and Noncommunicable Diseases | 11/26/01 |
| 16A-482 | State Board of Funeral Directors Application Fees | 11/27/01 |
| 16A-694 | State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Licensure | 11/28/01 |
| 16A-6311 | State Board of Psychology Examination Fees | 11/27/01 |

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-2199. Filed for public inspection December 7, 2001, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Merger

An application has been received requesting approval of the merger of Title & Trust Company of Florida, a nonadmitted stock title insurance company organized under the laws of the State of Florida, with and into Commonwealth Land Title Insurance Company, a stock title insurance company organized under the laws of the Commonwealth of Pennsylvania. The initial filing was received on November 27, 2001, and was made under requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. §§ 1921—1932 and 15 Pa.C.S. §§ 21205—21207. Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120; fax (717) 787-8557; e-mail cbybee@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2200. Filed for public inspection December 7, 2001, 9:00 a.m.]

Keystone Health Plan East; Rate Filing

On November 19, 2001, Keystone Health Plan East filed for an increase in the commercial HMO rates in its

five-county Southeastern Pennsylvania service area. The proposed medical rate increase is 18.2% and 21.5% for pharmacy.

The medical rate increase will affect approximately 606,000 members and will generate additional annual income of \$193 million and the pharmacy rate increase will affect approximately 461,000 members and will generate an additional annual income of \$45 million.

The requested effective date of this change is April 1, 2002.

Copies of this filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg and Philadelphia.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Office of Rate and Policy Form Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2201. Filed for public inspection December 7, 2001, 9:00 a.m.]

Medical Professional Liability Catastrophe Loss Fund; Hospital Experience Modification Factors Filing

On November 20, 2001, the Insurance Department (Department) received a filing from the Medical Professional Liability Catastrophe Loss Fund for the adjustments to the prevailing primary premiums for hospitals under section 701(e)(4) of Act 135 of 1996.

The filing indicates the following:

"... the requested hospital experience modification factors (are) ... between -20% and +20%, as provided for in the statute."

"... the overall impact of the program on hospitals as a class is revenue neutral."

The filing applies to any new policies effective on or after January 1, 2002.

Copies of the filing will be available for public inspection during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2202. Filed for public inspection December 7, 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 their company's termination of the insured's automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). These administrative hearings will be held in the Insurance Department's regional offices in Pittsburgh, Harrisburg and Philadelphia, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Solly Thomas; file no. 01-308-73137; Phoenix Insurance Company (Travelers); doc. no. PI01-11-036; January 3, 2002, at 3 p.m.

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 Edwin Gunshore; file no. 01-182-07905; Travelers Indemnity Company; doc. no. P01-11-032; January 9, 2002, at 10 a.m.

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 Roger and Carol L. Pendel; file no. 01-182-07550; Donegal Mutual Insurance Company; doc. no. PH01-11-033; April 17, 2002 at 8:30 a.m.

Appeal of Nataliya and Valeriy Krasnov; file no. 01-215-05400; AAA Mid-Atlantic Insurance Group; doc. no. PH01-11-031; April 17, 2002 at 9:30 a.m.

Appeal of Richard and Donna Williams; file no. 01-280-05290; Encompass Insurance Company; doc. no. PH01-11-034; April 17, 2002 at 1 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 is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearings, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2203. Filed for public inspection December 7, 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 insured's policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by the appellant 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 Leroy and Suzette Jackson; file no. 01-182-07048; Nationwide Mutual Fire Insurance Company; doc. no. P01-11-028; January 10, 2002, at 1:30 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 Gerald and Carolyn Finn; file no. 01-280-05475; Keystone Insurance Company; doc. no. PH01-11-030; April 17, 2002, at 10:30 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.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner 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. 01-2204. Filed for public inspection December 7, 2001, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act, the act of September 30, 1983 (P. L. 160, No. 39) as amended by section 2 of the act of October 19, 1995 (P. L. 324, No. 51) mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12 month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics (BLS) immediately prior to the date adjustment is due to take effect.

As required by section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U(PA-DE-NJ-MD) over the past 12 months as reported by BLS on November 16, 2001, that the salaries covered by that law shall be increased by 2.8% effective January 1, 2002. The following chart sets out the agency head position, the salary prior to the adjustment, the percentage amount of the adjustment, and the new salary:

COLA ADJUSTMENT FOR ELECTED AND APPOINTED OFFICIALS RECEIVING SALARIES CONTAINED IN ACT 1995-51

PREPARED NOVEMBER 16, 2001

COLA ADJUSTMENT IS BASED ON THE PERCENT CHANGE IN THE CPI-U FOR PA-DE-NJ-MD, CMSA, FOR THE 12 MONTH PERIOD ENDING OCTOBER 2001

| POSITION | SALARY PRIOR TO 1/1/02 | COLA ADJUSTMENT | SALARY EFFECTIVE 1/1/02 |
|---------------------|------------------------|-----------------|-------------------------|
| Governor | \$138,270 | 2.8% | \$142,142 |
| Lieutenant Governor | \$116,147 | 2.8% | \$119,399 |
| State Treasurer | \$115,041 | 2.8% | \$118,262 |
| Auditor General | \$115,041 | 2.8% | \$118,262 |
| Attorney General | \$115,041 | 2.8% | \$118,262 |

| POSITION | SALARY PRIOR TO 1/1/02 | COLA ADJUSTMENT | SALARY EFFECTIVE 1/1/02 |
|--|------------------------------|--------------------|-------------------------------|
| Large Agency Head Secretary of Education Secretary of Environmental Protection Secretary of Health Secretary of Labor & Industry Secretary of Public Welfare Secretary of Transportation Secretary of Corrections | \$110,617 | 2.8% | \$113,714 |
| Medium Agency Head Secretary of Aging Secretary of Community & Economic Development Secretary of General Services Secretary of Revenue State Police Commissioner Secretary of Conservation & Natural Resources | \$105,086 | 2.8% | \$108,028 |
| Small Agency Head Adjutant General Secretary of Agriculture Secretary of Banking Secretary of the Commonwealth Insurance Commissioner | \$99,555 | 2.8% | \$102,343 |
| Liquor Control Board | | | |
| Chairman | \$56,193 | 2.8% | \$57,766 |
| Member | \$53,980 | 2.8% | \$55,491 |
| Civil Service Commission | | | |
| Chairman | \$44,938 | 2.8% | \$46,196 |
| Member | \$44,938 | 2.8% | \$46,196 |
| State Tax Equalization Board | | | |
| Chairman | \$19,359 | 2.8% | \$19,901 |
| Member | \$17,974 | 2.8% | \$18,477 |
| Milk Marketing Board | | | |
| Chairman | \$17,974 | 2.8% | \$18,477 |
| Member | \$17,284 | 2.8% | \$17,768 |
| Securities Commission*** | | | |
| Chairman | \$30,244 | 2.8% | \$31,091 |
| Member | \$27,591 | 2.8% | \$28,364 |
| Athletic Commission | | | |
| Chairman | \$14,520 | 2.8% | \$14,927 |
| Member | \$13,827 | 2.8% | \$14,214 |
| Board of Pardons | | | |
| Member | \$12,721 | 2.8% | \$13,077 |
| Board of Claims | | | |
| Chairman | \$93,801 | 2.8% | \$96,427 |
| Member | \$89,379 | 2.8% | \$91,882 |
| Public Utility Commission | | | |
| Chairman | \$107,586 | ** | \$110,528 |
| Member | \$105,086 | 2.8% | \$108,028 |
| Environmental Hearing Board * | | | |
| Chairman | \$107,586 | * | \$110,528 |
| Member | \$105,086 | * | \$108,028 |

* The Environmental Hearing Board is not contained in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the PUC.

** : Act 1995-51 requires that the PUC Chairman shall receive \$2,500/yr. more than PUC Members.

*** : Per Act 1998-51.

ROBERT A. BITTENBENDER,
Secretary

[Pa.B. Doc. No. 01-2205. Filed for public inspection December 7, 2001, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before December 31, 2001, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-00118449. Silver Spring Ambulance and Rescue Association, t/d/b/a Metro Med Services (P. O. Box 177, New Kingstown, Cumberland County, PA 17072), a corporation of the Commonwealth of Pennsylvania, persons in paratransit service, between points in the counties of Cumberland, Dauphin, Perry and York, and from points in said counties, to points in Pennsylvania, and return. *Christie M. Mellott, 5002 Lenker Street, Suite 202, Mechanicsburg, PA 17055.*

A-00118453. Albit Garcia, t/d/b/a Penn Central Taxi (1021 South Progress Avenue, Apt. R # 4, Harrisburg, Dauphin County, PA 17111)—persons upon call or demand, in the counties of Dauphin and Cumberland.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.

A-00116247, F. 1, Am-A. Somerset Area Ambulance Association, Inc. (P. O. Box 615, Somerset, Somerset County, PA 15501), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service: (1) to or from medical appointments, between points in the county of Somerset, and from points in said county, to points in the counties of Allegheny, Bedford, Blair, Cambria, Fayette and Westmoreland, and return. Subject to the following condition: that service is limited to the use of vehicles equipped with side opening door, ramps or lifts to handle wheelchairs; and (2) from points in the county of Somerset, to the Allegheny General Hospital in the county of Allegheny, and return. *Attorney: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.*

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-00118447, F. 2. Vicki M. Cranston, t/d/b/a Vicki Cranston Services (15 Swamp Road, Newtown, Bucks County, PA 18940)—household goods, in use, between

points in the city and county of Philadelphia, and the county of Bucks, and from points in said territory, to points in Pennsylvania, and vice versa.

A-00118461. Hector Vazquez, t/d/b/a Papolo's Moving & Shipping (324 Hill Street, Bethlehem, Northampton County, PA 18015)—to transport, as a common carrier, by motor vehicle, household goods, in use, for the Hispanic Community, between points in the county of Northampton, and from points in said county, to points in Pennsylvania, and, vice versa. Application for Temporary Authority has been filed at A-00118461, seeking the right previously cited.

Application of the following for approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-00103025, F. 1- Am-A. Jay A. Meck (5 Barr Avenue, Gordonville, Lancaster County, PA 17529)—discontinuance of service—persons, in paratransit service, between points in the county of Lancaster, and from points in said county to points in Pennsylvania, and return. *Attorney: H. Charles Benner, 200 East Main Street, Leola, PA 17540.*

Notice of Motor Carrier Applications— Persons in Limousine Service

The following applications for authority to transport persons in limousine service between points in Pennsylvania have been filed with the Commission. The applications will be considered without hearing in the absence of substantive protests limited to the issue of applicant fitness. Protests to these applications are due on or before December 31, 2001.

| | |
|------------|--|
| A-00118443 | LaRue Limousine, LLC 17 Louella Court Wayne, PA 19087 <i>Attorney: Mark D. Schaffer 1429 Walnut Street Suite 800 Philadelphia, PA 19102</i> |
| A-00118446 | Rachel Limo Services, Inc. #7 Mallard Pond Circle Newtown, PA 18940 |
| A-00118448 | Alexa Limo, Inc. 7811 Whitaker Avenue Philadelphia, PA 19111 |
| A-00118450 | All City Transportation, Inc. 6821 Norwich Drive Philadelphia, PA 19153 |
| A-00118451 | Arista Limousine, Inc. 543 Jason Drive Southampton, PA 18966 |

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Dol-Jon, Inc.; Doc. No. A-00107755C01

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania, empowered to regulate motor carriers and brokers within this Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsi-

bilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Dol-Jon, Inc., respondent, maintains a principal place of business at 7879 Talhelm Road, Chambersburg, PA 17201.

2. That all times relevant to this Complaint, respondent held a certificate of public convenience issued by this Commission at Application Docket No. A-00107755.

3. That pursuant to Section 512 of the Public Utility Code, 66 Pa. C.S. § 512, and 52 Pa. Code Chapter 32; respondent is required to maintain evidence of current insurance on file with this Commission.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance, in violation of the Public Utility Code and regulations cited in Paragraph 3 of this complaint.

5. That as a result of failure to maintain evidence of current insurance on file with this Commission, the Bureau of Transportation and Safety Prosecutory Staff requests that the Secretary of the Commission revoke respondent's certificate of public convenience.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Secretary of the Commission revoke the certificate of public convenience held by Dol-Jon, Inc. at Docket No. A-00107755, for failure to maintain evidence of current insurance on file with the Commission.

Respectfully submitted,

Michael E. Hoffman, Acting Director
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, Michael E. Hoffman, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Michael E. Hoffman

Notice to Plead

A. You must file an answer within twenty (20) days of the date of service. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice to plead. 52 PA Code § 1.56(a). The answer must raise all factual and legal arguments that you wish to claim in your defense and must include the docket number of this Complaint. Your answer must be verified and the original and two (2) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service as identified in Paragraph A. above, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier

permit; or brokerage license or imposing such other remedy as may be appropriate.

C. In lieu of an answer, you may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in Paragraph A. Upon receipt of the proof of insurance from your insurer, the complaint proceeding shall be closed. ACORD CERTIFICATES OF INSURANCE ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier permit; or brokerage license.

E. If you file an answer which contests the complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Insurance/Filing Unit at (717) 783-5933.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Thomas Novak, d/b/a
Lee's Moving; Doc. No. C-20016179*

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania, empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Thomas Novak, d/b/a Lee's Moving, respondent, maintains his principal place of business at 1950 Hamilton Street, Allentown, PA 18102.

2. That, on the date of the violation alleged in this complaint, respondent did not hold a certificate of public convenience issued by this Commission.

3. That respondent's employee, on August 21, 2001, held out to provide transportation by giving an estimate to Enforcement Officer Ronald Schreiber to move three rooms of furniture from Allentown to Bethlehem, Pennsylvania. Respondent quoted a price of two men at a rate of \$65 per hour. When asked if respondent would supply the driver as a third man the rate went up to \$75 per hour and if a fourth man is needed it would be \$85 per hour. Respondent was warned in June 1998 that he could not provide transportation of household goods. Penalty is \$500.

4. That respondent, in performing the act described in Paragraph 3 of this complaint, violated the Public Utility Code, 66 Pa.C.S. § 1101, in that respondent held himself out to provide transportation of household good for compensation between points in the Commonwealth of Pennsylvania while not then holding a certificate of public convenience issued by this Commission.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Thomas Novak, d/b/a Lee's Moving the sum of five hundred dollars (\$500) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Michael E. Hoffman, Director
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, Michael E. Hoffman, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____

Michael E. Hoffman

Notice

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty (see B).

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision. The judge is not bound by the optional fine set forth in C, above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2206. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310513F7001. Verizon North Inc. and Sprint Spectrum L.P. Joint Petition of Verizon North Inc. and Sprint Spectrum L.P. for approval of an amendment to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Sprint Spectrum L.P. filed on November 20, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of an Amendment to 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 Sprint Spectrum L.P. 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. 01-2207. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310965F7000. Verizon Pennsylvania Inc. and Ciera Network Systems, Inc. Joint Petition of Verizon Pennsylvania Inc. and Ciera Network Systems, Inc. for approval of an interconnection agreement replacing a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Ciera Network Systems, Inc. filed on November 21, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Replacement 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 Ciera Network 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. 01-2208. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310832F7000. Verizon Pennsylvania Inc. and IG2 Inc. Joint Petition of Verizon Pennsylvania Inc. and IG2 Inc. for approval of a replacement interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and IG2 Inc. filed on November 23, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Replacement 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 IG2 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. 01-2209. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310957F7000. Verizon Pennsylvania Inc. and KMC Telecom V, Inc. Joint Petition of Verizon Pennsylvania Inc. and KMC Telecom V, Inc. for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and KMC Telecom V, Inc. filed on November 26, 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 KMC Telecom V, 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. 01-2210. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-311021F7000. Verizon Pennsylvania Inc. and Lightwave Communications, LLC. Joint Petition of Verizon Pennsylvania Inc. and Lightwave Communications, LLC for approval of a supplemental interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Lightwave Communications, LLC filed on November 16, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Supplemental Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Lightwave Communications, 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. 01-2211. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-311021F7000. Verizon Pennsylvania Inc. and Lightwave Communications, LLC. Joint Petition of Verizon Pennsylvania Inc. and Lightwave Communications, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Lightwave Communications, LLC filed on November 16, 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 Lightwave Communications, 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. 01-2212. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-311011F7000. Verizon Pennsylvania Inc. and Norcom, Inc. Joint Petition of Verizon Pennsylvania Inc. and Norcom, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Norcom, Inc. filed on November 23, 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 Norcom, 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. 01-2213. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310995F7000. Verizon Pennsylvania Inc. and PulseNet, Inc. Joint Petition of Verizon Pennsylvania Inc. and PulseNet, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and PulseNet, Inc. filed on November 23, 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 PulseNet, 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. 01-2214. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310581F7000. Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue. Joint Petition of Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue for approval of a supplemental interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue filed on November 15, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Supplemental Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the

Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue 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. 01-2215. Filed for public inspection December 7, 2001, 9:00 a.m.]

Telecommunications

A-310581F7000. Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue. Joint Petition of Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue 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 Pennsylvania Inc. and VIC-RMTS-DC, LLC d/b/a Verizon Avenue 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. 01-2216. Filed for public inspection December 7, 2001, 9:00 a.m.]

Tentative Order

Public Meeting held
November 9, 2001

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick

Request for Comments re: Standard for Comparing Local Service Options for Use in a Consumer Education Program on Telephone Competition; Doc. No. M-00011580

Tentative Order

By the Commission:

The Commission proposes to implement a consumer education program concerning telephone competition in this Commonwealth. The program would educate consumers about the choices they have among carriers for various services including, but not limited to, local and long distance. The program would also educate consumers on how to read their bills and on what questions to ask when they inquire about their services.

Recent studies indicate that consumers' preferences are to have prices for the products and services to assist them in making a choice. We would like to accommodate those preferences in a manner that is easily readable, understandable and competitively neutral.

In the Electric Choice program¹, the "price to compare" became a key piece of consumer information. The "price to compare," which was expressed in cents/kWh and was unique to each electric distribution company, established a baseline for customers to use to compare and to evaluate the offers of competing electric generation suppliers. Thus, the "price to compare" facilitated customer choice by providing customers with an easy way to consider their electric generation supply options.

The Commission is looking to establish a similar tool in the telecommunications industry that will reduce customer confusion and will give customers the essential information that they need to do comparison shopping for local telephone service. The question is what information/standard would assist consumers and foster competition in the local telephone service market but would not be anti-competitive.

The standard should be universal and would be used when consumers apply for residential telephone service by phone, with a local exchange carrier service (LEC) representative providing the customer with information. This information should provide consumers with the opportunity to make a comparison among the companies offering service in their area so that they can purchase the telephone service that best meets their respective needs.

The standards for comparison that is derived as a result of this inquiry will not obfuscate the LEC's duty to comply with the Federal Communication Commission's Truth-In-Billing Rules, 15 U.S.C.A. § 1601, et seq., and our own standards and billing practices for residential customers or prior Commission orders relating to lifeline service availability.

We seek comments from the public and industry on this matter. Those submitting comments shall provide concrete proposals in support of their suggestions. In addition, we also seek specific comment on the following questions:

1. Would a proposed guideline(s)/standard(s) present an illegal barrier to entry under the Telecommunications Act of 1996 (TA-96)?
2. Will a proposed guideline(s)/standard(s) assist consumers in making a meaningful and effective comparison of the offers of competing local telecommunications service providers?
3. Should LECs (Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs)) be obligated to offer customers the service package/plan represented by a "price to compare?"
4. Is an approach similar to the one used in the electric choice program viable/feasible/workable in the telephone industry?

¹The Electric Choice Program was the consumer education/information program that facilitated customer participation in this Commonwealth's competitive electric generation market. As such, it represents an important milestone in the transition of this Commonwealth's electric industry from a regulated monopoly to a competitive marketplace.

5. If so, what component(s) of service should be the basis for a comparison?

6. The FCC's Truth-In-Billing regulations, 15 U.S.C. §§ 1601, et seq., and our own regulations require a basic service to be billed separately. Would that be a viable basis for the comparison?

7. If the Commission would decide to do a "price to compare," should information be confined only to a "residential flat monthly rate for unlimited local calling within a calling area that is equal to, or larger than, the calling area provided by an incumbent local exchange carrier"?

8. What is the estimated cost of implementing these guidelines/standards establishing the "price to compare" and presenting the "price to compare" to consumers in marketing materials, web sites, billing inserts and/or in customer service telephone contacts?

9. What would be the best way to implement this type of program?

In order to facilitate public comment/input on this matter, we will establish a 10-day comment period from the date of the publication of this order in the *Pennsylvania Bulletin*. We urge that all interested persons file comments as soon as possible. Note that reply comments will not be permitted; *Therefore*,

It Is Ordered that:

1. The requests for response and comment to the questions set forth in this Tentative Order regarding a standard for use in a consumer education program on telephone competition be issued to the public and to the industry.

2. This Tentative Order be published in the *Pennsylvania Bulletin* and that a comment period ending 10 days after publication is hereby established.

3. Written comments, an original and 15 copies shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. No reply comments will be permitted. A diskette containing the comments in electronic format must also be submitted. Comments should specifically reference the docket number of this order.

4. A copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff, posted on the Commission's website at <http://puc.paonline.com> and shall be made available to all other interested parties.

5. The contact persons for this matter are Lenora Best, Consumer Services, (717) 783-9090 and Patricia Krise Burket, Law Bureau (717) 787-3464.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2217. Filed for public inspection December 7, 2001, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0149.1r, Install Nine Fast Acting Roll-Up Doors, Pier 82 South, until 2 p.m. on Thursday, December 20, 2001. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Fl., Philadelphia, PA 19134, (215) 426-2600 and will be available December 10, 2001. The

cost of the bid document is \$35 (includes 7% PA sales tax) which is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

A mandatory prebid job site meeting will be held Thursday, December 13, 2001, 10 a.m. at the job site, Jackson St. and Columbus Blvd., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 01-2218. Filed for public inspection December 7, 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



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.

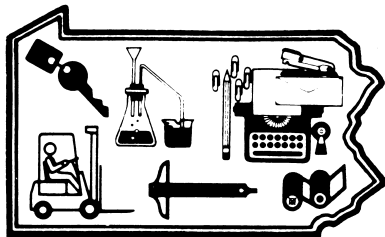
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

8251480 Litter Collector. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

8251510 Excavator, Track, Hydraulic. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

8506150 Alarm, Backup, Shock Mounted. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

1133811 Rebid Correct Storm Water Drainage. For a copy of bid package fax request to (717) 787-0725.

Department: Office of Administration/Executive Offices
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

SP8111550036 Vendor to provide: NT Server 4.0 Enterprise - 5 each; 2000 Advanced Server Upgrade - 2 each

Department: Office of Administration/Executive Offices
Contact: Jodi L. Dorman, (717) 787-8767

6530-01 Supplement #1 Patient Care & Safety Products. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: All Using Agencies of the Commonwealth
Duration: Contract Period 09/01/00 - 08/31/02
Contact: Vendor Services, (717) 787-2199

0061-11 Quarterly Newsletter "Lottery Line". If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Revenue
Location: Various, PA
Duration: March 1, 2002 - February 28, 2004
Contact: Vendor Services, (717) 787-2199

8251540 Kettle, BTM, 200 Gallon, Double Boiler, w/Conveyor. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

8135-01 Corrugated Fiberboard. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: General Services
Location: SCI Dallas, SCI Pittsburgh & Transportation (Various)
Duration: March 15, 2002 through March 14, 2003
Contact: Vendor Services, (717) 787-2199

1147151 Rebid R&R Cooling Tower, Pumps and Appurt. For a copy of bid package fax request to (717) 787-0725.

Department: General Services
Location: Reading, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

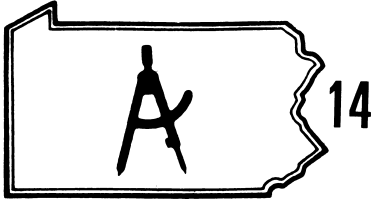
1144151 Computer Tables and Accessories. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: General Services
Location: Edinboro, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

6675-02 Surveying & Navigational Instruments. 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: 01/01/02 - 12/31/03
Contact: Vendor Services, (717) 787-2199

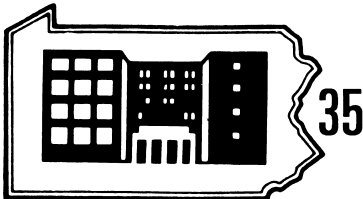
SERVICES



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.

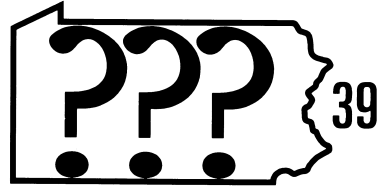
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Real Estate Services

93348 LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 12,940 useable square feet of office/clinic space within the following boundaries of Dauphin County: NORTH: Division Street & Elmerton Avenue; SOUTH: Chestnut Street & Derry Street; EAST: Progress Avenue; WEST: Front Street. A minimum of 75 parking spaces will be required. In areas where street or public parking is not available, an additional 10 parking spaces will be required. Downtown locations will be considered. For more information on SFP #93348 which is due on January 7, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Health
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: John Hocker, (717) 787-4396



Miscellaneous

RFA 01-07-18 County sheriff and District Attorney departments with ability to issue citations as well as local law enforcement agencies shall conduct tobacco compliance checks during the period January 1, 2002 to June 30, 2002 of tobacco retail outlets. Only over-the-counter outlets shall be checked with citations issued for all offenders. Department of Health protocol shall be utilized for all tobacco compliance checks.

Department: Health
Location: Statewide
Duration: 6 months 1/1/02 - 6/30/02
Contact: Judy Ochs, Div. of Tobacco Prevention & Control, (717) 783-6600

CZ3: RFP.01 DEP's Coastal Zone Management Program is accepting proposals to conduct a comprehensive study of the bluff recession hazard areas along the Lake Erie shoreline in Erie County, Pennsylvania. The study will evaluate existing bluff recession factors to identify and determine the location and geographic extent of bluff recession hazard areas along the shoreline in this region. The geographic limits of this study shall include all Lake Erie and Presque Isle Bay shoreline/bluff environments and stream interfaces. A copy of the Request for Proposals (RFP) can be obtained by contacting Scott Pletcher, Coastal Zone Management Program, Office of River Basin Cooperation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-9491, E-Mail: scpletcher@state.pa.us.

Department: Environmental Protection
Location: Erie County, PA
Duration: One year
Contact: Scott Pletcher, (717) 783-9491

113-1002 Facility shall accept bids for sit to stand patient lifts. Specifications available upon request.

Department: Military Affairs
Location: Southwestern Veterans Center, 7060 Highland Dr., Pittsburgh, PA 15202
Duration: 12/15/01-03/31/02
Contact: Ken Wilson, (412) 665-6727

[Pa.B. Doc. No. 01-2219. Filed for public inspection December 7, 2001, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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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 |
|--|---|-------------------------|-----------------------------|
| 7125-01 Re-Bid | 11/27/01 | Kent Fixture | 252,188.90 |
| 1130211-01 | 11/26/01 | Adolph Sufrin | 20,884.00 |
| 1141211-01 | 11/26/01 | Continental Flooring | 17,801.60 |
| 8251450-01 | 11/26/01 | M-B Compa- nies | 47,250.00 |

KELLY P. LOGAN,
Acting Secretary

[Pa.B. Doc. No. 01-2220. Filed for public inspection December 7, 2001, 9:00 a.m.]