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PENNSYLVANIA BULLETIN

Volume 26
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for the Department of Conservation and
Natural Resources Revisions to Schedule
of Fees and Charges for State
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Part I

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Liquor Control Board
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 265, December 1996

PENNSYLVANIA

BULLETIN

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Pennsylvania Bulletin

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

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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

Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CH. 1400]

Order Amending Rule 1409 and Approving Comment Revisions to Rules 1405 and 1410: Sentencing; No. 213; Doc. No. 2

Amendatory Order

Per Curiam:

Now, this 22nd day of November, 1996, upon the recommendation of the Criminal Procedural Rules Committee,

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that the Comment to Rule of Criminal Procedure 1409, as it appears in Order No. 213 (September 26, 1996) (26 Pa.B. 4898 (October 12, 1996)), is hereby corrected to read as follows:

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 1400. SENTENCING

Rule 1409. Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition.

* * * * *

Comment: This rule addresses Gagnon II revocation hearings only, and not the procedures for determining probable cause (Gagnon I). See *Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

Paragraph (A) requires that the Gagnon II proceeding be initiated by a written request for revocation filed with the clerk of courts.

The judge may not revoke probation or parole on arrest alone, but only upon a finding of a violation thereof after a hearing, as provided in this rule. However, the judge need not wait for disposition of new criminal charges to hold such hearing. See *Commonwealth v. Kates*, [452 Pa. 102,] 305 A.2d 701 (Pa. 1973).

This rule does not govern parole cases under the jurisdiction of the Pennsylvania Board of Probation and Parole, but applies only to the defendants who can be paroled by a judge. See [Act of June 11, 1911, P. L. 1059, § 1, as amended by the Acts of May 5, 1921, P. L. 379, § 1, and May 11, 1923, P. L. 204, § 1,] 61 P. S. § 314. See also *Georgevich v. Court of Common Pleas of Allegheny County*, [510 Pa. 285,] 507 A.2d 812 (Pa. 1986).

This rule was amended in 1996 to include sentences of intermediate punishment. See 42 Pa.C.S. §§ 9763 and 9773.

Rules 1405 and 1410 do not apply to revocation cases.

Issues properly preserved at the sentencing proceeding need not, but may, be raised again in a motion to modify sentence in order to preserve

them for appeal. In deciding whether to move to modify sentence, counsel must carefully consider whether the record created at the sentencing proceeding is adequate for appellate review of the issues, or the issues may be waived. See *Commonwealth v. Jarvis*, 663 A.2d 790, 791-2, n. 1 (Pa. Super. 1995). As a general rule, the motion to modify sentence under paragraph (D) gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under paragraph (D), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an issue for appeal, as long as the issue was properly preserved at the time sentence was modified or reimposed.

This *Amendatory Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 1997.

[Pa.B. Doc. No. 96-2085. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Amendment of Phila.Civ.R. No. ★1303(g) and (j);
President Judge General Court Regulation No.
96-4

Order

And Now, this 26th day of November, 1996, the Board of Judges of Philadelphia County having voted to amend Phila.Civ.R. No. ★1303(g) and (j), at the Board of Judges' meeting held on November 21, 1996, *It Is Hereby Ordered* that Phila.Civ.R. No. ★1303(g) and (j) is amended as follows.

This General Court Regulation is issued in accordance with Phila.Civ.R. No. ★51 and Pa.R.C.P. No. 239 and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.C.P. No. 239, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedure Rules Committee. Copies of the

Order shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library, and the law library for the First Judicial District.

ALEX BONAVITACOLA,
President Judge

Rule ★1303. Scheduling of Arbitration Hearings, Relistings, Consolidations.

* * * * *

(g) *Transfer from Arbitration to Major List.* A case filed as an Arbitration case may be certified as a major case **[by obtaining court approval upon the filing of a Miscellaneous Arbitration Application, substantially in the form set forth hereunder.] only with court approval. A Petition for Approval to Transfer from Arbitration to Day Forward must be filed with the Prothonotary. [The request to Transfer] The Petition for Approval to Transfer will not be granted if it is made immediately before the Arbitration hearing date and it appears that the requisite pleadings have not been filed.**

* * * * *

(j) *Failure to Serve Initial Pleading or Complaint.* If **[the initial pleading has not been served or if]** a complaint has not been filed or served by the date of the scheduled hearing, **[the case will be nonprocessed] the case will be assigned to an arbitration panel with instructions to enter an award in favor of the defendant, unless counsel has complied with Phila.Civ.R.No. ★1303(b)(5)(i) and obtained a relisting prior to the Arbitration Hearing date.**

[Pa.B. Doc. No. 96-2086. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Amendments to Rules of Civil Procedure

Order

And Now, this 27th day of November, 1996, the attached Amendment to the Chester County Rules of Civil Procedure are hereby adopted effective December 1, 1996.

By the Court

THOMAS G. GAVIN,
President Judge

Rule 1910.10.A. Hearing Procedure. Hearing Officers.

(1) This court chooses to use the procedures set forth in Pa.R.C.P. 1910.12 **[Copies of the Pennsylvania Support Guidelines shall be available at the Chester County Domestic Relations Office.], except for those cases in which a motion for a separate listing pursuant to Pa.R.C.P. 1910.12(c) has been granted. Cases separately listed pursuant to Pa.R.C.P. 1910.12(c) shall be scheduled for hearing before the Court pursuant to Pa.R.C.P. 1910.11.**

[Pa.B. Doc. No. 96-2087. Filed for public inspection December 13, 1996, 9:00 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 59]

Deletion of Grade AA Regulatory Standards for Milk

The Department of Agriculture (Department) amends Chapter 59 (relating to milk sanitation) by deleting all provisions that allow milk to be designated as Grade AA.

The statutory authority for this regulatory amendment is the act of July 2, 1935 (P. L. 589, No. 210) (31 P. S. §§ 645—660f), which authorizes the Department to regulate the production, processing, storage and packaging of milk to safeguard human health.

The current Grade AA standard for milk is in direct conflict with the requirements of the Nationwide compact under which Grade A milk moves unimpeded in interstate commerce. The regulatory amendment is necessary to keep Pennsylvania-produced milk and milk products competitive in interstate commerce.

The Commonwealth is a participant in the National Conference of Interstate Milk Shippers (NCIMS). The NCIMS is an organization created by the United States Food and Drug Administration Milk Safety Branch, state regulatory agencies and the Nation's dairy industry to standardize regulations to ensure the safety of the milk supply and to facilitate the interstate shipment of milk. Prior to NCIMS, individual states—and even individual municipalities—had established milk sanitation and testing requirements that impeded the flow of milk in interstate commerce. The NCIMS developed a uniform set of standards—the Grade A Pasteurized Milk Ordinance (Grade A PMO)—which, when adhered to by a member state, allow that state's milk to move in interstate commerce to other member states without those other member states imposing any further sanitation or testing requirements.

The Grade A PMO explicitly prohibits the use of super grade designations such as Grade AA with respect to milk produced by member states. The ultimate result of the Department's failure to eliminate the Grade AA standard for milk would be restrictions on Pennsylvania-produced milk and milk products in interstate commerce. Grade A milk represents over 90% of this Commonwealth's dairy output. Grade AA milk, by contrast, accounts for less than 5% of the Commonwealth's dairy output. On balance, the Department agrees the Grade AA standard for milk must be deleted to protect the Commonwealth's dairy industry.

Comments

Notice of proposed rulemaking was published at 26 Pa.B. 3546 (July 27, 1996), and provided for a 30-day public comment period.

Comments were received from a dairy operation that has been producing milk to meet Grade AA standards since 1994 and a dairy operation that supports the elimination of Grade AA standards. The House Agriculture and Rural Affairs Committee (House Committee) also offered comments.

The Independent Regulatory Review Commission (IRRC) offered no objections, comments or suggestions with respect to the proposed rulemaking.

A dairy operation that has been producing milk to meet Grade AA standards since 1994 raised the question: "What do we tell our customers now that we can't sell Grade AA milk?" The Department acknowledges that the elimination of Grade AA milk standards may, at the outset, cause some confusion in the marketplace as consumers who were familiar with the Grade AA designation on the containers of milk they purchase discover they can no longer purchase milk in containers bearing that designation. Any adverse impact should be blunted, to some extent, by the fact that no other containers of milk being offered for sale in this Commonwealth will bear the Grade AA designation.

The same dairy operation expressed apprehension that the family farms which ship milk to that operation might be hurt by the elimination of Grade AA milk standards. The dairy operation had paid these suppliers approximately \$480,000 in quality premiums for Grade AA milk since 1994.

The Department responds that the dairy operation remains free to pay premiums for milk that exceeds Grade A standards. It is generally accurate that—all other factors being identical—milk with a lower bacterial count will keep longer than milk with a higher bacterial count. It is also generally accurate that bacterial count ultimately impacts upon the taste of milk. A dairy operation remains free to pay producers a premium based on this added value.

The same dairy operation expressed concern that it would be difficult to derive any economic benefit from producing milk that exceeds Grade A milk standards if it cannot express on its product labeling that the milk is somehow above average.

The Department responds that a milk producer remains free to put accurate, nonmisleading statements as to milk composition and testing on its milk container labeling.

Another dairy operation offered its support for the elimination of Grade AA milk standards.

The House Committee asked whether the Department believes it has fully pursued the alternative of amending the Grade A PMO to allow all participating states the option of voluntary Grade AA standards for milk. The Department responds that it has pursued this possibility and that the attainment of this revision to the Grade A PMO is not likely to occur in the foreseeable future. As a group, state regulatory agencies are concerned primarily with the safety of milk for human consumption—and not the keeping quality or taste of the milk. Milk produced in accordance with Grade A standards is safe.

The milk processor has a direct financial interest in producing milk that is of good taste and keeping quality. If a milk processor believes there is a benefit to be derived from testing milk more often than is called for under the Grade A PMO, it remains free to do so. It may not designate this milk Grade AA, though.

The House Committee offered its reluctant concurrence with the Department's proposed deletion of Grade AA milk standards:

...The committee does, however, recognize the fact that because of the substantial negative implications for the entire milk industry of the NCIMS ruling that Pennsylvania's Grade AA standards violate the Pas-

teurized Milk Ordinance, the department has very little choice but to proceed with this proposal. . .

When all factors are considered, we do acknowledge that the adverse impact of failing to repeal Grade AA standards far outweighs our reservations expressed herein. . .

For the reasons expressed in the proposed rulemaking and in this final rulemaking the Department deems it necessary to enter this order.

Fiscal Impact

Commonwealth

The amendments will impose no costs and have no fiscal impact upon the Commonwealth.

Political Subdivisions

The amendments will impose no costs and have no fiscal impact upon political subdivisions.

Private Sector

The amendments may impose some costs upon the Pennsylvania-based dairy processors that currently produce milk meeting Grade AA requirements. Although the amendments will decrease the testing costs borne by these dairy processors, these processors might suffer some short-term financial loss as consumers familiar with the Grade AA designation on milk containers encounter Grade A designations for the first time. It is not known whether these losses would be entirely offset by decreased testing costs.

The result of failing to proceed with these amendments would be to subject Pennsylvania-produced milk and milk products to embargoes or inspection requirements of other NCIMS member states. The adverse fiscal impact on this Commonwealth's dairy industry would be immediate and dramatic, and would far outweigh any adverse fiscal impact that the Commonwealth's Grade AA dairy processors might suffer as a result of these amendments.

General Public

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

Paperwork Requirements

The amendments will not result in an appreciable increase in paperwork.

Contact Person

Further information is available by contacting the Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pa. 17110-9408, Attention: James Dell.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 16, 1996, the Department submitted a copy of the notice of proposed rulemaking published at 26 Pa.B. 3546, to IRRC and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment. In compliance with section 5(b.1) of the Regulatory Review, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the Senate Committee and the House Committee on

November 12, 1996, and were approved by IRRC on November 12, 1996, in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department finds that:

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

(2) A public comment period was provided as required by law and that the comments received were considered.

(3) Any modification made to these regulations in response to comments received did not enlarge the purpose of the proposed amendments published at 26 Pa.B. 3546.

(4) The amendments meets the requirements of Executive Order 1996-1, "Regulatory Review and Promulgation."

(5) The adoption of the amendments in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 59, are amended by amending §§ 59.1, 59.12, 59.52 and 59.310 to read as set forth at 26 Pa.B. 3546.

(b) The Secretary of Agriculture shall submit this order and 26 Pa.B. 3546 to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Secretary of Agriculture shall certify this order and 26 Pa.B. 3546 and deposit them with the Legislative Reference Bureau as required by law.

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

CHARLES C. BROSIUS,
Secretary

Fiscal Note: Fiscal Note 2-108 remains valid for the final adoption of the subject regulations.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5915 (December 7, 1996).)

[Pa.B. Doc. No. 96-2088. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 142]

Grants for Public Library Construction

The Department of Education (Department), Commonwealth Libraries, State Library of Pennsylvania (Commonwealth Libraries) is responsible for promulgating regulations relating to public library facilities grant programs authorized by the Keystone Recreation, Park and Conservation Fund Act (act) (32 P.S. §§ 2011—2024). The Department is publishing Chapter 142 (relating to grants

for public library facilities) in final form. The statutory authority for this chapter appears in the act and in The Library Code (24 P. S. §§ 4101—4503), as follows: section 8(a) of the act (32 P. S. § 2018(a)), states “Each agency shall promulgate rules and regulations that are necessary to carry out the purposes of this act consistent with the criteria set forth in this act,” and section 201(15) of The Library Code (24 P. S. § 4201(15)), gives the State Librarian the power and duty “Generally, to promulgate rules and regulations for the purpose of carrying out the powers and duties relating to libraries as are imposed by law. . . .”

These regulations provide rules of a public library facilities grant program to pay costs of planning, acquisition, rehabilitation or development (that is, new construction, improvement, alteration or renovation required for and compatible with the physical development or improvement of land or buildings for library purposes). The Department will make grants to municipalities to benefit their public libraries.

Purpose of the Regulations

These final-form regulations are connected with Keystone Recreation, Park and Conservation Fund (Fund) grant programs and, specifically, will govern the program of grants for the planning, acquisition, development and rehabilitation of public library facilities. The Fund is being developed from the proceeds of \$50 million Commonwealth bond issue and the dedication of 15% of the revenue from the State Realty Transfer Tax. A portion of this Fund is being allocated to the Department to use for the planning, acquisition, development and rehabilitation of public library facilities. Two million five hundred thousand dollars from the bond revenues and 4% of the dedicated portion of the State Realty Transfer Tax are being allocated to the Department to provide grants to municipalities to pay up to 50% of eligible project costs.

Over a 3-year period beginning October 1994, the Commonwealth has been issuing bonds. The proceeds of the bond issue are being added to the Fund and made available to the Department of Education for purposes of the act. An amount of the State Realty Transfer Tax has been and will continue to be transferred to the Fund at the end of each month beginning July 31, 1994. Moneys transferred to the Fund from State Realty Transfer Tax revenues were made available to the Department during the fiscal year beginning July 1, 1995.

The final-form regulations set up rules for a competitive grant program. The Department and the Commonwealth Libraries will administer the grant program according to the final-form regulations and will provide grants from the Fund to municipalities for public library projects as authorized by section 8(d) of the act. Municipalities will be eligible to apply for grants to benefit their public libraries.

Explanation of Regulatory Requirements/Comment and Response Summary

The final-form regulations provide specific rules for a grant program for planning, acquisition, development and rehabilitation of public library facilities. During the public comment period, the Department received two letters, one recommending a rewording of three sections, the other not recommending change. The regulations were also reviewed by the Senate and House Education Committees and the Independent Regulatory Review Commission (IRRC). The House Education Committee and IRRC both made suggestions for revisions to the regulations.

Because there were many comments, this preamble will review the comments and the Department's responses section by section.

Section 142.1 (relating to definitions) defines words and terms. The proposed regulations listed words and terms defined in the act and stated they would retain those definitions. IRRC recommended definitions be provided for all terms listed. The Department responded by adding definitions for the following terms: “acquisition,” “administrative expenses,” “agency,” “development,” “fund,” “land,” “planning,” “rehabilitation” and “technical assistance.” At IRRC's suggestion, the Department revised the act's definitions for “acquisition,” “agency,” “development,” “planning” and “rehabilitation” to apply only to the public library facilities program. In addition, at IRRC's recommendation the Department added two new definitions, for “indirect costs” and “minor civil division.”

The proposed regulations defined “sponsoring municipality” in a way that differed from the definition of “municipality” in the act. Because the word “sponsoring” does not appear in The Library Code or regulations, IRRC recommended it be deleted and the word “municipality” be defined as it is in the act. The Department agreed and made this change. In addition, wherever the term “sponsoring municipality” was used throughout the proposal it was changed to “municipality.”

The act defines “library” but not “public library.” However, the term “public library” is used in section 8(d) of the act: “The Department of Education shall provide grants from bond revenues and realty transfer tax revenues to municipalities and appropriate organizations to pay up to 50% of the eligible project cost for planning, acquisition, development and rehabilitation of public libraries.” The Department wanted, in regulation, to provide a definition of public library that would be consistent with policy followed for other Federal and State library programs administered by the Commonwealth Libraries. Section 142.1 defined a “public library” as “a library or library system receiving State aid under Article III of The Library Code (24 P. S. §§ 4301—4304).” Providing grants for State-aided public library facilities helps to ensure the Commonwealth Libraries allocates the limited funds available to projects with the most potential for long term success.

IRRC questioned this approach and asked the statutory basis for this more restrictive definition. The statutory basis is found in section 201(15) of The Library Code (24 P. S. § 4201(15)), which gives the State Librarian the power and duty “Generally, to promulgate rules and regulations for the purpose of carrying out the powers and duties relating to libraries as are imposed by law. . . .” IRRC staff agreed that, as the custodial agency responsible for administering the grant funds, the Commonwealth Libraries could set restrictions consistent with prudent use of State funds. However, IRRC maintained the legally correct place for the restrictions would be the section dealing with eligible grantees rather than in the definitions section. The Department, therefore, has modified the definition to remove reference to libraries receiving State aid. A new eligibility requirement has been added to § 142.6 (relating to eligible matching funds) as described in this Preamble.

IRRC questioned the definition of the term “sponsoring school district” and recommended its deletion because the Legislature did not intend school districts to benefit from the Fund. The Department agrees the Fund is not to be used for school libraries and has deleted the definition. However, there are a few public libraries in this Common-

wealth that receive most of their operating funds from the school district. These libraries meet the definition of "library" in the act, meet all standards for receipt of public library State aid and meet the definition of "public library" in the final form regulations. Section 142.4 (relating to eligible grantees) was revised to ensure these libraries are eligible to benefit from Fund grants.

The regulations state the Commonwealth Libraries will develop a long-range plan to ensure the grant program is equitable and meets the needs of all regions of this Commonwealth (See, § 142.2). The proposal stated this plan would include a Statewide needs assessment, an action plan to meet identified needs, policies, funding priorities, criteria for grant awards and procedures for administration. The plan was also to include provision of technical assistance by the agency, monitoring of ongoing projects and evaluation of completed projects.

IRRC questioned some proposed components of the plan, specifically priorities, criteria for grant awards and procedures for administration. IRRC cited a Commonwealth Court decision in *DER v. Rushton Mining*, 591 A.2d 1168 (1991), in which the Court defined the differences between statements of policy and regulations by adopting the "binding norm test." IRRC stated that if funding would be contingent on priorities, criteria for grant awards or grant administration procedures, then they would be binding norms more properly in regulation rather than in a long-range plan. The Department did not mean for these terms to describe binding norms. All eligibility requirements applicants must meet to receive grants are in the act or the final-form regulations. The words were intended to refer to instances when the Commonwealth Libraries must apply judgement, as in evaluating competing grant applications when only a small percentage can be funded. Since the legal meaning of these terms—priorities, criteria, procedures—seems at odds with the Department's intended use of them, the terms were deleted from the final-form regulations. This change should remove any misconception the long-range plan is in any way intended to constitute a regulation or administrative law.

IRRC also recommended the initial plan and subsequent updates be published in the *Pennsylvania Bulletin*. The Department has taken this suggestion and added publication of the plan in § 142.2(d). The Department agrees this will be a cost-effective method to disseminate the plan. IRRC suggested further that a public comment period be held, after which the plan be published in final form. The Department prefers to take a different, and potentially more effective approach. The planning process will be very participatory. The regulations specify consultation with the Advisory Council on Library Development (a representative group of library professionals and laypersons appointed by the Governor), with municipal officials, and with library representatives. The Commonwealth Libraries has found using such a process ensures public participation and comment more effectively than requesting public comment in the *Pennsylvania Bulletin*. As evidence of this, one might consider the result of publication as a proposed rulemaking of these regulations, which deal with eligibility, matching funds and other issues important to those needing grants. Despite the Commonwealth Libraries' attempt to widely publicize the proposed rulemaking by mailing it to every public library and municipality in the State, these regulations generated only two letters from the public, one suggesting no change and one suggesting small changes. Commonwealth Libraries held a public hearing as announced in the *Pennsylvania Bulletin*, but no one came to testify.

The regulations specify eligible project costs. See § 142.3 (relating to eligible project costs). In the proposed regulations, this section included definitions for "planning," "acquisition," "development" and "rehabilitation." The definitions were deleted from this section in the final-form regulations because they now appear in the definition section.

Section 142.4 defines eligible grantees. The proposal included a statement that eligibility would be contingent upon inclusion of the library's development in a county plan for library service. IRRC recommended that, unless The Library Code is amended to include a requirement for county plans for library service, this part of the section be deleted. The Department agreed and deleted the subsection. Using exact language suggested by IRRC staff, the Department revised § 142.4(a) to be more consistent with the wording of the act. Similarly, the Department added § 142.4(c) and revised the wording of proposed § 142.4(c), now numbered § 142.4(d), using word-for-word the suggestions of IRRC staff. Finally, at IRRC's staff's suggestion, § 142.4(e) was added. This new subsection allows school district sponsored public libraries—not school libraries—to benefit from grants.

Finally a new subsection was added to require the public library benefitting from the grant to receive State aid under Article III of The Library Code. If a municipality receives a grant to build a new facility or renovate/rehabilitate an existing building for a new library that previously did not exist, this subsection requires that library to be eligible for and to apply for State aid the year it opens to the public. For the following reasons, the Department believes this eligibility restriction is necessary for the responsible and prudent administration of State grant funds:

(1) Providing grants for only State-aided public libraries is a policy followed consistently in all other Commonwealth Libraries grant programs.

(2) Allowing grants to benefit only State-aided libraries is a prudent use of scarce State funds. State-aided libraries are more likely to be viable organizations with reliable sources of operating funds. These regulations introduce some modicum of quality control because State-aided libraries must meet standards in Chapter 131 (relating to general provisions; State aid).

(3) The definition of "library" in the act establishes no minimum level of funding, staffing, materials or resources. Under this definition, an all volunteer library with a few old books, open 1 or 2 hours per week can call itself a public library. Many people do not realize that there are many non-State-aided public libraries fitting this description in this Commonwealth. In some parts of this Commonwealth, these tremendously inadequate libraries have proliferated. Often these organizations are not incorporated. While the motives of the people who open these libraries are noble, the results are pale imitations of true, adequate public library service. Providing State funds to these uncertain operations would not be responsible.

(4) Public library service is a voluntary (not mandated) local initiative in this Commonwealth. It has not been the experience in this Commonwealth that if a library building is constructed, new operating funds will automatically flow from the community. In fact, local support of public libraries is a problem, with Pennsylvania ranking 41st in its support of libraries as compared with all other states (National Center for Education Statistics, 1993). The Commonwealth Libraries wants to ensure grants made

from the Fund will build and rehabilitate facilities that continue to be operated as public libraries.

(5) This Commonwealth has more than 600 State-aided public library outlets (counting branch libraries). While few areas need more libraries, it is a goal of the Commonwealth Libraries to develop stronger public libraries and improved library facilities. Limiting grant awards to State-aided outlets moves the Commonwealth in the direction of this goal.

Proposed § 142.5 (relating to funding guidelines) elicited comments from a member of the public, Representative William R. Lloyd, Jr. and IRRC. The Commonwealth Libraries anticipates demand for grants will be greater than available funds, and expects it will make grants for less than 50% of the costs of many projects. More affluent communities are better able to provide a larger share of project costs. Therefore, the proposed section stated the Commonwealth Libraries would give priority to economically distressed communities in awarding grants to pay a full 50% of project costs, the maximum share allowed by the act. The section listed criteria to determine economically distressed communities. These criteria were intended to measure the health of the local economy using authoritative and timely data for three economic indicators: market value, personal income and unemployment rate. The intent was for grant applicants to be considered in relation to the entire State and the other applicants in determining the relative economic health of their communities.

Representative Lloyd commented that the factors in § 142.5(d) would be equally valid in ranking applications from communities that are not economically distressed. He suggested the Department consider setting forth priorities to be used in ranking applications. IRRC agreed with his assessment, and recommended a ratio or percentage range be used to replace the terms "low" (as in low market value) and "high" (as in high unemployment). The Department concurred and revised the proposal accordingly. The final-form regulations include percentile measurements to define economic distress.

The measurement for unemployment includes the term "minor civil division" because the Department of Labor and Industry provides unemployment statistics for certain size minor civil divisions. IRRC was concerned about the undefined use of this term. Although the term is used by the United States Census and has a specific meaning in this Commonwealth, the Department could not find a legal definition to reference. Therefore, the final-form regulations add a definition of the term to the definitions section.

IRRC additionally suggested the word "ensure" in § 142.5(b) and (c) be replaced by "demonstrate." The Department adopted this change and agrees it makes stronger the requirement for an applicant to prove matching funds are available.

The final-form regulations describe eligible matching funds. See § 142.6 (relating to eligible matching funds). The proposal allowed certain specified costs incurred up to 2 years prior to the grant award to be used as matching funds. See § 142.6(d)(5). This Department recognizes that the applicant must incur a number of costs, such as the services of a building consultant, architect or engineer, prior to submission of a grant application as part of the process of developing that application. The proposal also allowed other costs, such as acquisition and site preparation, if incurred up to 2 years prior to the grant award. Because of State bidding and contracting

requirements, prevailing wage law and other State requirements for construction projects, neither the proposal nor the final-form regulations allow actual construction work done before the award of the grant to be used for matching funds.

The 2-year limit drew comment from Representative Lloyd, who stated the up-front costs could be significant for a small library. Given the competition for grants, an applicant might need to apply several different times before receiving a grant. He suggested the Department allow the recovery of costs under § 142.6(d)(4) and (5) if they were incurred within 2 years of filing of the initial application. IRRC agreed with Representative Lloyd, but suggested the Department might consider a ceiling on the maximum number of years for which the provisions of § 142.6(d)(4) and (5) might be valid. The Department revised the final-form language to accord with Representative Lloyd's suggested wording. It considered putting in a ceiling, but decided one would not be necessary. It has been the experience of the Commonwealth Libraries that after the agency turns a grant application down once or twice, the applicant either drops the project if it was not essential or finds local funds to complete it without a grant. Often, public library rehabilitation or construction projects are motivated by necessity that does not allow time to wait for the next grant application opportunity. A leaking roof demands immediate attention.

Considering the financial constraints faced by many Commonwealth municipalities and public libraries, the Commonwealth Libraries has taken an expensive approach to encourage and reward local effort and initiative. Therefore, matching funds may include third party contributions and costs, rules for which are found in § 142.7 (relating to third-party in-kind contributions and third-party costs). The final-form regulations also provide methods for valuation of donated services, § 142.8 (relating to valuation of donated services) and donated equipment, buildings and land, § 142.9 (relating to valuation of donated equipment, buildings and land). The Department intends these provisions to provide particular benefit for small communities in meeting matching fund requirements.

IRRC commented on use of the term "indirect costs" in § 142.7. It questioned how the Department defined the term and requested clarification in the final-form rule-making. The Department provided this clarification by defining the term in the definitions section.

IRRC commented on § 142.8(a) which allows the municipality to value volunteer services provided by individuals at rates consistent with those ordinarily paid for similar work in the municipality or public library. IRRC questioned how values for services would be applied consistently and suggested the Department provide additional standards and clarity for what constitutes "volunteer service." The Department examined the proposal and decided sufficient clarity about what constitutes volunteer service already existed in the definition of "third-party in-kind contributions": "Property or services that benefit a grant-supported project and that are contributed without charge to the grant recipient by a third party other than a municipality, a school district, or a public library." It is true the value of services may be different in different labor markets, but the Department does not see this as a problem. For example, if an engineer or carpenter donates his services, the rates charged may vary in different areas of this Commonwealth, but this would also be true if they did not donate their services.

IRRC also suggested the Department add a requirement that volunteer service counted toward satisfying matching requirements must be directly related to the project. The Department notes that § 142.7(a) already states "The municipality may use third party in-kind contributions and third party costs to count towards satisfying the matching requirement only when those contributions and costs are directly related to the public library planning, acquisition, development or rehabilitation project. The municipality may not use third party in-kind contributions and third party costs for operation of the public library to count towards satisfying the matching requirement." The addition of a phrase such as "including volunteer services" would be redundant.

IRRC commented on § 142.8(a) which allows the municipality to include a reasonable amount for fringe benefits and asked what the Department will consider reasonable. The Department considers reasonable an allowance for fringe benefits similar to the benefits paid to actual employees. In some cases, the valuation is for services not ordinarily performed by municipal or library employees, therefore the Department prefers not to make an inflexible rule about exactly how the grantee must calculate fringe benefits.

IRRC also requested a justification for the inconsistency in allowance for fringe benefits in the valuation of donated services between § 142.8(a) and (b). Section 142.8(a) allows the municipality to include a reasonable amount for fringe benefits when calculating the value of service donated by individual volunteers working directly for the library or municipality on the project. Section 142.8(b) does not allow fringe benefits to be used in calculating the value of service donated by an employer furnishing one of its employees free of charge. The Department has two reasons that justify different rules for the two circumstances. First, these subsections are similar to the regulations governing the Federal library construction grant funds. The Department anticipates some municipalities will receive combination grants using Federal dollars to pay a partial match for the State dollars. It will be easier for these grantees to comply in valuation of donated services if they can follow one consistent set of rules. Second, monitoring the reasonableness of fringe benefits paid by the municipality or the library is easier for the Department than verifying these figures for private companies that are not recipients of the grant contract or under any obligation to the granting agency.

There were no comments about § 142.9.

Section 142.10 (relating to title to site) addresses the issue of title to site. The proposal attempted to ensure, once a project is completed, that the new or rehabilitated structure would remain in use as a public library for 50 years or the useful life of the facility, whichever is shorter. Representative Lloyd, the House Education Committee and IRRC all commented on the need to change this section. Some grants will be made for fixtures or nonroutine maintenance—projects that may have a useful life of less than 50 years. The Department concurred and revised the wording of this section to reflect the comments. The final-form regulations use the exact language recommended by Representative Lloyd and the House Education Committee.

IRRC had a further recommendation concerning § 142.10. It was noted section 10 of the act (24 P. S. § 2010) prohibits grant recipients from disposing of property acquired under the act for other than the purpose approved in the grant application without prior written approval from the agency head. The section also requires

a refund with interest if the disposition or conversion of property occurs without agency permission. The Department complied with this recommendation by adding subsection (d), which states the action the Department may take when property is disposed of without prior approval of the Department. The wording for this subsection is based on the language in the act.

The proposed regulations provided rules for beginning, completing and supervising projects. See §§ 142.11—142.13 (relating to beginning the grant project; completing the grant project; and supervision and inspection by the municipality). These sections were intended to safeguard the interests of the Commonwealth by helping to ensure projects would begin soon after the grant award, be completed without undue delay and be adequately supervised.

Section 142.11(a) states the municipality shall begin work on a grant project within a reasonable time after the grant award. IRRC questioned how the Department would determine "reasonable" and requested clarification of the term. The Department found it difficult to clarify the term to apply to all projects. Grantees often delay construction projects for reasonable causes. For example, a recent Federal grant made by the Commonwealth Libraries to the Free Library of Philadelphia was delayed when it was discovered the architect's plans to excavate the basement could not be used because the space under the existing building was solid granite. The grantee requested a completely understandable and reasonable delay while the city retained the services of a different architect and revised the plans. Other times projects have been delayed due to discovery of asbestos or lead paint, both of which require abatement procedures. Another project was delayed when the contractor found unexpected and unmapped sewer lines in the area to be excavated for the library addition. Usually judging whether a delay is reasonable or not depends on the individual project. Since all grants are made through State contracts, and since these contracts include beginning and ending dates, the Department decided to deal with the issue of timely project starts through the contractual process. Section 142.11(a) was deleted from the final-form regulations.

There were no comments on § 142.12.

IRRC commented on § 142.13 and suggested the Department consider requiring that supervision and inspection be conducted by an engineer certified by the State Architects Licensure Board (49 Pa. Code Chapter 9). However, it was later discovered this Board does not certify engineers. The Department revised the regulation to indicate certification by the appropriate board. While the Department agreed that requiring this level of inspection would be prudent for many projects, it would not be cost effective for very small nonroutine maintenance projects. For example, it would probably not be necessary to have this sort of inspection for installation of floor tiles or fluorescent lighting fixtures. The Department did not want the regulation to be burdensome to small communities with small projects. In the final-form regulations, therefore the Department added language requiring inspection by an engineer or architect when the supervision is determined to be necessary by the Commonwealth Libraries.

Section 142.14 (relating to operation and maintenance of facility) is intended to ensure the applicant will be able to operate and maintain the new or improved facility. It is not in the interest of the Commonwealth to provide funds to improve library facilities which must then close

or severely reduce hours open to the public because of insufficient operating funds. IRRC suggested clarifying the requirement by strengthening the language to read that the grantee must certify assurance on a form provided by the Department. The Department agreed and made the change in the final-form regulations.

IRRC also suggested the Department consider consolidating § 142.14 with § 142.5. Section 142.5 deals with funding guidelines for grant projects and not with operational funding of public libraries. It is important to distinguish between project funding, which consists of the grant and local matching funds, and operational funding, which may not be counted as project costs. The Commonwealth Libraries wants to make sure the rules for funding of grant projects are treated completely separately from any rules dealing with operational funding of a library once the project is complete. Therefore, the Department decided to keep § 142.14 separate and distinct.

Entities Affected

Municipalities, as defined in section 13 of the act (32 P. S. § 2013), which sponsor public libraries, will be affected by these regulations because they will be eligible to apply for grants. Public libraries will be affected because they will be the beneficiaries of the grants for their facilities. Local libraries, as defined in section 102 of the Library Code (24 P. S. § 4102) and library systems, as defined in § 141.24(b)(1) (relating to Library systems) are considered public libraries affected by the final-form regulations.

Cost and Paperwork Requirements

Commonwealth

The Department, Commonwealth Libraries, Library Development will incur costs of administering a grant program. Costs include professional staff to conduct needs assessments, develop a coordinated Statewide plan, provide technical advice to applicants, review project applications including architectural drawings, monitor funded projects and evaluate results. Estimated costs for administering the program will be approximately \$80,000 per year for the first 3 years and \$60,000 per year thereafter, once the Statewide needs assessment and plan have been completed. The estimated cost for each year is 5% of the total amount available for the public library facilities grant program, as permitted by section 8 of the act.

Municipalities

Municipalities that are awarded grants to improve their public library facilities will save costs because this program will pay up to 50% of the costs of these projects. This will amount to approximately \$1.5 million in benefits for the first 3 years of the program, and approximately \$1.1 million thereafter.

The paperwork required will be similar to reports currently required for other Commonwealth Libraries grant programs. Quarterly narrative and financial reports are typically two or three pages long and not burdensome to complete. The final report includes a one page financial section and a narrative describing project accomplishments, problems and evaluation. No separate financial audit will be required.

Private Sector

These regulations do not directly involve the private sector. It is not expected these regulations will impose any additional costs on the architects, building consult-

ants and general construction contractors who may work on projects for municipal grantees.

Effective Date

These regulations will be effective as soon as they are published in final form.

Sunset Date

No sunset date has been established because the act has established an ongoing program. The Commonwealth Libraries will continue to administer the public library facilities grant program in accordance with these regulations unless changes to the program or public library needs, or both, necessitate revisions.

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 24 Pa.B. 6149 (December 10, 1994), to IRRC and to the Chairpersons of the House and Senate Committees on Education for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Education Committee and the Senate Education Committee on October 31, 1996. IRRC met on November 7, 1996 and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department, Commonwealth Libraries, finds that:

(1) Public notice of the intention to adopt these regulations 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) The regulations are necessary and appropriate for the administration of the authorizing statute.

Order

The Department of Education, Commonwealth Libraries, orders that:

(a) The regulations of the Department, 22 Pa. Code, are amended by adding §§ 142.1—142.14 to read as set forth in Annex A.

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

(c) The Secretary of Education 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*.

EUGENE W. HICKOK,
Secretary

Fiscal Note: Fiscal Note 6-251 remains valid for the final adoption of the subject regulations.

(Editor's Note: For the text of the order of IRRC relating to this document, see 26 Pa. B. 5766 (November 23, 1996).)

Annex A

TITLE 22. EDUCATION

PART IX. STATE LIBRARY AND ADVISORY COUNCIL ON LIBRARY DEVELOPMENT

Subpart B. ADVISORY COUNCIL ON LIBRARY DEVELOPMENT

CHAPTER 142. GRANTS FOR PUBLIC LIBRARY FACILITIES

Sec.	Definitions.
142.1.	Long-range plan.
142.2.	Eligible project costs.
142.3.	Eligible grantees.
142.4.	Funding guidelines.
142.5.	Eligible matching funds.
142.6.	Third party in-kind contributions and third party costs.
142.7.	Valuation of donated services.
142.8.	Valuation of donated equipment, buildings and land.
142.9.	Title to site.
142.10.	Beginning the grant project.
142.11.	Completing the grant project.
142.12.	Supervision and inspection by the municipality.
142.13.	Operation and maintenance of facility.
142.14.	

§ 142.1. Definitions.

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

Acquisition—The purchase or lease with an option to purchase of land or buildings for public library uses.

Act—The Keystone Recreation, Park and Conservation Fund Act (32 P. S. §§ 2011—2024).

Administrative expenses—An expenditure of funds, including expenditures of Commonwealth agencies for personnel and other operating costs necessary to accomplish the purposes of the act.

Agency—The Department of Education.

Commonwealth Libraries—The State Library of Pennsylvania, part of the Department of Education.

Development—New construction, improvement, alteration or renovation required for and compatible with the physical development, improvement of land or buildings for public library purposes.

Fund—The Keystone Recreation, Park and Conservation Fund established by the act.

Indirect costs—Costs including administration or utilities that are not readily identifiable as particular, eligible costs directly related to the project.

Land—Real property, including improvements thereon, right-of-ways, water, riparian and other rights, easements, privileges and any other physical property or rights of interest of any kind or description relating to or connected with real property.

Library—A free, public, nonsectarian library, whether established and maintained by a municipality or by a private association, corporation or group, which serves the informational, educational and recreational needs of the residents of the area for which its governing body is responsible by providing free access, including free lending and reference services, to an organized and currently useful collection of printed items and other materials and to the services of a staff trained to recognize and provide for these needs.

Minor civil division—A city, borough, incorporated town, township, home rule municipality or other local government within a county for which the Department of Labor and Industry provides unemployment statistics.

Municipality—A county, city, borough, incorporated town, township, home rule municipality or an official agency created by the foregoing units of government under the laws of the Commonwealth. Actions of an authority or other official agency taken under the act shall be first approved by the participating local governing bodies in that authority or other official agency.

Planning—Master site development plans, feasibility studies, maintenance, management plans, and other plans and documents, including long-range plans for the allocation of grants, useful to municipalities and State agencies in the planning, development, operation, protection and management of their public library facilities and programs. Planning may be performed by State agency staff or by outside consultants.

Public library—A library, as defined in section 3 of the act (32 P. S. § 2013), or library system, as defined in § 141.24(b)(1) (relating to library systems).

Rehabilitation—The improvement or restoration, excluding routine maintenance of existing public library facilities.

Routine maintenance—Recurring upkeep needed on a regular basis for physical facilities, including cleaning, minor repair of fixtures or structures, painting, regular servicing of heating, air conditioning or other equipment and landscape maintenance such as lawn care or pruning.

Technical assistance—The provision of grant and professional service to municipalities, organizations and citizens, including publications, video tapes, workshops, meetings, phone consultation and written and electronic communication.

Third-party in-kind contributions—Property or services that benefit a grant-supported project and that are contributed without charge to the grant recipient by a third party other than a municipality, a school district or a public library.

Third-party costs—Direct expenditures for property or services that benefit a grant-supported project and that are contributed without charge to the grant recipient by a third party other than a municipality, a school district or a public library.

§ 142.2. Long-range plan.

(a) Commonwealth Libraries, in consultation with the Advisory Council on Library Development, will prepare a 3 to 5 year long-range plan for the allocation of grants available to municipalities for public library planning, acquisition, development or rehabilitation from the Fund. In preparing the long-range plan, Commonwealth Libraries will consult with municipal officials and library representatives. The long-range plan will be reviewed each year by Commonwealth Libraries and modified as need dictates. The long-range plan will include the following components:

(1) A library facility needs assessment, including an analysis of the need in different geographical regions of this Commonwealth and of libraries serving various size municipalities, and a consideration of county library system plans.

(2) An action plan to meet the need for improved library facilities through the use of the Fund and other available moneys.

(3) Commonwealth Libraries' policies concerning the grants for public library facilities.

(4) A plan for Commonwealth Libraries' administration of the program, including provision of technical assistance, monitoring of ongoing projects and evaluation of completed projects.

(b) Grants to municipalities for public library planning, acquisition, development or rehabilitation will be made in accordance with the long-range plan.

(c) Commonwealth Libraries will incur administrative expenses to meet costs of activities listed in the component of the long-range plan described in subsection (a)(4), to meet costs of planning, and to meet other costs of grants administration.

(d) Commonwealth Libraries will publish the long-range plan and subsequent modifications to the long-range plan in the *Pennsylvania Bulletin*.

§ 142.3. Eligible project costs.

(a) Commonwealth Libraries, in accordance with the policies in its long-range plan for library facilities, may provide grants to pay for the following eligible project costs:

- (1) Planning.
- (2) Acquisition.
- (3) Development.
- (4) Rehabilitation.

(b) Grants may not be used for the following ineligible costs:

(1) Operating costs of a public library, including costs of purchasing books and other library materials, personnel costs and costs of routine maintenance.

(2) Costs of equipment or software, or both, to automate public library functions and catalogs unless the automation is part of the development or rehabilitation of a public library facility.

(3) Planning, acquisition, development or rehabilitation of facilities that are not public libraries. In the case of shared facilities, the grant and related matching funds may pay only for that portion of the facility to be used as a public library.

§ 142.4. Eligible grantees.

(a) A municipality that intends to plan, acquire, develop or rehabilitate a public library is eligible to apply for a grant.

(b) The public library for which a municipality applies for a grant shall have a formal, legal relationship with that municipality, either by being a department or unit of local government or through a contract describing mutual obligations and responsibilities.

(c) A municipality, alone or in cooperation with other municipalities, is eligible to apply for a grant for a public library funded by local tax revenue or monies raised by the levy of special taxes to establish or maintain, or both, a public library which directly provides public library service, delegates responsibility for public library service to a board of directors, or delegates responsibility for public library service to a nonprofit corporation.

(d) If a public library serves more than one municipality, the municipalities shall come to mutual agreement and designate one to apply for a grant for that library.

(e) When a public library is sponsored by a school district or any entity other than a municipality, the municipality where the public library is located may apply for a grant for that public library.

(f) The public library that benefits from the grant shall be receiving State aid under Article III of the Library Code (24 P. S. §§ 4301—4304) at the time of the grant application and shall continue to receive State aid for the term of the grant. If the public library did not exist prior to the grant-funded project to acquire, plan, develop or rehabilitate its facility, that newly formed public library is eligible for and may apply to receive State aid under Article III of the Library Code when it opens to the public.

§ 142.5. Funding guidelines.

(a) Commonwealth Libraries will award grants from the Fund to municipalities to pay up to 50% of eligible public library project costs.

(b) The municipality shall demonstrate that sufficient matching funds from eligible sources are available to meet at least 50% of project costs.

(c) The municipality shall demonstrate that the grant award plus other available funds are sufficient to complete the proposed project.

(d) Commonwealth Libraries will give priority to economically distressed communities in awarding grants meeting 50% of costs and may award grants meeting a smaller percentage of project costs to municipalities whose local economies better enable local support of the project. For purposes of this grant program, in deciding whether a community is considered economically distressed, Commonwealth Libraries will be guided by one or more of the following criteria:

(1) The public library to benefit from the grant received equalization aid in the year of the grant application or will be eligible to receive equalization aid in the year following the grant application under section 303(b)(6) of the Library Code (24 P. S. § 4303(b)(6)).

(2) The municipality is a city, borough, incorporated town or township having a market value per capita below the twentieth percentile of all like cities, boroughs, incorporated town and townships, as certified annually by the State Tax Equalization Board.

(3) The municipality is a county or is located in a county having a personal income per capita below the twentieth percentile of all counties, as certified annually by the Department of Revenue.

(4) The municipality is a county or is located in a county or is a minor civil division with a population of 25,000 or higher having an average annual unemployment rate above the eightieth percentile of all counties or all minor civil divisions, as determined annually by the Department of Labor and Industry.

§ 142.6. Eligible matching funds.

(a) Commonwealth Libraries may award Federal library construction funds, when available, to pay additional portions of project costs and meet matching requirements of grants awarded from the Fund. Priority for these Federal grants will be given to municipalities in economically distressed communities, using criteria in § 142.5(d) (relating to funding guidelines).

(b) The municipality may use Federal funds, other than those awarded under subsection (a), which are available to it or to the public library, as matching funds, if the Federal funds are not already being used to match another State grant.

(c) The municipality may use State funds, other than those awarded from the Fund, and which are available to it or to the public library, as matching funds, if the funds

were not appropriated as compensation to public libraries under the Library Access Statewide Card Program or as library State-aid under terms of Article III of the Library Code (24 P. S. §§ 4301—4304).

(d) The municipality may use the following local monies, costs and contributions as matching funds:

- (1) Local tax revenues.
- (2) Proceeds from local bond issues.
- (3) Cash contributions from individuals, corporations and others.

(4) The fair market value of land or buildings provided to the public library by the municipality up to 2 years previous to award of the grant. The market value shall be for the time at which the land or buildings were designated for the public library.

(5) Costs incurred by the municipality or the public library up to 2 years prior to filing of the initial application for the following:

- (i) Services of a library building consultant, registered architect, engineering firm used in the development of plans for the project.
- (ii) Acquisition of real estate as part of the project.
- (iii) Physical site preparation.

(6) Third party in-kind contributions and third party costs which conform to the rules in §§ 142.7—142.9 (relating to third party in-kind contributions and third party costs; valuation of donated services; and valuation of donated equipment, buildings and land).

§ 142.7. Third party in-kind contributions and third party costs.

(a) The municipality may use third party in-kind contributions and third party costs towards satisfying the matching requirement only when those contributions and costs are directly related to the public library planning, acquisition, development or rehabilitation project. The municipality may not use third party in-kind contributions and third party costs for operation of the public library to count towards satisfying the matching requirement.

(b) If third party in-kind contributions and third party costs are used as matching funds, the municipality shall be able to verify those contributions and costs from its records or the records of the public library. The municipality shall show from the records how the value placed on third-party in-kind contributions was calculated. To the extent feasible, the municipality shall verify the value of volunteer services by using the same methods that the municipality or the public library uses to support the allocation of its regular personnel costs.

(c) The municipality may use third-party in-kind contributions towards satisfying the matching requirement only when, if the municipality or public library receiving the contributions were to pay for them, the payments would be eligible matching funds.

(d) The municipality may not use third-party in-kind contributions towards satisfying the matching requirement if they represent indirect costs.

§ 142.8. Valuation of donated services.

(a) The municipality shall value volunteer services provided by individuals to the municipality or public library at rates consistent with those ordinarily paid for similar work in the municipality or public library. If the municipality or public library does not have employees

performing similar work, the municipality shall use rates consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, the municipality may include a reasonable amount for fringe benefits in the valuation.

(b) When an employer other than the municipality or public library furnishes free of charge the services of an employee in the employee's normal line of work, the municipality shall value the services at the employee's rate of pay exclusive of fringe benefits and the employer's overhead costs. If the services are in a different line of work, subsection (a) applies.

§ 142.9. Valuation of donated equipment, buildings and land.

(a) The municipality may count as matching funds the market value of donated equipment, buildings or land at the time of donation.

(b) If it is necessary to establish the market value of land or a building, Commonwealth Libraries may require that the market value be established by a certified real property appraiser and that the value be certified by the municipality and by the public library.

§ 142.10. Title to site.

(a) The municipality or public library shall have or obtain a full title or other interest in the site upon which the public library facility is or will be located, including right of access, that is sufficient to insure the undisturbed use and possession of the facility as a public library for 50 years or the useful life of the project to be funded by the grant, whichever is shorter.

(b) If the title to the site upon which the public library facility is or will be located is held by the municipality, the municipal officials shall pass a resolution or ordinance ensuring the undisturbed use of the facility as a public library for 50 years or the useful life of the project to be funded by the grant, whichever is shorter.

(c) If during the 50-year period, the municipality or public library desires that the facility be used for other than public library purposes, it may request a waiver from the State Librarian. In deciding whether to grant that waiver, the State Librarian will consider the public library's need for a facility and how that need will be met.

(d) Recipients of grants for public library facilities under the act may not dispose of nor at any time convert property acquired with the grant to other than the purposes approved in the project application without the prior written approval of the Commissioner of Libraries, the State Librarian. If disposition or conversion occurs without prior written approval, the State Librarian may require:

(1) The recipient to refund all grant funds for the particular project, including 10% annual interest compounded four times annually from the date the original grant-in-aid was received until it is repaid.

(2) Acquisition by the recipient of equivalent replacement land, as determined by the State Librarian.

§ 142.11. Beginning the grant project.

Before grant project work is advertised or placed on the market for bidding, the municipality shall get approval from Commonwealth Libraries of final working drawings and specifications.

§ 142.12. Completing the grant project.

(a) The sponsoring municipality shall complete its grant project within a reasonable time.

(b) The municipality shall complete the grant project in accordance with the grant application and approved drawings and specifications.

§ 142.13. Supervision and inspection by the municipality.

In the case of grants for development or rehabilitation, the municipality shall retain a licensed architect or professional engineer for supervising or inspecting at the project site to insure the work conforms to the approved drawings and specifications when the supervision is determined to be necessary by Commonwealth Libraries.

§ 142.14. Operation and maintenance of facility.

An authorized representative of the grantee shall sign a form provided by the Agency to assure that, when the project is completed, sufficient funds will be available for effective operation and maintenance of the public library.

[Pa.B. Doc. No. 96-2089. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

Area Unsuitable for Surface Mining Activities; Squaw Run

The Environmental Quality Board (Board) by this order amends § 86.130(b) (relating to areas designated as unsuitable for mining). The amendment adds paragraph (17) designating a 450-acre tract of land located in Slippery Rock and Wayne Townships, Lawrence County, as unsuitable for surface mining operations.

This order was adopted by the Board at its meeting of August 20, 1996.

A. Effective Date

This amendment will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Person

For further information, contact Roderick A. Fletcher, P.E., Director, Bureau of Mining and Reclamation, Room 209, Executive House, P. O. Box 8461, Harrisburg, PA 17105-8461 (717) 787-5103 or Joseph Pizarchik, 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 (T.D.D. users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

This final rulemaking is being made under the authority of the following acts: section 4.5(b)(3) of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4e(b)(3)); section 6.1(b)(3) of the Coal Refuse Disposal Control Act (52 P. S. § 30.56a(b)(3)); and section 315(i)(3) of The Clean Streams Law (35 P. S. § 691.315(i)(3)) which all authorize designation of an area as unsuitable for mining if mining will affect renewable resource lands and result in substantial loss or reduction

of productivity of a water supply, aquifer and aquifer recharge areas; and section 4.2(a) of SMCRA (52 P. S. § 1396.4b(a)) which provides for general rulemaking authority; section 3.2(a) of the Coal Refuse Disposal Control Act (52 P. S. § 30.53b(a)), which authorizes adoption of rules and regulations; section 5 of The Clean Streams Law (35 P. S. § 691.5), which authorizes adoption of rules and regulations; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) which authorizes the Board to promulgate the rules and regulations as may be determined by the Board to be necessary for the proper performance of the work of the Department; and section 1930-A of The Administrative Code of 1929 (71 P. S. § 510-30) which authorizes the Board to designate an area as unsuitable for mining.

D. Background and Summary

Section 522 of the Federal Surface Mining Control and Reclamation Act (30 U.S.C.A. § 1272) requires each state seeking primary jurisdiction from the Federal government to regulate surface coal mining to establish a procedure for the designation of areas as unsuitable for surface mining operations. The statutory authority for this procedure was created in the 1980 amendments to the authorizing acts as part of the Commonwealth's effort to obtain primacy over the regulation of coal mining. On October 10, 1980, the Board adopted Chapters 86—90 as part of the Commonwealth's effort to obtain primacy. These regulations were published at 10 Pa.B. 4789 (December 20, 1980). Chapter 86, Subchapter D (relating to areas unsuitable for mining) contains the Department's regulations for procedures and criteria for the designation of areas as unsuitable for surface mining operations. Several technical amendments were made to Subchapter D by the Board on April 20, 1982, and published at 12 Pa.B. 2473 (July 31, 1982). The Commonwealth obtained primacy on July 30, 1982 (47 FR 13050), and Chapters 86—90 went into effect on July 31, 1982 (12 Pa.B. 2382).

Under this legal authority, the Board has designated 16 areas as unsuitable for surface mining operations. For further information, see § 86.130(b)(1)—(16) published at 23 Pa.B. 5274 (October 30, 1993).

A petition requesting that a 450-acre tract of land located in Slippery Rock and Wayne Townships, Lawrence County, be designated as unsuitable for surface mining operations was received on May 24, 1993. The petition was submitted by Carl Thalgot and Dale Mackey who own, or have interests in, properties located within the petition area.

The petitioners alleged that private water supply sources, within the petition area, have been adversely affected by previous surface mining operations which caused degradation of groundwater aquifers and that further surface mining would cause additional losses in quality and quantity of water supplies for which no suitable replacements are available.

The Department conducted a study of the petition area and the petitioners' allegations of fact. The results of this study are presented in a document entitled "A Petition to Designate Areas Unsuitable for Mining, Petition # 37939901, Squaw Run, Slippery Rock and Wayne Townships, Lawrence County." The findings of the technical study are as follows:

Wells and springs, which derive recharge from aquifers at or above the Middle Kittanning coal seam, have high potential to be degraded by surface mining operations.

Private water wells have been degraded by surface mining to the point of requiring the mine operator to replace the wells.

A surface mining permit application to mine within the petition area was denied by the Department, partly because no suitable replacements for private water supplies were identified for wells, which could be affected by surface mining operations.

In light of those findings, the Board proposed to designate, by regulation, the 450-acre tract of land as unsuitable for all types of surface mining operations.

The proposed recommendation concerning this petition was presented to the Mining and Reclamation Advisory Board (MRAB) at its October 13, 1994, meeting where it was discussed. This final rulemaking was discussed by the MRAB at its meeting of April 25, 1996, and was approved for presentation to the Board.

The designation of this area as unsuitable for all surface mining operations provides assurance to the residents of the petition area that their private water supplies will not be degraded by further surface mining operations within the petition area.

E. Summary of Comments and Responses on the Proposed Rulemaking

Comments in support of the proposed rulemaking were received from the petitioners, Carl Thalgott and Dale Mackey. The petitioners cite the potential loss or degradation of private water supply sources if further mining were to occur in this area. The Department agrees with these comments and recommends designation of the petition area as unsuitable for all types of surface mining operations.

There were no comments in opposition to the proposed rulemaking.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulation.

Benefits

The amendment will benefit persons who have property interests or reside within the area proposed for designation as unsuitable for surface mining operations in that further surface and groundwater degradation due to surface mining operations will not occur.

The designation process also serves to aid the planning of coal operators who might otherwise have considered surface mining in this area. The Department may not issue permits where mining would adversely affect a water supply, unless the applicant shows the availability of an equivalent replacement supply. The Department's current policy on water supply replacement provides that, unless the owner of the property specifically agrees to a replacement supply of lesser quality, the replacement supply must be of equal or better quality than the original supply. The wells within the petition area associated with the Middle Kittanning coal have the potential to be degraded by surface mining. Replacement wells, which are developed on deeper aquifers, are prone to elevated iron and manganese concentrations and objectionable sulfide odor. Replacement wells would require perpetual treatment and maintenance costs to produce water suitable for domestic use.

Compliance Costs

The designation will preclude mining of approximately 1.158 million tons of Middle Kittanning coal, valued at

approximately \$28 million, based on a market value of \$24 per ton. Mining of this coal would provide 356 employe-years of direct employment and 712 employe-years of support employment, at least some of which would come from the local labor market. For the purpose of calculating these costs, it was assumed that the coal could be extracted by surface mining methods and that the coal was laterally persistent throughout the petition area. These estimates, therefore, represent a liberal interpretation of surface mineable reserves within the area proposed for designation.

An operator who adversely affects a water supply would be responsible for the costs associated with well replacement and treatment. Designation of the petition area as unsuitable for mining will help operators avoid these costs.

Because of the failure of coal operators to demonstrate that suitable alternate private water supplies are available within the petition area, it is unlikely that the Department would issue permits for surface mining in this area if it was not designated unsuitable for surface mining operations.

Compliance Assistance Plan

The amendment prohibits surface mining operations within the petition area. Aside from public notification of the regulation, no compliance assistance is anticipated.

Paperwork Requirements

The only paperwork requirements imposed by the amendment are those necessary to make operators and Department personnel aware of the location of the designated area. Copies of the amendment containing a description of the area and a map of the location will be held on file at the appropriate District Office and at the Bureau of Mining and Reclamation Office in Harrisburg, PA.

G. Sunset Review

This regulation 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)), the Department submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 4773 (November 4, 1995), on October 25, 1995, to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing this final-form regulation, the Department has considered the comments received from IRRC and the public. No comments were received from the Committees.

The final-form regulation was deemed approved by the House and Senate Committees on October 7, 1996. IRRC met on October 17, 1996, and approved the final-form regulation in accordance with section 5(c) of the Regulatory Review Act.

I. Findings of the Board

The Board finds that:

- (1) Public notice of the proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968

(P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and the comments were considered.

(3) This amendment does not enlarge the purpose of the proposal published at 25 Pa.B. 4773.

(4) This amendment is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

J. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 86, are amended by amending § 86.130 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

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

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

JAMES M. SEIF,
Chairperson

(Editors Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5289 (November 2, 1996). See 26 Pa. B. 5962 (December 14, 1996) for a document concerning this subject.)

Fiscal Note: Fiscal Note 7-292 remains valid for the final adoption of the subject regulation.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter D. AREAS UNSUITABLE FOR MINING

§ 86.130. Areas designated as unsuitable for mining.

* * * * *

(b) The following is a list of descriptions of areas which are unsuitable for all or certain types of surface mining operations and where all or certain types of surface mining operations will not be permitted:

* * * * *

(17) All types of surface mining operations within a tract of 450 acres located in Slippery Rock and Wayne Townships, Lawrence County described as follows:

Beginning at the intersection of Township Road T-347 and Township Road T-472; then in a northerly direction

following Township Road T-472 for a distance of approximately 4,800 feet to the Wayne Township and Slippery Rock Township boundary line; then in a westerly direction following the township line for a distance of approximately 800 feet to the southwest corner of a land parcel owned, or formerly owned, by Edris Ann Thalgott; then in a northerly direction following the Edris Ann Thalgott property line for a distance of approximately 2,050 feet to the southwest corner of a land parcel owned, or formerly owned, by Lois Mackey; then following the Lois Mackey property line in a northerly direction for a distance of approximately 950 feet to the intersection of the Lois Mackey property line with State Road SR 2024; then in an easterly direction following State Road SR 2024 for a distance of approximately 2,100 feet to the intersection with the southwest corner of a land parcel owned, or formerly owned, by Dale Mackey; then in a northerly direction following the Dale Mackey property line for a distance of approximately 1,650 feet to the northwest corner of the Dale Mackey property; then in an easterly direction following the Dale Mackey property line for a distance of approximately 600 feet to the northeast corner of the Dale Mackey property; then following the Dale Mackey property line in a southerly direction for a distance of approximately 1,250 feet to the Dale Mackey property line intersection with the northeast corner of a land parcel owned, or formerly owned, by Richard E. Michaels; then following the Richard E. Michaels property line in a southerly direction for a distance of approximately 250 feet to the Richard E. Michaels property line intersection with State Road SR 2024; then following Township Road T-478 in a southerly direction for a distance of approximately 7,200 feet to the intersection of Township Road T-478 with Township Road T-347; then in a westerly direction following Township Road T-347 for a distance of approximately 2,000 feet to the point of origin.

[Pa.B. Doc. No. 96-2090. Filed for public inspection December 13, 1996, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

Criteria and Procedures for Designating Areas Unsuitable for Surface Mining Activities

The Environmental Quality Board (Board) by this order amends Chapter 86 (relating to areas unsuitable for mining). The amendments clarify ambiguous language contained in Subchapter D (relating to areas unsuitable for mining) concerning the designation of areas as unsuitable for mining and correct several typographical errors.

This order was adopted by the Board at its meeting of August 20, 1996.

A. Effective Date

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

B. Contact Persons

For further information, contact Roderick A. Fletcher, P.E., Director, Bureau of Mining and Reclamation, Room 209, Executive House, P.O. Box 8461, Harrisburg, PA 17105-8461 (717) 787-5103 or Joseph Pizarchik, 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). These amendments are available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

These amendments are adopted under the authority of the following provisions of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. §§ 1396.1—1396.19a): section 4.2(a) (52 P. S. § 1396.4b(a)), which provides general rulemaking authority; section 4.5 (52 P. S. § 1396.4e), which provides for the designation of an area as unsuitable for all or certain types of surface mining operations; and under the following provisions of the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66): section 3.2(a) (52 P. S. § 30.53b(a)), which authorizes the adoption of rules and regulations; section 6.1 (52 P. S. § 30.56a), which provides for the designation of an area as unsuitable for all or certain types of coal refuse disposal operations; and under the following provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001): section 5 (35 P. S. § 691.5), which authorizes the adoption of rules and regulations; section 315 (h)—(o) (35 P. S. § 691.315 (h)—(o)), which provides for the designation of an area as unsuitable for all or certain types of surface mining operations; and under Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the adoption of regulations necessary for the Department to perform its work.

D. Background

The statutes and regulations which contain the requirements and implementation procedures for the areas unsuitable for mining program are based on the premise that certain land areas should be designated unsuitable for mining to protect values which would be irretrievably lost or damaged by coal mining.

The criteria for designation of areas unsuitable for mining are separated into two distinct categories identified as mandatory and discretionary criteria.

The mandatory criterion (§ 86.122(a) (relating to criteria for designating lands as unsuitable)) requires designation in the event it can be demonstrated that reclamation of an area is not technologically and economically feasible. This criterion is narrow in scope and up to now has been used exclusively where coal mining would, in all probability, result in the production of acid mine drainage which would cause significant environmental damage.

The discretionary criteria (§ 86.122(b) (1)—(4)) are broad in scope and provide for protection of areas where reclamation could feasibly be accomplished under current laws, but where coal mining would be incompatible with existing land use or cause significant damage to or long term losses of important environmental features. There are four discretionary criteria which identify areas which may be designated unsuitable for mining where coal mining will: 1) be incompatible with land use plans; 2) affect fragile or historic lands; 3) affect renewable resource lands with loss or reduction of water supply or of food or fiber products; or 4) affect natural hazard lands where coal mining could endanger life or property.

Rulemaking was proposed to add language to § 86.122 (b)(1)—(4) to identify the specific criteria and circumstances that the Department would consider in exercising its discretion to recommend that an area be designated as unsuitable for mining.

In the processing of previous areas unsuitable for mining petitions, the Board received comments indicating

that § 86.130 (b) (relating to areas designated as unsuitable for mining) referred to "surface mining operations" for which no regulatory definition exists. Elsewhere in Subchapter D, the activities subject to Subchapter D are referred to as "surface mining activities," "surface mining," "surface coal mining," "surface coal mining operations," "surface mining operation," "mining," "mining operations" or "mining activities." With the exception of "surface mining activities," these terms are not defined in the statutes or regulations. The Board therefore proposed that these terms be replaced with the term "surface mining activities" which was defined in § 86.101.

E. Summary of Comments and Responses on the Proposed Rulemaking

Numerous comments were received in opposition to the proposed amendments to the discretionary criteria in § 86.122(b). Several commentators believed that the changes would narrow and limit the protection of historic resources available under the existing language while other commentators believed the proposed changes broaden and expand the criteria and conditions under which the Department would consider designation of an area as unsuitable for mining. After an informal review of the proposed rulemaking, the Federal Office of Surface Mining Reclamation and Enforcement (OSMRE) indicated that the proposed rulemaking would be less effective than the corresponding Federal regulations.

In consideration of these comments, all proposed changes to the discretionary criteria in § 86.122(b)(1)—(4) have been deleted. The only changes being made to this subsection are replacement of the term "surface mining activities," which was used in the proposed amendments, with the term "surface mining operations" for these final amendments as discussed in this Preamble.

Although the Board had not proposed revisions to the definition of the term "surface mining activities" in § 86.101, comments were received which questioned the legal and statutory authority for the definition and use of the term "surface mining activities" contained in § 86.101, because SMCRA and The Clean Streams Law which authorize designation of areas unsuitable for mining use the term "surface mining operations." The Board had proposed that a variety of terms used in Subchapter D be replaced with the term "surface mining activities" which was also used in Subchapter D and was defined in § 86.101. The comments also pointed out that the term "surface mining activities" is defined differently in § 86.1 (relating to definitions) and the use of the same term in Subchapter D but with a different definition was confusing.

To understand the changes to the final rulemaking which were made in response to the comments concerning the legal bases for the definition of "surface mining activities" in § 86.101, it is necessary to know the history of the areas unsuitable for mining provisions. The following history also explains the legal basis for the § 86.101 definition and the use of the term "surface mining operations" in the final rulemaking.

The designation of areas as unsuitable for mining originated with the 1977 enactment of the Federal Surface Mining Control and Reclamation Act (Federal SMCRA) (30 U.S.C.A. § 1201 et seq.). The areas unsuitable for mining provisions are in section 522 of the Federal SMCRA (30 U.S.C.A. § 1272). These provisions apply to surface coal mining operations. Section 522 of the Federal SMCRA and the Federal regulations use the same term, "surface coal mining operations," which is

defined in section 701 of the Federal SMCRA and section 700.5 of the Federal regulations to mean:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountain top removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. Provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16 2/3 percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to section 512 of the Act; and, Provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) The areas upon which the activities described in paragraph (a) of this definition occur or where such activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entry ways, refuse banks, dumps, stock piles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

30 CFR 700.5, 30 U.S.C.A. § 1291(28). Section 516 of the Federal SMCRA is titled "Surface effects of underground coal mining operations" and regulates every surface effect of underground coal mining.

When OSMRE adopted regulations to implement the areas unsuitable for mining program on March 13, 1979, OSMRE stated:

Section 522 of the Act establishes a procedure to designate areas unsuitable for all or certain types of coal mining, thereby enabling the State and Federal governments to respond to conflicts which often arise between coal mining and the other uses of the land The petition process, the Federal coal lands review and the Congressional designations, except where specifically exempt, all apply to the surface effects of underground mining as well as surface mining.

Under the provisions for designation citizens can petition the regulatory authority (DEP) to designate certain areas unsuitable for all or certain types of surface or underground coal mining. . . .

44 FR at 14989. It was clearly OSMRE's position that the areas unsuitable for mining petition process applies to all types of surface and underground coal mining.

In 1980, the General Assembly made numerous changes to the Commonwealth's mining statutes to secure primary control over the regulation of coal mining in this Commonwealth. To secure primacy these changes had to make the Commonwealth's laws as effective as Federal law. These changes included the addition of areas unsuitable for mining provisions to section 4.5 of SMCRA, section 315(h)—(o) of The Clean Streams Law and section 6.1 of the Coal Refuse Disposal Control Act. These statutory changes, as well as necessary regulatory changes, were drafted by the Ad Hoc Task Force on Mining Legislation, a group of industry, environmental, government, public interest and labor representatives. The stated purpose of the Ad Hoc Task Force was to "upgrade the existing Pennsylvania surface mining program where it was necessary to meet minimum Federal requirements while retaining the more stringent state requirements" (10 Pa. B. 4789 (December 20, 1980)).

The provisions drafted by the Ad Hoc Task Force on Mining Legislation in 1980 and added to SMCRA by the General Assembly closely parallel Federal SMCRA; however, SMCRA used the term "surface mining operations" which it states is defined in section 3 of SMCRA (52 P. S. § 1396.3). Section 315(h) of The Clean Streams Law, which requires designation if reclamation is not technologically and economically feasible, also uses the term "surface mining operations" as defined in section 3 of SMCRA. Section 3 of SMCRA does not, however, contain a definition of "surface mining operations." Presumably this omission was an oversight by the Ad Hoc Task Force on Mining Legislation and the General Assembly. Sections 315(i)—(o) of The Clean Streams Law, which provides for discretionary designations and the other areas unsuitable for mining provisions, use the term "mining operations," which is also undefined.

The areas unsuitable for mining regulations developed by the Ad Hoc Task Force in 1980 paralleled the statutory language, but used a variety of terms for the activities covered by this program (10 Pa. B. 4789). The term most often used was "surface mining" which was defined in § 86.101 to mean:

The extraction of coal from the earth or from waste or stock piles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip, and auger mining, dredging, quarrying, and leaching and all surface activity connected with surface or underground coal mining including but not limited to exploration, site preparation, entry, tunnel, slope, drift, shaft and borehole drilling and construction and activities related thereto, and all activities involved in or related to underground coal mining which are conducted on the surface of the land, produce changes in the land surface, or disturb the surface, air or water resources of the area.

Other terms used, which were not defined, included "mining," "surface mining operations," "mining operations" and "surface coal mining operations." In 1982, the regulatory definition of "surface mining" in § 86.101 was amended to include "coal refuse disposal," "coal processing" and "coal preparation activities" (12 Pa. B. 2473). These three terms were added to satisfy the Federal law requirement that State programs be at least as effective as the Federal law (30 U.S.C.A. § 1253) and because Subchapter D also implemented the areas unsuitable for mining provisions of the Coal Refuse Disposal Control Act.

In 1990, the Board amended §§ 86.102 and 86.103 and 86.121—86.124 by changing the term “surface mining operations” to “surface mining activities.” Section 86.101 was amended by changing the term “surface mining” to “surface mining activities.” The definition of the term “surface mining” in § 86.101 was not changed (20 Pa.B. 3383). Not all references to “surface mining” in Subchapter D were changed to “surface mining activities.”

In the proposed rulemaking, the Board had proposed amending Subchapter D to switch the remaining references to “surface mining” to “surface mining activities” as defined in § 86.101. The Board also proposed changing the terms “surface coal mining operations,” “surface mining operations” and “surface coal mining” which appeared in Subchapter D to “surface mining activities” to, for the first time, provide for consistent use of terminology in Subchapter D. No changes were proposed to the § 86.101 definition of “surface mining activities.”

In response to comments received on the proposed changes, Subchapter D is being modified to replace the term “surface mining activities” with “surface mining operations.” Surface mining operations is the term used in SMCRA authorizing the designation of areas as unsuitable for mining. The term “surface mining operations” is being used to be consistent with SMCRA. “Surface mining operations” is also defined in § 86.101 to remedy the lack of a definition in SMCRA. The definition of this term in § 86.101 of the regulations is the same definition developed by the Ad Hoc Task Force on Mining Legislation to obtain primacy, is consistent with the primacy requirements of Federal SMCRA, was approved by OSMRE in 1982 and has been in the regulations for over 15 years. Finally, while the definition of “surface mining operations” uses different words than are used in the Federal definition of “surface coal mining operations” they both cover the same activities.

Although no revisions to the existing definition in § 86.101 were proposed and it is believed that the definition is consistent with the statutory and legal requirements of the Federal program, OSMRE has been requested to provide clarification of the definition in the context of the “surface effects” of underground mining. Upon receipt of the requested clarification, any revisions to this existing definition which are found to be necessary will be addressed in future rulemaking.

The draft changes of the final rulemaking were presented to the Mining and Reclamation Advisory Board (MRAB) at its meeting of April 25, 1996. The MRAB approved the final-form rulemaking.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the final-form regulations.

Benefits

The amendments will clarify and eliminate ambiguities in the existing regulations which will benefit all persons who may wish to request that an area be designated as unsuitable for mining and would also benefit coal producers and coal owners who may be affected by this designation.

Compliance Costs

The amendments impose no direct or indirect costs on coal producers or the general public.

Compliance Assistance Plan

The amendments do not affect the way in which the regulations are implemented, so no compliance assistance plans are anticipated.

Paperwork Requirements

The amendments do not change any current regulatory procedures and do not impose any additional paperwork requirements. Areas which do not qualify for designation as unsuitable for mining remain subject to the permitting requirements of Commonwealth statutes and regulations.

G. Sunset Review

These 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)), the Department submitted a copy of proposed rulemaking published at 25 Pa. B. 4767 (November 4, 1995) on October 25, 1995, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5 (b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations, the Department has considered all comments received from IRRC and the public. No comments were received from the Committees.

These final-form regulations were deemed approved by the House Environmental Resources and Energy Committee on October 7, 1996, and were deemed approved by the Senate Environmental Resources and Energy Committee on October 7, 1996. IRRC met on October 17, 1996, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

I. Findings of the Board

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 204) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa.Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) These amendments do not enlarge the purpose of the proposal published at 25 Pa.B. 4767.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

J. Order of the Board

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

(a) The regulations of the Department, 25 Pa.Code Chapter 86, are amended by amending §§ 86.101—86.103 and 86.121—86.130 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

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

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

JAMES M. SEIF
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa. B. 5289 (November 2, 1996). See 26 Pa. B. 5960 (December 14, 1996) for a document concerning this subject.)

Fiscal Note: Fiscal Note 7-293 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter D. AREAS UNSUITABLE FOR MINING CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING

§ 86.101. Definitions.

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

Cemetery—An area of land where human bodies are interred.

Community or institutional building—A structure other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

Fragile lands—Geographic areas containing natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface mining. Examples include, but are not limited to, valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality and buffer zones adjacent to the boundaries of areas where surface mining operations are prohibited under section 4.5(h) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.4e(h)).

Historic lands—Historic or cultural districts, places, structures or objects, including archaeological and paleontological sites, National Historic Landmark sites, sites listed or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

Natural hazard lands—Geographic areas in which natural conditions exist which pose, or as a result of surface mining operations, may pose a threat to the health, safety or welfare of people, property or the

environment, including areas subject to landslides, cave-ins, severe wind or soil erosion, frequent flooding, avalanches and areas of unstable geology.

Public building—A structure that is owned by a public agency or used principally for public business, meetings or other group gatherings.

Public park—An area dedicated or designated by a Federal, State or local agency for public recreational use, whether or not the use is limited to certain times or days, including land leased, reserved or held open to the public because of that use. For the purposes of this subchapter, local agency includes nonprofit organizations owning lands which are dedicated or designated for public recreational use.

Publicly owned park—A public park owned by a Federal, State or local governmental agency.

Renewable resource lands—Aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

Significant recreational, timber, economic or other values incompatible with surface mining—Significant values which could be damaged by, and are not capable of existing together with, surface mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on offsite areas which could be affected by mining. Values to be evaluated for their importance include:

(i) Nature recreation, including hiking, boating, camping, skiing, fishing, hunting or other related outdoor activities.

(ii) Timber management and silviculture.

(iii) Agriculture, aquaculture or production of other natural, processed or manufactured products which enter commerce.

(iv) Scenic, historic, archaeological, esthetic, fish, wildlife, plants or cultural interests.

Substantial legal and financial commitments in a surface mining operation—Significant investments that have been made prior to January 4, 1977, on the basis of a long-term contract in power plants, railroads, mineral handling, preparation, extraction or storage facilities and other capital-intensive activities. Costs of acquiring the mineral in place or of the right to mine it without an existing mine are not sufficient commitments, standing alone, to constitute substantial legal and financial commitments.

Surface mining operations—The extraction of coal from the earth or from waste or stock piles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip and auger mining, dredging, quarrying and leaching and surface activity connected with surface or underground coal mining, including, but not limited to, exploration, site preparation, entry, tunnel, slope, drift, shaft and borehole drilling and construction and activities related thereto, coal refuse disposal, coal processing and preparation facilities and activities involved in or related to underground coal mining which are conducted on the surface of the land, produce changes in the land surface, or disturbs the surface, air or water resources of the area.

§ 86.102. Areas where mining is prohibited or limited.

Subject to valid existing rights as defined in § 86.1 (relating to definitions), surface mining operations except those which existed on August 3, 1977, are not permitted:

(1) On lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic River Act (16 U.S.C.A. § 1276(a)) and National Recreation Areas designated by act of Congress.

(2) On Federal lands within the boundaries of a National forest. Surface mining operations may be permitted on the lands, if the Secretary of the United States Department of Interior and the Secretary find that there are no significant recreational, timber, economic or other values incompatible with surface mining operations and the surface mining operations and impacts are incident to an underground coal mine.

(3) Which will adversely affect a publicly-owned park or a place included on or eligible for inclusion on the National Register of Historic Places, unless approved jointly by the Department and the Federal, State or local governmental agency with jurisdiction over the park or places.

(4) On lands within the State park system. Surface mining operations may be permitted if the Department finds that significant land and water conservation benefits will result when remining of previously mined land is proposed.

(5) On lands within State forest picnic areas, State forest natural areas and State forest wild areas. Surface mining operations may be permitted on State forest lands other than picnic areas, natural areas and wild areas, if the Department finds that one or more of the following apply:

(i) There will be no significant adverse impact to natural resources, including timber, water, wildlife, recreational and aesthetic values.

(ii) Significant land and water conservation benefits will result when remining of previously mined lands is proposed.

(6) On lands within the game land system of this Commonwealth. Surface mining operations may be permitted by the Department if the Game Commission consents and finds that one or more of the following apply:

(i) There will be no significant long-term adverse impacts to aquatic or terrestrial wildlife populations and their habitats.

(ii) Significant wildlife habitat and land and water conservation benefits will result when remining of previously mined lands is proposed.

(7) On lands within the authorized boundaries of Pennsylvania Scenic River Systems which have been legislatively designated as such under the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.21—820.29). Surface mining operations may be permitted if the Department finds that significant land and water conservation benefits will result when remining of previously mined lands is proposed, or when the Department finds that the surface mining operation is consistent with the Scenic Rivers

System designation and will not adversely affect the values which the designation is designed to protect.

(8) Within 100 feet measured horizontally of the outside right-of-way line of a public road, except:

(i) For mine access roads or haulage at the point where they join the right-of-way lines.

(ii) When the Department, with concurrence of the agency with jurisdiction over the road, allows the public road to be relocated or the area affected to be within 100 feet of the road, after the following:

(A) Public notice and opportunity for a public hearing in accordance with § 86.103(c) (relating to procedures).

(B) Making a written finding that the interests of the affected public and landowners will be protected.

(9) Within 300 feet measured horizontally from an occupied dwelling, unless the only part of the surface mining operations which is within 300 feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling or unless the current owner thereof has provided a written waiver consenting to surface mining operations closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(10) Within 300 feet measured horizontally of a public building, school, church, community or institutional building or public park.

(11) Within 100 feet measured horizontally of a cemetery.

(12) Within 100 feet measured horizontally of the bank of a perennial or intermittent stream. The Department may grant a variance from this distance requirement if the operator demonstrates beyond a reasonable doubt that there will be no adverse hydrologic impacts, water quality impacts or other environmental resources impacts as a result of the variance. The variance will be issued as a written order specifying the methods and techniques that shall be employed to prevent adverse impacts. Prior to granting a variance, the operator is required to give public notice of application thereof in two newspapers of general circulation in the area once a week for 2 successive weeks. If a person files an exception to the proposed variance within 20 days of the last publication thereof, the Department will conduct a public hearing with respect thereto. The Department will also consider information or comments submitted by the Fish and Boat Commission prior to taking action on a variance request.

§ 86.103. Procedures.

(a) Upon receipt of a complete permit application for surface mining operations the Department will review the application to determine whether the surface mining operations are limited or prohibited under § 86.102 (relating to areas where mining is prohibited or limited) on the lands which would be disturbed by the proposed operation.

(b) If the proposed surface mining operations would include Federal lands within the boundaries of a National forest, and the applicant seeks a determination that mining is permissible under § 86.102(2), the applicant shall submit a permit application to the Regional Director of the Office of Surface Mining Reclamation and Enforcement and the Department for processing under 30 CFR Chapter 7 Subchapter D (relating to Federal lands pro-

gram). Approval from the Director is required before a permit may be issued by the Department.

(c) If the proposed surface mining operations are to be conducted within 100 feet measured horizontally of the outside right-of-way line of a public road—except where mine access road or haulage roads join the right-of-way line—or if the applicant proposes to relocate a public road, the Department will:

(1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road.

(2) Provide notice in a newspaper of general circulation in the affected locale of a public hearing, if one has been requested, at least 2 weeks before the hearing.

(3) Insure that an opportunity for a public hearing has been afforded in the locality of the proposed surface mining operations, at which members of the public may participate, for the purpose of determining whether the interests of the public and affected landowners will be protected.

(4) Review the information received at the public hearing, if one has been held, and the findings of applicable State and local agencies as to whether the interests of the public and affected landowners will be protected from the proposed surface mining operations.

(d) When the proposed surface mining operations would be conducted within 300 feet measured horizontally of any occupied dwelling, the applicant shall submit with the application a written waiver from the current owner of the dwelling, consenting to the surface mining operations within a closer distance of the dwelling as specified in the waiver. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(e) When the proposed surface mining operations may adversely affect a public park or a place included on the National Register of Historic Places, the Department will transmit to the Federal, State or local agencies with jurisdiction over, or a statutory or regulatory responsibility for, the park or historic place a copy of the completed permit application containing the following:

(1) A request for that agency's approval or disapproval of the surface mining operations.

(2) A notice to the appropriate agency that it shall respond within 30 days from receipt of the request.

(f) If the Department determines that the proposed surface mining operations are not prohibited under § 86.102, it may nevertheless, pursuant to appropriate petitions, designate the lands as unsuitable for all or certain types of surface mining operations under §§ 86.121—86.129.

CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING

§ 86.121. Areas designated unsuitable for surface mining operations.

(a) The requirements of this section and §§ 86.122—86.129 do not apply to permit areas on which surface mining operations were being conducted on August 3, 1977, or are being conducted under a permit issued under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), or if substantial legal and financial commitments as defined by the Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior under section 522 of the Surface Mining Control and Reclamation Act of 1977 (30

U.S.C.A. § 1272) if the surface mining operations were in existence prior to January 4, 1977.

(b) Permits for surface mining operations will not be issued in areas designated unsuitable under this subchapter. The permits may be issued in areas where the applicant has prior substantial legal and financial commitments in a surface mining operation if the applicant establishes the existence of the commitments to the satisfaction of the Department. In considering the permit applications in designated areas, the Department will impose terms and conditions to preserve and protect the applicable values and uses of the area.

§ 86.122. Criteria for designating lands as unsuitable.

(a) Upon petition, an area shall be designated as unsuitable for all or certain types of surface mining operations if the Department determines that reclamation is not technologically and economically feasible.

(b) Upon petition, an area may be designated as unsuitable for all or certain types of surface mining operations if the surface mining operations will:

(1) Be incompatible with existing Commonwealth or local land use plans or programs.

(2) Affect fragile or historic lands in which the surface mining operations could result in significant damage to important historic, cultural, scientific or esthetic values or natural systems.

(3) Affect renewable resource lands in which the surface mining operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products.

(4) Affect natural hazard lands in which the surface mining operations could substantially endanger life and property, the lands to include areas subject to frequent flooding and areas of unstable geology.

§ 86.123. Procedures: petitions.

(a) A person who has an interest which is, or may be, adversely affected has the right to petition the Department to have an area designated as unsuitable for surface mining operations or to have an existing designation terminated.

(b) Under the procedures in this section, the Department may initiate proceedings seeking to have an area designated as unsuitable for surface mining operations or to have the designation terminated.

(c) The petitioner shall provide the following information to the Department's Bureau of Mining and Reclamation (Bureau) on forms developed by that Bureau:

(1) The location and approximate size of the area covered by the petition, utilizing property or boundary lines or landmarks, and including a 7 1/2-minute topographic map published by the United States Geological Survey with the perimeter of the area shown thereon.

(2) Allegations of facts and supporting evidence which would tend to establish that the areas are unsuitable for all or certain types of surface mining operations assuming that contemporary mining practices required under applicable regulatory practices would be followed if the area were to be mined.

(3) A description of how mining of the area has affected or may adversely affect people, land, air, water or other resources.

(4) The petitioner's name, address, telephone number and notarized signature.

(5) Identification of the petitioner's interest which is or may be adversely affected.

(d) A person who has an interest which is or may be adversely affected may petition to terminate a designation. The petition shall contain:

(1) The location and size of the area covered by the petition, including a 7 1/2-minute topographic map published by the United States Geologic Survey with the perimeters of the area shown thereon.

(2) Allegations of newly discovered facts, with newly discovered supporting evidence, not contained in the record of the proceeding in which the area was designated unsuitable, and which were unavailable at that time, which evidence would tend to establish the statements or allegations, and which statements or allegations indicate that the designation should be terminated based on one or more of the following:

(i) The nature or abundance of the protected resource or condition or other basis of the designation if the designation was based on criteria found in § 86.122(b) (relating to criteria for designating lands as unsuitable).

(ii) Reclamation now being technologically and economically feasible, if the designation was based on the criteria found in § 86.122(a)

(iii) The resources or condition not being affected by surface mining operations, or in the case of land use plans, not being incompatible with surface mining operations during and after mining, if the designation was based on the criteria found in § 86.122(b).

(3) The petitioner's name, address and telephone number.

(4) Identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation.

§ 86.124. Procedures: initial processing, record-keeping and notification requirements.

(a) Within 30 days of receipt of a petition, the Department will notify the petitioner by certified mail whether or not the petition is complete as required by § 86.123 (relating to procedures: petitions). If the 30-day requirement of this subsection cannot be met due to the staff limitations of the Department, the Department may process the petitions in accordance with the priority system authorized by subsection (b)(2). Within this 30-day period, the Department will also notify an applicant with pending surface mining operation permit applications in the area covered by the petition.

(1) The Department will determine whether identified coal resources exist in the area covered by the petition. If the Department finds there are not identified coal resources in that area, it may return the petition to the petitioner with a statement of the findings.

(2) The Department may reject petitions for designations or terminations of designations which are frivolous. Once the requirements of § 86.123 are met, no party may bear a burden of proof, but each accepted petition will be considered and acted upon by the Department under the procedures of this part.

(3) When considering a petition for an area which was previously and unsuccessfully proposed for designation, the Department will determine if the new petition presents new allegations of fact. If the petition does not

contain new allegations of fact, the Department will refuse to consider the petition and may return the petition to the petitioner, with a statement of its findings and a reference to the record of the previous designation proceedings when the facts were considered.

(4) If the Department determines that the petition is frivolous, it will return the petition to the petitioner, with a written statement of the reasons for the determination. If the petition is incomplete, the Department will indicate the categories of information needed to make the petition complete. The Department will hold the incomplete petition until the petitioner has been given 30 days to make the application complete.

(5) The Department will notify the person who submits a petition of an application for a permit received which proposes to include an area covered by the petition.

(6) The Department will not issue permits for surface mining operations in areas included within a petition for a designation under § 86.122 (relating to criteria for designating lands as unsuitable) if the petition is received by the Department prior to the close of the public comment period for the permit, unless the permit applicant establishes prior substantial legal and financial commitments in a surface mining operation within the proposed permit area. A petition received after the close of the public comment period on a permit application relating to the same permit area will not prevent the Department from issuing a decision on that permit application. For the purpose of this section, "close of the public comment period" means at the close of a public hearing held on the permit, or, if no hearing is held, at the close of the comment period following public notice of the permit application. Once a petition has been returned to the petitioner under this subchapter, the Department may proceed to issue a decision on a permit application received for surface mining operations in the area included within the petition.

(b) Within 3 weeks after the determination that a petition is complete, the Department will send notice of receipt of the petition to, and request submissions of relevant information from, other interested governmental agencies, the petitioner, intervenors and other persons known to the Department to own or have an interest in the property.

(1) Within 3 weeks after the determination that a petition is complete, the Department will notify the general public of the receipt of the petition and request submissions of relevant information by a newspaper advertisement placed once a week for 2 consecutive weeks in the locale of the area covered by the petition, in the newspaper of largest circulation in the region, and in the *Pennsylvania Bulletin*.

(2) The Department may establish a priority system to decide the order in which petitions or classes of petitions submitted under this section will be processed. A high priority will be given to petitions which include areas where surface mining operation permit applications are pending.

(c) Until 3 days before the EQB holds a hearing under § 86.125 (relating to procedures: hearing requirements), a person may become an intervenor in the proceeding by filing allegations of facts, supporting evidence, a short statement identifying the petition to which the allegations pertain, a request for intervenor status, and name, address and telephone number.

(d) Beginning immediately after a complete petition is filed, the Department will compile and maintain a record

consisting of documents relating to the petition filed with or prepared by the Department. The Department will make the record available for public inspection, free of charge and copying at reasonable cost, during normal business hours at the Bureau of Mining and Reclamation district office in the county or multicounty area in which the land petitioned is located, and at the main office of the Department.

(e) Prior to designating land areas unsuitable for surface mining operations, the Department will prepare a detailed statement, using existing and available information on the potential resources of the area, the demand for resources, and the impact of the designation on the environment, the economy and the supply of coal.

(f) The Department will prepare a recommendation in the form of a proposed rulemaking on each complete petition received under this section and submit it to the EQB as a proposed regulation under this section.

§ 86.125. Procedures: hearing requirements.

(a) Within 10 months of the receipt of a complete petition, the EQB will hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The hearing shall be legislative and fact-finding in nature, without cross examination of witnesses. The EQB will make a verbatim transcript of the hearing.

(b) The EQB will give notice of the date, time and location of the hearing to:

(1) Local, State and Federal agencies which may have an interest in the decision on the petition.

(2) The petitioner and the intervenors.

(3) A person with an ownership or other interest made known to the Department in the area covered by the petition.

(4) Notice of the hearing shall be sent by first class mail and postmarked not less than 30 days before the scheduled date of the hearing.

(c) The EQB will notify the general public of the date, time and location of the hearing by placing a newspaper advertisement once a week for 2 consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement shall begin between 4 and 5 weeks before the scheduled date of the public hearing.

(d) The EQB may consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

(e) The EQB will receive and consider written comments on the petition 15 days after the conclusion of the public hearing. If a hearing will not be held on a petition, the comments may be received and considered for 45 days following publication of a notice that there will be no public hearing. Within 60 days of the close of the public comment period, the EQB will make a final written decision.

(f) If that all petitioners and intervenors so stipulate, the petition may be withdrawn from consideration prior to the hearing.

§ 86.126. Procedures: decision.

(a) In reaching its decision on the proposed rule, the EQB will consider:

(1) The information contained in the database and inventory system.

(2) Information provided by other governmental agencies.

(3) The detailed statement prepared under § 86.124(e) (relating to procedures: initial processing, recordkeeping and notification requirements).

(4) Oral and written testimony received during and written testimony received subsequent to public hearing.

(5) The recommendations of the Department.

(b) A final written decision in the form of a regulation will be issued by the EQB within 60 days following the public hearing, including a statement of reasons for the decision. The EQB will promptly send the decision by certified mail to the petitioner, intervenors, and to the Regional Director of the Office of Surface Mining Reclamation and Enforcement, and will deposit and publish its decision as a regulation in the manner required by the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201—1208 and 1602); 45 Pa.C.S. §§ 501—907; and sections 3 and 4 of the act of July 9, 1976 (P. L. 877, No. 160) (45 Pa.Sp. Pamph. 84 page 35).

§ 86.127. Data base and inventory system requirements.

(a) The Department will expeditiously develop a database and inventory system which will permit evaluation of whether reclamation is feasible in areas covered by petitions.

(b) The Department will include in the system information relevant to the criteria in § 86.122 (relating to criteria for designating lands as unsuitable), including, but not limited to, information received from the United States Fish and Wildlife Service, the State Historic Preservation Office, the Fish and Boat Commission, the Department of Conservation and Natural Resources' Scenic Rivers Program, the Game Commission, the Department of Community and Economic Development, private conservancies and the agency administering section 127 of the Clean Air Act (42 U.S.C.A. § 7470).

(c) The Department will review and update the database and inventory system as information becomes available:

(1) On potential mineral resources of this Commonwealth, demand of the resources, the environment, the economy and the supply of minerals sufficient to enable the Department to prepare the statements required by § 86.124(e) (relating to procedures: initial processing, recordkeeping and notification requirements).

(2) From petitions, publications, experiments, permit applications, mining and reclamation operations and other sources.

§ 86.128. Public information.

The Department will:

(1) Make the information and database system developed under § 86.127 (relating to data base and inventory system requirements) available to the public for inspection free of charge and for copying at reasonable cost during established office hours.

(2) Provide information to the public on the petition procedures necessary to have an area designated as unsuitable for all or certain types of surface mining operations or to have designations terminated and describe how the inventory and database system can be used.

(3) Maintain a map of areas designated as unsuitable for all or certain types of surface mining operations.

(4) Make available to persons information within its control regarding designation or terminations, including mineral or elemental content which is potentially toxic in the environment. Other information which is properly classified as proprietary or confidential will be protected by the Department as may be required by law.

§ 86.129. Coal exploration.

The submission of a petition to designate an area unsuitable for all or certain types of surface mining operations or designation of an area as unsuitable for all or certain types of surface mining operations under this chapter does not prohibit coal exploration operations in the area. Coal exploration may not be conducted on an area designated as unsuitable for surface mining operations or where a petition to designate an area unsuitable for surface mining operations has been received by the Department in accordance with this chapter unless the exploration is consistent with the designation or the purposes of the submitted petition and will be conducted to preserve and protect the applicable values and uses of the area. Exploration may not be conducted unless the Department has been notified in advance and has issued written approval for the exploration under § 86.133(f) (relating to general requirements). Approval will not be issued unless the person seeking the approval has described the nature and extent of the proposed operation, and has described in detail the measures to be employed to prevent adverse effects.

§ 86.130. Areas designated as unsuitable for mining.

(a) Under the criteria and procedures in §§ 86.121—86.129, the EQB has designated the areas described in subsection (b) as unsuitable for all or certain types of surface mining operations.

(b) The following is a list of descriptions of areas which are unsuitable for all or certain types of surface mining operations and where all or certain types of surface mining operations will not be permitted:

(1) The tract of approximately 233 acres in Blacklick Township, Cambria County, described as follows:

Beginning at the northwest corner of the land owned by the Griffithtown Water Association and proceeding to the southwest corner, then easterly towards the southeast corner of the property and continuing in the same easterly direction to a point located 100 feet horizontal distance west of the Lower Freeport outcrop; then continuing in a southerly direction, remaining 100 feet from and paralleling the Lower Freeport outcrop as the outcrop proceeds easterly to intersect the 2,040 foot elevation contour; then along a straight line extending in a northeasterly direction intersecting the 2,282-foot elevation point and continuing to US 422; then west along US 422 to an intersection formed by a road, driveway or farmlane approaching US 422 from the north and located approximately 1.86 miles east of the junction of US 422 and Pa. Route 271 in Belsano; then continuing southwesterly in a straight line to the northwest corner of the Griffithtown Water Association property.

(2) The surface area overlying surface mineable coal reserves in a tract of approximately 11,200 acres in Rush Township, Centre County, which tract is described as follows:

The surface water drainage basin of Cold Stream upstream from the mouth of Tomtit Run, including the surface water drainage basins of all tributaries to Cold Stream upstream from and including Tomtit Run except for the surface water drainage of a tributary known locally as Big Spring Run that enters Cold Stream from the west approximately 500 feet upstream from the Stony Point Road (Township Road 600) bridge over Cold Stream.

(3) The tract of approximately 119 acres in Logan Township, Blair County and Gallitzin Township, Cambria County within the Mill Run watershed, that is underlain by surface mineable coal reserves, and that has not been previously disturbed by surface or deep mining. The tract is more particularly described as follows:

Beginning at the summit of a hill in the northwest corner of the Mill Run-Little Laurel Run watershed divide, southwest of the village of Buckhorn on or near the Cambria-Blair County line, and being at the eastern edge of the previously surface mined area; then along the watershed divide in a northeasterly direction for a distance of approximately 2,500 feet to the point of intersection of the watershed divide with the Mercer coal seam outcrop; then proceeding in a southeasterly and southerly direction along the Mercer coal outcrop, and running roughly parallel to and 100 to 200 feet easterly of the old Loudon deep mine railroad grade, for a distance of approximately 5,500 feet to the northern terminus of the Loudon deep mine, then proceeding westerly and northwesterly along the edge of the Loudon deep mine, exclusive of an approximately 2-acre ungraded surface mine, to its intersection with the toe of spoil of the previously surface mined area; then in a northwesterly direction along the spoil banks remaining from previous surface mining activity a distance of approximately 3,800 feet to the summit of the hill, being the place of beginning.

(4) The surface mineable coal reserves in a tract of approximately 5,600 acres in Rush Township, Centre County, which tract is the surface water drainage basin of Black Bear Run.

(5) The surface mineable coal reserves in the surface water drainage basin of Powell Run that are situated east of Pa. Route 865, which tract is located in Reade Township, Cambria County and Antis Township, Blair County.

(6) The surface mineable coal reserve in the surface water drainage basin of Byrnes Run, which tract is located in Jay and Fox Townships, Elk County.

(7) The surface mineable coal reserves of the Lower Kittanning, Clarion No. 1, Clarion No. 2 and Mercer coal seams in the surface water drainage basin of the upper portion of Little Muddy Run located above the Janesville Dam, which tract is located in Gulich Township, Clearfield County and Reade Township, Cambria County; except that the surface mineable coal reserves of the four designated seams, located in the recharge area for identified preexisting pollutional discharges to Little Muddy Run are not designated unsuitable for surface mining operations authorized under Chapter 87, Subchapter F (relating to surface coal mines: minimum requirements for remining areas with pollutional discharges) which governs the remining of areas having preexisting pollutional discharges.

(8) The surface mineable coal reserves in the surface water drainage basin of Rogues Harbor Run, which tract

is in Chest Township, Clearfield County, and Chest Township, Cambria County, except Upper Freeport coal within that tract.

(9) The tract of approximately 525 acres in Elder Township, Cambria County, described as follows:

Beginning at the northern edge of a raw water storage tank located approximately 2,000 feet south of Township Route 551 and 2,150 feet west of State Route 36; then proceeding in a northeasterly direction, intersecting the Borough of Hastings Water Authority access road at a point approximately 1,450 feet from the access road's junction with Township Route 551; then continuing due north, intersecting Township Route 551 at a property, fence or tree line located approximately 1,250 feet west of the junction of Township Route 551 and State Route 36; then north along the property, fence or tree line to a point located on Legislative Route 221 approximately 1,100 feet west of State Route 36 in St. Boniface; then continuing in a southeasterly direction to the junction of State Route 36 and Legislative Route 11056; then along Legislative Route 11056 to a point approximately 1,300 feet east of State Route 36; then continuing south along a property, fence or tree line to another property, fence or tree line that is approximately 475 feet south of Legislative Route 11056; then 575 feet due west along this property, fence or tree line to a point located approximately 350 feet east of State Route 36; then due south to meet State Route 36 at its junction with a private road, driveway or farm lane approaching State Route 36 from the east, located approximately 950 feet south of the junction of Township Route 551 and State Route 36; then south along State Route 36 for approximately 900 feet to a tree, fence or property line; then along the line, intersecting the Laurel Hill anticline axis at a point approximately 1,575 feet due east of State Route 36; then south along the anticlinal axis (which trends approximately N 40°E) intersecting State Route 36 approximately 625 feet north of the junction of Legislative Routes 221 and 11077 and intersecting Legislative Route 11076 approximately 600 feet north of its junction with Legislative Routes 221 and 11067 for 6,800 feet to a point approximating the edge of an Upper Kittanning underground coal mine complex known as the Pardee No. 29; then continuing in the same southwesterly direction to a point located 200 feet horizontal distance southwest of the Pardee No. 29 Mine complex; then proceeding in a northerly direction remaining 200 feet from and paralleling the edge of the Pardee No. 29 Mine complex for approximately 4,250 feet to a point that is approximately 200 feet horizontal distance west of the Upper Kittanning coal outcrop (intersecting an unnamed tributary to a farm pond located approximately 3,300 feet due south of Township Route 551 and 3,300 feet due west of State Route 36); then continuing north, remaining 200 feet from and parallel to the coal outcrop to a property, fence or tree line located approximately 1,820 feet south of Township Route 551; then due east along the line to the northwest corner of the land owned by the Borough of Hastings; then returning to the point of origin.

(10) The tract of 527 acres of surface mineable coal reserves in the southern surface water drainage basin of North Fork Tangascootack Creek watershed. The 527 acres encompass the Mercer coal crop line to the southern watershed divide of the North Fork Tangascootack Creek

watershed, which tract is located in Bald Eagle, Grugan and Beech Creek Townships, Clinton County.

(11) The surface mineable coals within the Montgomery Creek and Moose Creek watersheds upstream of the Clearfield Municipal Authority's public water supply reservoir dams. The two tracts are located in parts of Lawrence, Pike and Pine Townships, Clearfield County.

(12) The surface mineable coal reserves in the surface water drainage basins of Rankin Hollow Run and the East Fork Brewster Hollow Run, tributaries of Sixmile Run, upstream of the water supplies for the Coaldale Borough-Six Mile Run Area Water Corporation. The two tracts, totalling approximately 525 acres, are located in Broad Top Township, Bedford County.

(13) The surface mineable coal reserves of the Lower Kittanning, Clarion and Mercer coals in the surface water drainage basin of Bells Gap Run, which tract is located in Antis and Logan Townships, Blair County and Dean and Reade Townships, Cambria County; except that the surface mineable coal reserves of the three designated seams are not designated unsuitable for surface mining operations in the following areas:

(i) A tract of approximately 41 acres of abandoned mine lands located northwest of the town of Highland Fling, said tract being described as follows:

Beginning at the point where Township Route 502 intersects the surface water drainage divide between Tubb Run and Brubaker Run approximately 750 feet northwest of the intersection of Township Route 502 and State Route 1016; then proceeding due east, to a point on State Route 1016 approximately 475 feet north-northeast of the intersection of State Route 1016 and Township Route 502; then continuing to a point approximately 2,250 feet north along State Route 1016; then due west to a point on the surface water drainage divide between Tubb Run and Brubaker Run approximately 2,800 feet north-northwest of the intersection of Township Route 502 and State Route 1016; then in a southerly direction along the said surface water drainage divide to the point of origin.

(ii) The permit areas of Cambria Coal Company SMP # 11783035, Cambria Coal Company SMP # 11823006, Swistock Associates Coal Corp. MDP # 4278BC10, E. P. Bender Coal Co. SMP # 11793025, and Benjamin Coal Company MDP # 4278SM2, in accordance with § 86.121(a).

(14) The surface mineable coal reserves within the Goss Run watershed upstream of the Brisbin Dam, including a small tract of land within the watershed of the West Tributary to Goss Run, a total of approximately 555 acres, are designated unsuitable for all types of surface mining operations. This includes a land area beginning at the breast of the Brisbin Dam, thence due southwest to Pa. Route 153, thence north along the centerline of Pa. Route 153 to the intersection of Pa. Route 153 with township route T-657, thence north along the watershed divide between the Brisbin Dam drainage and the West Tributary drainage to a point at the intersection of the Goss Run and Little Beaver Run watershed divide, thence southwest along the Goss Run and Little Beaver Run watershed divide to a point at the intersection of the Brisbin Dam drainage divide, thence southwest along the Brisbin Dam drainage divide to the point of beginning; except that the surface mineable coal reserves are not designated unsuitable for surface mining operations in the following areas:

The permit areas of the James I. Cowfer Contracting, Inc. SMP 17663037 and James I. Cowfer Contracting, Inc. SMP 17820152, in accordance with § 86.121(a).

(15) The surface mineable coal reserves within the entire Paddy Run watershed, all surface mineable coal reserves within the Drury Run watershed occurring upstream of the Drury Run reservoir, and all surface mineable coals within the Drury Run watershed which occur within the Woodley Draft sub-basin and within the Slab Hollow drainage of the Stony Run sub-basin. These areas are located in Chapman, Leidy and Noyes Townships, Clinton County.

(16) The surface mineable coal reserves of the Lower Kittanning, Clarion and Brookville coals in the surface water drainage basin of Laurel Run, which tract is located in Jackson, West Taylor and Middle Taylor Townships, Cambria County.

* * * * *

[Pa.B. Doc. No. 96-2091. Filed for public inspection December 13, 1996, 9:00 a.m.]

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Amendments to Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations

Agency: Delaware River Basin Commission.

Action: Final rule.

Summary: At its October 23, 1996 business meeting, the Delaware River Basin Commission amended its Comprehensive Plan, Water Code and Water Quality Regulations concerning water quality criteria for toxic pollutants, and policies and procedures to establish wasteload allocations and effluent limitations for point source discharges to Zones 2 through 5 (Trenton, New Jersey to the Delaware Bay) of the tidal Delaware River.

Effective Date: January 1, 1997.

Addresses: Copies of the Commission's Water Code of the Delaware River Basin, Administrative Manual—Part III Water Quality Regulations, the full text of the amendments and Response Document—September 5, 1996 Public Hearing are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

For Further Information Contact: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883-9500 ext. 203.

Supplementary Information: On October 5, 11 and 13, 1995, the Commission held public hearings on proposed amendments to its water quality regulations as noticed in the *Pennsylvania Bulletin* issues of August 26 and September 23, 1995. As a result of comments received on that proposal and discussions with the Commission's Water Quality and Toxics Advisory Committees, the Commission modified its initial proposal. The proposed regulations, as modified, were the subject of a public hearing on September 5, 1996 as noticed in the *Pennsylvania Bulletin* issue of July 27, 1996.

Specifically, water quality criteria for selected toxic pollutants are incorporated in the Comprehensive Plan and Article 3 of the Water Code and Water Quality Regulations as stream quality objectives. Article 4 of the

Water Quality Regulations has also been amended to include policies and procedures to be used to establish wasteload allocations for those discharges containing pollutants which exceed the stream quality objectives and impact the designated uses of the river.

Adoption of these amendments provides a mechanism for identifying toxic pollutants which impair aquatic life and human health, and developing uniform and equitable wasteload allocations for those NPDES discharges to the tidal Delaware River which contribute to their impairment. The permitting authorities of the Basin states will utilize allocations developed by the Commission to establish effluent limitations for NPDES permittees in their jurisdiction, as appropriate.

Based upon testimony received since the initial proposal and considerable deliberation, the Commission has amended its Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations.

1. Article 3 of the Administrative Manual—Part III Water Quality Regulations, the Comprehensive Plan and Article 3 of the Water Code of the Delaware River Basin are hereby amended as follows:

a. Subsections 3.10.3C. and D. are added to read as follows:

C. Aquatic Life Objectives for Toxic Pollutants. It is the policy of the Commission to designate numerical stream quality objectives for the protection of aquatic life for the Delaware River Estuary (Zones 2 through 5) which correspond to the designated uses of each zone. Aquatic life objectives for the protection from both acute and chronic effects are herein established on a pollutant-specific basis for:

pollutants listed as toxic under Section 307(a)(1) of the Clean Water Act for which the U. S. Environmental Protection Agency (EPA) has published final criteria,

other chemicals for which EPA has published final criteria under Section 304(a) of the Act, and

pollutants and other chemicals in combinations.

Other toxic substances for which any of the three Estuary states have adopted criteria or standards may also be considered for the development of stream quality objectives.

1. For the purpose of determining compliance with stream quality objectives for the protection of aquatic life, the duration of exposure of aquatic organisms shall be 1 hour for acute objectives and 4 days for chronic objectives.

2. Stream quality objectives for cadmium, chromium, copper, lead, nickel, silver and zinc shall be expressed as the dissolved form of the metal. Adjustment factors established by the Commission based upon the best available scientific information shall be used to convert total recoverable criteria published by the U.S. Environmental Protection Agency to dissolved stream quality objectives. In the absence of data to develop a factor for any of the metals, an adjustment factor of 1.0 shall be utilized. Stream quality objectives for other metals shall be expressed as the concentration of the total recoverable form of the metal.

D. Human Health Objectives for Toxic Pollutants. It is the policy of the Commission to designate numerical stream quality objectives for the protection of human health for the Delaware River Estuary (Zones 2 through 5) which correspond to the designated uses of each zone.

Stream quality objectives for protection from both carcinogenic and systemic effects are herein established on a pollutant-specific basis for:

pollutants listed as toxic under Section 307(a)(1) and other toxic pollutants, and

other chemicals for which EPA has published final criteria under Section 304(a) of the Act.

Other toxic substances for which any of the three Estuary states have adopted criteria or standards may also be considered for the development of stream quality objectives.

1. An objective to protect against carcinogenic effects shall only be established if the pollutant is classified A, B or C under the EPA classification system for carcinogens, and if a cancer potency factor (CPF) exists in IRIS.

2. An objective to protect against systemic effects shall only be established for a pollutant if a reference dose (RfD) exists in IRIS. An additional safety factor of 10 shall be utilized in establishing the stream quality objectives to protect against systemic effects for pollutants classified as carcinogens if a CPF is not available in IRIS.

3. In the absence of toxicological data for an RfD or CPF in IRIS, data published in the 1980 U.S. EPA water quality criteria documents will be considered.

4. In establishing stream quality objectives for carcinogens, the level of risk is established at 10^{-6} or one additional cancer in every 1,000,000 humans exposed for a lifetime (70 years).

5. For the purpose of determining compliance with human health stream quality objectives, the duration of exposure shall be 70 years for carcinogens and 30 days for systemic toxicants.

6. A rate of ingestion of water of 2.0 liters per day is assumed in calculating objectives for river zones where the designated uses include public water supplies after reasonable treatment. A rate of ingestion of fish of 6.5 grams per day (equivalent to consuming a 1/2 pound portion every 35 days) is assumed in calculating freshwater stream quality objectives for human health. A rate of ingestion of fish of 37 grams per day (equivalent to consuming a 1/2 pound portion every 6 days) is assumed in calculating marine stream quality objectives for human health.

7. Maximum Contaminant Levels (MCLs) shall be applied as stream quality objectives in Zones 2 and 3 which are designated for use as public water supplies for those toxic pollutants where the MCL value is more stringent than the calculated human health objectives for carcinogens or systemic toxicants.

8. Numerical criteria for toxic pollutants to protect the taste and odor of ingested water and fish shall be applied as stream quality objectives in the Estuary if these criteria are more stringent than the calculated human health objectives for carcinogens or systemic toxicants.

b. Subsection 3.10.5D. is revised to read as follows:

D. *Streamflow*. Numerical stream quality objectives are based on a minimum consecutive 7-day flow with a 10-year recurrence interval unless otherwise specified.

c. Subsection 3.10.5E. is added to read as follows:

E. *Requests for Modification of Stream Quality Objectives*. The Commission will consider requests to modify the stream quality objectives for toxic pollutants based upon site-specific factors. Such requests shall provide a demonstration of the site-specific differences in the physi-

cal, chemical or biological characteristics of the area in question, through the submission of substantial scientific data and analysis. The demonstration shall also include the proposed alternate stream quality objectives. The methodology and form of the demonstration shall be approved by the Commission.

d. Subsections 3.10.6H. through P. are added to read as follows:

H. *IRIS*. The Integrated Risk Information System established and maintained by the U.S. Environmental Protection Agency. An electronic data base containing information on the toxicity and carcinogenicity of individual substances which can be accessed by regulatory agencies and the public.

I. *Carcinogen*. A substance for which there is no level of exposure that does not pose a small, finite probability of inducing benign or malignant tumors.

J. *Systemic Toxicant*. A substance having a threshold exposure which must be exceeded before deleterious effects (other than cancer) are observed in organ systems.

K. *Acute Effects*. Effects (including but not limited to lethality) due to exposure to a toxicant over a short time period.

L. *Chronic Effects*. Effects (including but not limited to reduced reproduction, reduced growth and lethality) due to exposure to a toxicant over a relatively long period of time relative to the life span of the exposed organism.

M. *Cancer Potency Factor (CPF)*. The slope of the dose response curve in the low dose region expressed as the risk per milligram of a toxic substance per kilogram of body weight per day (mg/KG/day)^{u1}.

N. *Reference Dose (RfD)*. The daily exposure to a substance that is likely to be without an appreciable risk of deleterious effects during a lifetime expressed as milligram of the substance per kilogram of body weight per day (mg/KG/day).

O. *Maximum Contaminant Level (MCL)*. The maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

P. *Stream Quality Objectives*. Numeric values for specific pollutants and narrative descriptions of the quality of a waterbody that will assure that the designated uses of the waterbody, including the protection of aquatic life and human health, are achieved.

e. Subsection 3.30.2C.14. is added to read as follows:

14. *Toxic Pollutants*.

a. Applicable MCLs and criteria to protect the taste and odor of ingested water and fish are presented in Tables 3 and 4.

b. Applicable freshwater stream quality objectives for the protection of aquatic life are presented in Table 5.

c. Applicable freshwater stream quality objectives for the protection of human health are presented in Tables 6 and 7.

f. Subsection 3.30.3C.15. is added to read as follows:

15. *Toxic Pollutants*.

a. Applicable MCLs and criteria to protect the taste and odor of ingested water and fish are presented in Tables 3 and 4.

b. Applicable freshwater stream quality objectives for the protection of aquatic life are presented in Table 5.

c. Applicable freshwater stream quality objectives for the protection of human health are presented in Tables 6 and 7.

g. Subsection 3.30.4C.12. is added to read as follows:

12. *Toxic Pollutants.*

a. Applicable criteria to protect the taste and odor of ingested water and fish are presented in Table 4.

b. Applicable freshwater stream quality objectives for the protection of aquatic life are presented in Table 5.

c. Applicable freshwater stream quality objectives for the protection of human health are presented in Tables 6 and 7.

h. Subsection 3.30.5C.11. is added to read as follows:

11. *Toxic Pollutants.* Freshwater stream quality objectives apply in areas upstream of the Delaware Memorial Bridges (River Mile 68.75), and the more stringent of the freshwater or marine stream quality objectives apply in areas below RM 68.75.

a. Applicable criteria to protect the taste and odor of ingested water and fish are presented in Table 4.

b. Applicable freshwater and marine stream quality objectives to protect aquatic life are presented in Table 5.

c. Applicable freshwater and marine stream quality objectives to protect human health are presented in Tables 6 and 7.

Table 3: MAXIMUM CONTAMINANT LEVELS TO BE APPLIED AS HUMAN HEALTH STREAM QUALITY OBJECTIVES IN ZONES 2 AND 3 OF THE DELAWARE RIVER ESTUARY.

<i>Parameter</i>	<i>Maximum Contaminant Level (ug/l)</i>
Antimony	6
Arsenic	50
Barium	2.0 mg/l
Cadmium	5
Chromium (total)	100
Nickel	100
Selenium	50
1,2-trans-Dichloroethene	100
1,2-Dichloropropane	5
Ethylbenzene	700
gamma-BHC (Lindane)	0.2
1,2,4-Trichlorobenzene	70
Total Trihalomethanes	100

Table 4: CRITERIA TO PROTECT THE TASTE AND ODOR OF INGESTED WATER AND FISH TO BE APPLIED AS HUMAN HEALTH STREAM QUALITY OBJECTIVES IN ALL ZONES OF THE DELAWARE RIVER ESTUARY.

<i>Parameter</i>	<i>STREAM QUALITY OBJECTIVE (ug/l)</i>
Phenol	300
2-Chlorophenol	0.1
2,4-Dichlorophenol	0.3
2,4-Dimethylphenol	400
4-Chloro-3-methylphenol	3.0 mg/l
Pentachlorophenol	30
Acenaphthene	20
Chlorobenzene	20
Hexachlorocyclopentadiene	1.0
Nitrobenzene	30

Table 5: STREAM QUALITY OBJECTIVES FOR TOXIC POLLUTANTS FOR THE PROTECTION OF AQUATIC LIFE IN THE DELAWARE RIVER ESTUARY.

<i>Parameter</i>	<i>Freshwater Objectives (ug/l)</i>		<i>Marine Objectives (ug/l)</i>	
	<i>Acute</i>	<i>Chronic</i>	<i>Acute</i>	<i>Chronic</i>
Metals (Values indicated are total recoverable; see Section 3.10.3.C.2. for form of metal)				
Aluminum	750	87	—	—
Arsenic (trivalent)	360	190	69	36
Cadmium	$e^{(1.128 \cdot \text{LN}(\text{Hardness}) - 3.828)}$	$e^{(0.7852 \cdot \text{LN}(\text{Hardness}) - 3.49)}$	43	9.3
Chromium (trivalent)	$e^{(0.8190 \cdot \text{LN}(\text{Hardness}) + 3.688)}$	$e^{(0.8190 \cdot \text{LN}(\text{Hardness}) + 1.561)}$	—	—
Chromium (hexavalent)	16	11	1,100	50
Copper	$e^{(0.9422 \cdot \text{LN}(\text{Hardness}) - 1.464)}$	$e^{(0.8545 \cdot \text{LN}(\text{Hardness}) - 1.465)}$	5.3	3.4
Cyanide (total)	22	5.2	1.0	—
Lead	48	16	220	8.5
Mercury	2.4	0.012	2.1	0.025
Nickel	$e^{(0.846 \cdot \text{LN}(\text{Hardness}) + 3.3612)}$	$e^{(0.846 \cdot \text{LN}(\text{Hardness}) + 1.1645)}$	75	8.3
Selenium	20	5.0	300	71
Silver	$e^{(1.72 \cdot \text{LN}(\text{Hardness}) - 6.52)}$	—	2.3	—
Zinc	$e^{(0.8473 \cdot \text{LN}(\text{Hardness}) + 0.8604)}$	$e^{(0.8473 \cdot \text{LN}(\text{Hardness}) + 0.7614)}$	95	86
Pesticides/PCBs				
Aldrin	1.5	—	0.65	—
gamma-BHC (Lindane)	1.0	0.08	0.08	—
Chlordane	1.2	0.0043	0.045	0.004
Chlorpyrifos (Dursban)	0.083	0.041	0.011	0.0056
DDT and metabolites (DDE & DDD)	0.55	0.001	0.065	0.001
Dieldrin	1.25	0.0019	0.355	0.0019

Parameter	Freshwater Objectives (ug/l)		Marine Objectives (ug/l)	
	Acute	Chronic	Acute	Chronic
Endosulfan	0.11	0.056	0.017	0.0087
Endrin	0.09	0.0023	0.019	0.0023
Heptachlor	0.26	0.0038	0.027	0.0036
PCBs (Total)	1.0	0.014	5.0	0.03
Parathion	0.065	0.013	—	—
Toxaphene	0.73	0.0002	0.21	0.0002
Acid Extractable Organics				
Pentachlorophenol	$e^{(1.005 \cdot \text{pH} - 4.83)}$	$e^{(1.005 \cdot \text{pH} - 5.29)}$	13	7.9
Indicator Parameters				
Whole Effluent Toxicity	0.3 Toxic Units _{acute}	1.0 Toxic Units _{chronic}	0.3 TU _a	1.0 TU _c

Table 6: STREAM QUALITY OBJECTIVES FOR CARCINOGENS FOR THE DELAWARE RIVER ESTUARY.

PARAMETER	EPA CLASS.	MARINE OBJECTIVES (µg/l)		
		FRESHWATER OBJECTIVES (µg/l)	FISH & WATER INGESTION ONLY	FISH INGESTION ONLY
Beryllium	B2	0.00767	0.132	0.0232
Aldrin	B2	0.00189	0.0226	0.00397
alpha-BHC	B2	0.00391	0.0132	0.00231
Chlordane	B2	0.000575	0.000588	0.000104
DDT	B2	0.000588	0.000591	0.000104
DDE	B2	0.00554	0.00585	0.00103
DDD	B2	0.00423	0.00436	0.000765
Dieldrin	B2	0.000135	0.000144	0.0000253
Heptachlor	B2	0.000208	0.000214	0.0000375
Heptachlor epoxide	B2	0.000198	0.000208	0.0000366
PCBs (Total)	B2	0.0000444	0.0000448	0.0000079
Toxaphene	B2	0.000730	0.000747	0.000131
Acrylonitrile	B1	0.0591	0.665	0.117
Benzene	A	1.19	71.3	12.5
Bromoform	B2	4.31	164.0	28.9
Bromodichloromethane	B2	0.559	55.7	9.78
Carbon tetrachloride	B2	0.254	4.42	0.776
Chlorodibromomethane	C	0.411	27.8	4.88
Chloroform	B2	5.67	471.0	82.7
1,2-Dichloroethane	B2	0.383	98.6	17.3
1,1-Dichloroethene	C	0.0573	3.20	0.562
1,3-Dichloropropene	B2	87.0	14.1	2.48
Methylene chloride	B2	4.65	1,580	277
Tetrachloroethene	B2	0.80	8.85	1.55
1,1,1,2-Tetrachloroethane	C	1.29	29.3	5.15
1,1,2,2-Tetrachloroethane	C	0.172	10.8	1.89
1,1,2-Trichloroethane	C	0.605	41.6	7.31
Trichloroethene	B2	2.70	80.7	14.2
Vinyl chloride	A	2.00	525.0	92.9
Benzidine	A	0.000118	0.000535	0.000094
3,3-Dichlorobenzidine	B2	0.0386	0.0767	0.0135
PAHs				
Benz[a]anthracene	B2	0.00171	0.00177	0.00031
Benzo[b]fluoranthene	B2	0.000455	0.000460	0.000081
Benzo[k]fluoranthene	B2	0.000280	0.000282	0.000049
Benzo[a]pyrene	B2	0.0000644	0.0000653	0.0000115
Chrysene	B2	0.0214	0.0224	0.00394
Dibenz[a,h]anthracene	B2	0.0000552	0.0000559	0.0000098
Indeno[1,2,3-cd]pyrene	B2	0.0000576	0.0000576	0.0000101
Bis(2-chloroethyl)ether	B2	0.0311	1.42	0.249
Bis(2-ethylhexyl)phthalate	B2	1.76	5.92	1.04
Dinitrotoluene mixture (2,4 & 2,6)	B2	17.3	1420	249
1,2-Diphenylhydrazine	B2	0.0405	0.541	0.095
Hexachlorobenzene	B2	0.000748	0.000775	0.000136
Hexachlorobutadiene	C	0.445	49.7	8.72
Hexachloroethane	C	1.95	8.85	1.56

PARAMETER	EPA CLASS.	MARINE OBJECTIVES (µg/l)		
		FRESHWATER OBJECTIVES (µg/l)		FISH INGESTION ONLY
		FISH & WATER INGESTION	FISH INGESTION ONLY	
Isophorone	C	36.3	2590	455
N-Nitrosodi-N-methylamine	B2	0.000686	8.12	1.43
N-Nitrosodi-N-phenylamine	B2	4.95	16.2	2.84
N-Nitrosodi-N-propylamine	B2	0.00498	1.51	0.265
Pentachlorophenol	B2	0.282	8.16	1.43
2,4,6-Trichlorophenol	B2	2.14	6.53	1.15
Dioxin (2,3,7,8-TCDD)	—	1.3 x 10 ⁻⁸	1.4 x 10 ⁻⁸	2.4 x 10 ⁻⁹

Table 7: STREAM QUALITY OBJECTIVES FOR SYSTEMIC TOXICANTS FOR THE DELAWARE RIVER ESTUARY.

PARAMETER	EPA CLASS.	MARINE OBJECTIVES (ug/l)		
		FRESHWATER OBJECTIVES (ug/l)		FISH INGESTION ONLY
		FISH & WATER INGESTION	FISH INGESTION ONLY	
Antimony		14.0	4,310	757
Arsenic		9.19	73.4	12.9
Beryllium	B2	165	2,830	498
Cadmium		14.5	84.1	14.8
Chromium (Trivalent)		33,000	673,000	118,000
Hexavalent chromium	A	166	3,370	591
Mercury	D	0.144	0.144	0.144
Nickel		607	4,580	805
Selenium	D	100	2,020	355
Silver	D	175	108,000	18,900
Thallium		1.70	6.20	1.10
Zinc		9,110	68,700	12,100
Aldrin	B2	0.96	11.5	2.03
gamma-BHC (Lindane)		7.38	24.9	4.37
Chlordane	B2	0.0448	0.0458	0.00805
DDT	B2	0.100	0.100	0.0176
Dieldrin	B2	0.108	0.115	0.020
Endosulfan		111	239	42.0
Endrin	D	0.755	0.814	0.143
Heptachlor	B2	0.337	0.344	0.060
Heptachlor epoxide	B2	0.0234	0.0246	0.00433
Total PCBs	B2	0.00839	0.00849	0.00149
Acrolein		320	780	137
Ethylbenzene		3,120	28,700	5,050
Bromoform	B2	682	25,900	4,560
Bromodichloromethane	B2	693	69,000	12,100
Dibromochloromethane	C	690	46,600	8,190
Carbon tetrachloride	B2	23.1	402	70.6
Chloroform	B2	346	28,700	5,050
Chlorobenzene	D	677	20,900	3,670
1,1-Dichloroethene	C	309	17,300	3,040
1,2-trans-Dichloroethene		696	136,000	23,900
1,3-Dichloropropene	B2	10.4	1,690	297
Methyl bromide		49.0	N/A	N/A
Methylene chloride	B2	2,090	710,000	125,000
1,1,2-Trichloroethane	C	138	9,490	1,670
Tetrachloroethene		318	3,520	618
1,1,1,2-Tetrachloroethane	C	1,000	22,400	3,940
Toluene		6,760	201,000	35,400
Acenaphthene		1,180	2,670	469
Anthracene	D	4,110	6,760	1,190
Benzidine	A	81.8	369	64.9
Bis(2-chloroisopropyl)ether		1,390	174,000	30,600
Bis(2-ethylhexyl)phthalate	B2	492	1,660	291
Butylbenzyl phthalate	C	298	520	91.4
Diethyl phthalate	D	22,600	118,000	20,700
Dimethyl phthalate	D	313,000	2,990,000	526,000
Dibutyl phthalate	D	2,710	12,100	2,130

PARAMETER	EPA CLASS.	MARINE OBJECTIVES (ug/l)		
		FRESHWATER OBJECTIVES (ug/l)		FISH INGESTION ONLY
		FISH & WATER INGESTION	FISH INGESTION ONLY	
1,2-Dichlorobenzene	D	2,670	17,400	3,060
1,3-Dichlorobenzene	D	414	3,510	617
1,4-Dichlorobenzene		419	3,870	677
2,4-Dinitrotoluene		69.2	5670	996
Fluoranthene		296	375	65.8
Fluorene	D	730	1,530	268
Hexachlorobenzene	B2	0.958	0.991	0.174
Hexachlorobutadiene	C	69.4	7,750	1,360
Hexachlorocyclopentadiene		242	17,400	3,050
Hexachloroethane	C	27.3	124	21.7
Isophorone	C	6,900	492,000	86,400
Nitrobenzene	D	17.3	1,860	327
Pyrene	D	228	291	51.1
1,2,4-Trichlorobenzene	D	255	945	166
2-Chlorophenol		122	402	70.6
2,4-Dichlorophenol		92.7	794	139
2,4-Dimethylphenol		536	2,300	403
2,4-Dinitrophenol		70	14,300	2,500
Pentachlorophenol	B2	1,010	29,400	5,160
Phenol		20,900	4,620,000	811,000

2. Article 4 of the Administrative Manual—Part III Water Quality Regulations is hereby amended as follows:

a. Subsection 4.20.4B. is revised to read as follows:

B. so that the assimilation of such waste by the interstate waters will not result in a violation of such water quality criteria.

1. For the purposes of establishing wasteload allocations for toxic pollutants for the Delaware River Estuary, the lower of the 95th percentile of the available data at the appropriate criteria duration, or the water quality criterion at or above the head of the tide shall be used to establish boundary conditions.

b. Subsection 4.20.5 is added to read as follows:

4.20.5 Application of Criteria for Toxic Pollutants.

A. Delaware River Estuary.

1. In establishing wasteload allocations and other effluent requirements, exceedances of stream quality objectives for the protection of aquatic life from acute effects may be permitted in small areas near outfall structures, provided that all of the following requirements are met.

a. As a guideline, the dimensions of the area where objectives are exceeded should be limited to the more stringent of the following restrictions:

1). a distance of 50 times the discharge length scale in any direction from the outfall structure, or

2). a distance of 5 times the local water depth in any direction from the outfall structure.

b. Stream quality objectives shall not be exceeded in areas designated as critical habitat for fish and benthic organisms.

c. Stream quality objectives shall not be exceeded where effluent flows over exposed benthic habitat prior to mixing with the receiving waters.

d. A zone of passage for free-swimming and drifting organisms equal to 50% of the surface width of the river at the location of the discharge shall be provided.

e. The total surface area of the Delaware River Estuary where stream quality objectives for the protection of aquatic life from acute effects are exceeded shall be limited to:

1). 5% of the total surface area of Zones 2, 3 and 4, and

2). 5% of the total surface area of Zone 5.

f. Upon the request of one or more dischargers, the Executive Director may consider requests for alternatives to the requirements of subsections a. through e. of Section 4.20.5.A.1. Such requests shall provide a demonstration that the alternative requirement requested will not adversely impact free-swimming, drifting and benthic organisms. The demonstration(s) shall provide a sound rationale, and be supported by substantial scientific data and analysis. The methodology and form of the demonstration shall be approved by the Executive Director. The Executive Director may reject any requests which are not substantive. The Commission may establish alternative areas where acute stream quality objectives may be exceeded based upon the evaluation of submitted demonstrations.

g. The Executive Director may consider requests to conduct studies to confirm the mixing characteristics and the predicted dilution isopleths of a discharge. Such requests shall provide a demonstration based upon sound scientific and technical rationale, and be supported by substantial data and analysis. The methodology and form of the demonstration shall be approved by the Executive Director. The Executive Director may reject any requests which are not substantive. The Commission may establish alternative dilution factors based upon the evaluation of submitted demonstrations.

2. For those stream quality objectives whose numerical value is related to hardness, a median hardness value of 74 mg/l as CaCO₃ shall be used to represent the hardness of the receiving water for the purposes of determining the numerical value of those objectives. This median hardness value shall be used to establish the aquatic life objective for protection from chronic effects; and in conjunction with the site-specific median hardness value of the efflu-

ent and the dilution factor, the aquatic life objective for protection from acute effects.

3. For those stream quality objectives whose numerical value is related to pH, a median pH value of 7.1 shall be used to represent the pH of the receiving water for the purposes of determining the numerical value of those objectives. This median pH value shall be used to establish the aquatic life objective for protection from chronic effects; and in conjunction with the site-specific median pH value of the effluent and the dilution factor, the aquatic life objective for protection from acute effects.

4. *Assumptions for Estuarine Mixing.* Complete vertical and lateral mixing shall be assumed in the Estuary in applying chronic aquatic life and human health stream quality objectives under design conditions. Site-specific data which does not support this assumption will be considered by the Executive Director in establishing allocations to discharges.

5. *Deriving Total Recoverable Wasteload Allocations for Metals.* Wasteload allocations developed from the dissolved stream quality objectives for seven cationic metals shall be converted into total recoverable wasteload allocations using a translator. The translator shall be determined using procedures specified by the Commission. In the absence of data to develop a translator for any of the metals, the reciprocal of the conversion factor established under Section 3.10.3C.2. shall be used for the translator.

B. Definitions.

1. *Critical Habitat.* Specific areas within the tidal Delaware River which are or could be occupied by a species absent the toxic effect of pollutants; and which have those physical, chemical and biological features which are essential to the conservation and maintenance of the Delaware Estuary population. The Commission shall identify and determine critical habitat within the tidal Delaware River. Such determination shall consider the spatial and temporal requirements of the species including critical life stages. Determinations shall be governed by the Commission's Rules of Practice and Procedure relating to review, hearing and decisions of objections thereto.

2. *Discharge Length Scale.* The square root of the cross-sectional area of any discharge outlet.

c. Subsection 4.30.7A.4.a. is revised to read as follows:

a. The reserve in each zone shall be utilized to accommodate new discharges or major revisions to an allocation, or any reallocation, when appropriate in the judgment of the Commission.

d. Subsection 4.30.7A.5. is revised to read as follows:

5. *Reallocations.*

a. *Carbonaceous Oxygen Demand*

1). All allocations shall be subject to review by the Commission and, after such review, the Commission may make such reallocation as it deems necessary.

2). If any factors upon which an individual allocation is based change significantly, application shall be made to the Executive Director for a revised allocation.

3). Whenever the reserve in a zone approaches depletion, or when the full use of the assimilative capacity is approached, or when in the judgment of the Commission, the allocations existing at that time are no longer equitable, the capacity in the zone, minus a reserve, will be reallocated among the waste dischargers in that zone.

b. *Toxic Pollutants*

1). All allocations shall be subject to review by the Commission and, after such review, the Commission may make such reallocation as it deems necessary.

2). If any factors upon which an individual allocation is based change significantly, application shall be made to the Executive Director for a revised allocation. The Executive Director shall provide notice to interested and affected parties prior to establishing the revised allocation.

3). Allocations shall, as a minimum, be reviewed and, if required, revised every five years, or as directed by the Commission.

e. Subsection 4.30.7A.8. is added to read as follows:

8. *Design Effluent Flow.* For the purpose of determining the waste assimilative capacity of a stream and the wasteload allocations for discharges of toxic pollutants, the following design effluent flows will be used:

a. For industrial wastewater treatment plant discharges covered by Effluent Limitations Guidelines (ELG) promulgated by the U.S. EPA, the effluent design flow shall be the average daily flow associated with:

- 1). the month having the highest monthly production rate of the previous twelve months or, if greater,
- 2). the year having the highest annual production rate of the previous five years.

b. If the discharge from an industrial wastewater treatment plant is not covered by Effluent Limitations Guidelines (ELG) promulgated by the U.S. EPA, is mixed with stormwater or cooling water or production data are not available, the effluent design flow shall be the average daily flow associated with:

- 1). the month with the highest monthly flow rate of the previous twelve months, or if greater,
- 2). the year having the highest annual flow rate of the previous five years.

c. For municipal wastewater treatment plant discharges, the effluent design flow shall be the higher of:

- 1). the average daily flow of the plant for the previous three years including a growth factor based upon a five-year projection, if available, or
- 2). the capacity of the plant that was used to establish effluent limitations for the NPDES permit expressed as the annual average flow.

f. Subsection 4.30.7B.2. is added to read as follows:

2. *Toxic Pollutants.* Pursuant to Sections 3.10.4.E. and 4.30.7.A. of these regulations, the Commission shall establish wasteload allocations and other effluent requirements that may be necessary to meet the stream quality objectives for toxic pollutants contained in Section 3.30.

a. *Reserve.* A reserve allocation of 5% of the Total Maximum Daily Load (TMDL) shall be established as a part of an allocation or reallocation, by increasing the effluent design flow by 5%.

b. *Margin of Safety.* As part of an allocation or reallocation, a proportion of the Total Maximum Daily Load shall be established as a margin of safety. The proportion established shall reflect the degree of uncertainty in the data and resulting water quality-based controls.

c. *Allocation to Discharges.*

- 1). Wasteload allocations shall be established for Phase 1 continuous point source discharges to address acute

aquatic life protection, chronic aquatic life protection and both carcinogenic and systemic toxicants.

a). The water quality objective for the establishment of any allocation or reallocation shall be the stream quality objectives contained in Section 3.30. If the background concentration of a toxic pollutant at the appropriate criteria duration exceeds the stream quality objective as a result of loadings from sources not subject to control, then the water quality objective shall be the background concentration of the pollutant.

b). The minimum flows for aquatic life protection and to protect the taste and odor of ingested water and fish are based on a minimum consecutive 7-day flow with a 10-year recurrence interval for all tributaries; and for the Delaware River, a flow of 2500 cfs at Trenton. For the protection of human health, the harmonic mean flow shall be used for carcinogens, and the minimum consecutive 30-day flow with a 5-year recurrence interval shall be used for systemic toxicants.

2). Allocations shall be determined by the Executive Director using the procedure described in Section 4.30.7.B.2.c.4). or alternative procedures that are consistent with the doctrine of equitable apportionment, and achieve the following:

a). assure compliance with applicable stream quality objectives;

b). provide maximum equity among competing discharges; and

c). minimize the overall cost of compliance.

3). The loadings of toxic pollutants identified in Section 4.30.7.B.2.c. shall be allocated among individual Phase 1 continuous point source discharges which meet any of the following criteria:

a). The discharge has an existing permit limit for the parameter,

b). Effluent data indicates the presence of the parameter; or

c). The reasonable potential exists for the parameter to occur in the discharge.

4). Allocations for Phase 1 continuous point source discharges will be based upon the equal marginal percent reduction procedure which has been determined to be consistent with the requirements of Section 4.30.7.B.2.c.2). This procedure requires all dischargers, whether they are part of a multiple discharge wasteload allocation scenario or not, to provide treatment of their wastewater to achieve the applicable water quality standard; and in addition, requires some dischargers to provide additional treatment due to the cumulative impact of all discharges.

a). Alternative wasteload allocation procedures may be considered by the Commission if they provide timely compliance with Section 4.30.7.B.2.c.2). and include the consent of all dischargers affected by the alternative procedure.

b). Discharges meeting any of the requirements of Section 4.30.7.B.2.c.3). will be assigned an initial loading based upon the following information in order of preference:

i). The average monthly limit obtained from effluent guideline limitations promulgated by the U.S. Environmental Protection Agency for the point source category applicable to the discharge,

ii). Any average monthly limitation for the parameter in the current discharge permit,

iii). Monitoring data of sufficient quantity and quality, as determined by the Executive Director, to characterize the concentration of the parameter in the discharge, or

iv). Minimum performance standards established by the Executive Director for industrial and municipal wastewater treatment plants discharging to the tidal Delaware River.

In assigning the initial loading, the average loading at the appropriate criteria duration will be calculated using the coefficient of variation (CV) calculated from monitoring data or a default value of 0.6 in the absence of data of sufficient quantity and quality, as determined by the Executive Director.

c). Discharges contributing to an exceedance of a stream quality objective due to the cumulative effect of all discharges may not be required to provide additional treatment or loading reduction if the discharge does not represent a significant proportion of the marginal loading.

5). Allocations established by the Executive Director and reallocations required under Section 4.30.7.A.5.b.2). shall be published in a document containing the specific procedures, tools and assumptions used to derive the allocations.

6). Wasteload allocations established under Section 4.30.7.B.2.c. shall be referred to the appropriate agency of the signatory parties, respectively, for use, as appropriate, in developing effluent limitations, schedules of compliance, and other requirements in permits.

d. *Adjustment for Pollutants in Intake Water.* Wasteload allocations established for an industrial discharge may be adjusted by the Executive Director, in consultation with the appropriate agency of the signatory parties, to account for pollutants present in water withdrawn for use by the facility from the receiving water provided that the following conditions are met:

1). In the absence of pollutants in the water withdrawn, there would be no exceedance of the stream quality objectives for toxic pollutants;

2). Pollutants in the discharge resulting from any other activity, operation or materials used or produced at the facility do not significantly contribute to an exceedance of the stream quality objectives for toxic pollutants contained in Section 3.30.;

3). No statistically significant difference can be detected between the intake and effluent concentrations and loadings of a toxic pollutant based upon a rigorous analysis of data representative of operating and ambient conditions at the facility; and

4). No practicable alternative source of intake water is available.

g. Subsection 4.30.7C. is added to read as follows:

C. *Definitions.*

1. *Wasteload Allocation.* The portion of the Total Maximum Daily Load of a body of water or section thereof that is allocated to an existing or future point source of pollution. Or, any limitation on the loading and/or concentration of a pollutant discharged from a point source required to ensure that stream quality objectives are not exceeded.

2. *Total Maximum Daily Load (TMDL).* The maximum daily loading of a pollutant from all sources which still ensures that water quality objectives are met.

3. *Margin of Safety.* A factor that takes into account any uncertainty or lack of knowledge about the relationship between pollutant loadings and the quality of the receiving water.

4. *Marginal Load.* The portion of the loading of a pollutant that contributes to an exceedance of a stream quality objective when the cumulative loading from all point sources is considered.

5. *Effluent Limitations Guidelines.* Effluent limitations for pollutants for categories and classes of point sources promulgated by the U.S. Environmental Protection Agency under Section 301 of the Clean Water Act which reflect the best available treatment technology.

6. *Harmonic Mean Flow.* The flow value corresponding to the number of daily flow measurements divided by the sum of the reciprocals of the flows.

7. *Background Concentration.* The concentration of a toxic pollutant at any point in the Estuary that results from loadings from tributaries, sediments (if applicable), and any point or non-point sources not subject to control in the current allocation or reallocation.

8. *Phase 1 Continuous Point Source Discharge.* A discharge of wastewater other than non-contact cooling water, permitted under the National Pollutant Discharge Elimination System (NPDES) which occurs without interruption during the operating hours of a facility except for infrequent shutdowns, and is not primarily dependent on precipitation-induced flows.

9. *Long-term Average Concentration.* The mean concentration of a toxic pollutant in the effluent that represents the desired performance of a wastewater treatment plant.

10. *Minimum Performance Standards.* The long-term average concentration for a parameter for which stream quality objectives have been established under Section 3.10.3.C. or D.

a. For volatile and non-volatile organic chemicals, the standard is the maximum for a monthly average specified in the effluent guideline limitations for the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) industrial category, or the highest reported effluent value for activated sludge treatment specified in the U.S. EPA's Water Engineering Research Laboratory data base.

b. For chlorinated pesticides and polychlorinated biphenyls, the standard is the Practical Quantitation Limit (PQL) for the compound.

c. For metals and indicator parameters, the standard is the average concentration of the parameter in industrial or municipal treatment plant discharges to the Estuary.

11. *Initial Loading.* The concentration or mass of a pollutant that is initially assigned to a discharge that meets the criteria specified in Section 4.30.7.B.2.c.3). during the baseline analysis portion of a wasteload allocation exercise.

3. Interpretive Guideline No. 1 of the Administrative Manual - Part III Water Quality Regulations is hereby amended as follows:

a. Subsection A.(1)a. is revised to read as follows:

a. *Toxic Substances.* The following limits shall apply in Basin waters other than Zones 2, 3, 4 and 5.

b. Subsection B.(2)b. is revised to read as follows:

b. *Toxicity.* The following requirements shall apply in Basin waters other than Zones 2, 3, 4 and 5.

4. a. This resolution shall become effective January 1, 1997 except as otherwise provided in Subsection b. below.

b. The Commission may extend the time within which the provisions of the resolution are effective as to 1) any applications now pending before the Commission or any signatory party or 2) any existing docket conditions which require compliance with the resolution.

Delaware River Basin Compact, 75 Stat. 688

SUSAN M. WEISMAN,
Secretary

Fiscal Note: Fiscal Note 68-33 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A (1996) and the Water code and Water Quality Standards as set forth in 18 CFR Part 410 (1996) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 96-2092. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 855, 862, 863 AND 866]

Termination of Instant Lottery Games

The following instant games were terminated by public announcement by the Executive Director of the Lottery and are being deleted from the *Pennsylvania Code*:

Sections 855.1—855.22, Pennsylvania Instant Slots ('93) Instant Lottery (see § 855.22 (relating to termination of chapter)). June 27, 1994.

Sections 862.1—862.22, Pennsylvania Money, Movies and Music Instant Lottery (see § 862.22 (relating to termination of chapter)). September 26, 1994.

Sections 863.1—863.22, Pennsylvania Winner Wonderland '93 Instant Lottery (see § 863.22 (relating to termination of chapter)). June 27, 1994.

Sections 866.1—866.22, Pennsylvania Dozen Roses Instant Lottery (see § 866.22 (relating to termination of chapter)). June 27, 1994.

ROBERT A. JUDGE, Sr.,
Secretary

CHARLES W. KLINE,
Executive Director

[Pa.B. Doc. No. 96-2093. Filed for public inspection December 13, 1996, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 65 AND 69]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 61, 65 and 69 (relating to seasons, sizes and creel limits; special fishing regulations; and fishing in Lake Erie and boundary lakes). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments relate to fishing.

A. *Effective Date*

These proposed amendments will, if approved on final rulemaking, go into effect upon publication of an order adopting the regulations.

B. *Contact Person*

For further information on the proposed changes, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000.

C. *Statutory Authority*

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

D. *Purpose and Background*

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

E. *Summary of Proposal*

(1) *Section 61.1 (relating to Commonwealth inland waters)*. Effective the 1982 fishing year, the Commission initiated a 15 inch, two fish per day policy for landlocked Atlantic Salmon as part of the plan for introducing this species to Harveys Lake, Luzerne County, and later to Raystown Lake, Huntingdon County. For reasons that may never be fully understood, but certainly include the collapse of smelt populations in Harveys Lake and perhaps competition with other predatory fish in Raystown, the salmon never materialized despite serious stocking efforts. Stocking has been discontinued for some time, and netting of both waters indicates that few, if any, salmon remain. Thus, there is no need to have specific regulations on landlocked Atlantic Salmon. The general regulations on all species of trout and salmon for inland waters will more than suffice for any landlocked Atlantic Salmon that may still exist in Commonwealth waters. The Commission therefore proposes to delete the specific regulations pertaining to landlocked Atlantic Salmon.

(2) *Section 61.4 (relating to Conowingo Reservoir)*. Maryland and the Commonwealth historically have had a cooperative relationship regarding regulations for the border waters, Conowingo Reservoir and Youghiogheny Reservoir. Due primarily to the locations of the dams, the Commonwealth takes the lead on the Youghiogheny while Maryland takes the lead on the Conowingo. Staff was recently alerted that Maryland intends to implement

changes to its regulations on the Conowingo Reservoir for 1997. Maryland proposes an 18-inch length limit for striped bass (and hybrids). The Maryland proposal also includes length limits of 24 inches for northern pike, 15 inches for walleye and 36 inches for muskellunge and muskellunge hybrids. Although staff believes that the 20-inch minimum length limit currently in effect for striped bass (and hybrids) is preferable, staff agrees with the other regulations that Maryland proposes. The Maryland proposal of 24 inches for northern pike and 15 inches for walleye will coincide with the Commonwealth's Statewide regulations for those species. Although Maryland's proposal on muskellunge is inconsistent with the Commonwealth's Statewide regulations, it is acceptable to staff because it is on the conservative side and should impact relatively few anglers based on staff's perception of a very low number of muskellunge in these waters. Staff also suggests that any reference to Amur pike under the northern pike component of the regulations be deleted as it is doubtful that any of these fish continue to exist. The Commission therefore proposes regulations increasing the size limits of northern pike, walleye and muskellunge in the Conowingo Reservoir and deleting any reference to Amur pike.

(3) *Sections 65.2 and 65.6 (relating to delayed harvest fly-fishing only areas; and delayed harvest artificial lures only areas)*. In the early 1980's, as part of modifying the special regulations program involved in trout management, the fishing hours for fly-fishing-only area was changed from "1 hour before sunrise to 1 hour after sunset" to "1 hour before sunrise—except opening day which is 8 a.m. to 1 hour after sunset." This designation has continued through 1996 with delayed harvest waters even though there is no need to have the special clause for the opening day of trout season inasmuch as these waters are intended to be open year around. None of the other special regulation programs have such a restriction. It is staff's intention to have fishing hours on delayed harvest waters no more restrictive than on other waters in special regulation trout programs. Therefore, the Commission proposes to delete the reference to 8 a.m. on opening day in both regulations.

(4) *Section 65.4a (relating to all-tackle trophy trout)*. A 7 mile stretch of Penns Creek, Centre County, and a 13.5 mile length of the Little Juniata River, Blair and Huntingdon Counties, where special regulations recently have been initiated (see § 65.24), form the basis for a program that is likely to grow as other select streams are considered. It is desirable to place this special regulation program under the same designation procedures applicable to other special regulations. This will make these special regulations easier to recognize in the license summary book and will provide a more systematic approach to this program. The Commission therefore proposes new regulations implementing the all-tackle trophy trout program.

(5) *Section 65.22 (relating to trout streams open to sucker fishing)*. For several years, portions of a few select trout-stocked streams under § 65.22 were open to sucker fishing (worms only) during the normal spring closure for approved trout waters. The program was in recognition of the popularity of this springtime tradition and how approved trout water status limited use on these waters given the extent of the stocking program. Currently, portions of only two streams (that is, Fishing Creek, Clinton County, and Bald Eagle Creek, Centre County)

are involved, and it seems appropriate to consider discontinuation of this special regulation. The need for these regulations is questionable. Some of the most popular/better sucker fishing areas on both waters are outside of that provided for in the regulations and are not designated approved trout waters. Stocking will provide greater flexibility in scheduling preseason trout any time rather than just the week before opening day to minimize problems with the sucker fishery. It will also reduce the temptation for angling for trout using the worms-only sucker designation as a guise.

(6) *Sections 69.21—69.39 (relating to commercial fishing licenses).* Act 1994-79 banned the use of gill nets for commercial fishing on boundary lakes, effective January 1, 1996. As former gill net licensees convert to trap nets, it has become necessary to update the current regulations relating to trap nets.

F. Fiscal Impact

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

G. Paperwork

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

(*Editor's Note:* Amedments to §§ 61.1 and 61.4 (which are proposed to be amended in this document) appeared at 26 Pa.B. 5701 (November 23, 1996) and will be codified in MTS 266 (January 1997).)

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-61. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS , SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *	* * * * *	
[LANDLOCKED ATLANTIC SALMON]	[8 a.m. opening day of trout season to midnight, last day of February of following year.]	[15 inches]	[2]
	* * * * *	* * * * *	

§ 61.4. Conowingo Reservoir.

* * * * *

(d) The following seasons, sizes and creel limits apply to the Conowingo Reservoir, which includes the Susquehanna River from the Maryland State Line upstream to Holtwood Dam:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *	* * * * *	
PIKE Northern [Amur]	Open year-round	[20] 24 inches	2 (combined species)
WALLEYE	Open year-round	[14] 15 inches	5
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Open year-round	[30] 36 inches	[2 (combined and species)] 1
	* * * * *	* * * * *	

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.2. Delayed harvest fly-fishing only areas.

* * * * *

(b) It is unlawful to fish in designated and posted delayed-harvest fly-fishing only **[area] areas** except in

compliance with the following requirements:

* * * * *

(4) Fishing hours are: 1 hour before sunrise **[—except opening day which is 8 a.m.—]** to 1 hour after sunset during the regular and an extended trout season.

* * * * *

* * * * *

§ 65.4a. All-tackle trophy trout.

(a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trophy trout areas. The designation of waters as all-tackle trophy trout areas shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted all-tackle trophy trout areas except in compliance with the following requirements:

(1) The program is open to fishing year-round; there is no closed season.

(2) Minimum size is: 14 inches, caught on, or in possession on, the waters under regulation.

(3) The daily creel limit is: two trout—combined species—from 8 a.m. on the opening day of trout season in April until midnight Labor Day, except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.

(4) A current trout/salmon permit is required.

§ 65.6. Delayed harvest artificial lures only areas.

* * * * *

(b) It is unlawful to fish in designated and posted delayed-harvest, artificial lures only areas except in compliance with the following requirements:

(3) Fishing hours are: 1 hour before sunrise [—except opening day which is 8 a.m.—] to 1 hour after sunset during the regular and any extended trout season.

* * * * *

§ 65.22. [Trout streams open to sucker fishing] (Reserved).

(a) The Executive Director, with the approval of the Commission, may designate trout streams—approved trout water—open to sucker fishing during the period March 1 to the opening day of regular trout season in April. The designation shall be effective when the waters are so posted after publication of a notification of designation in the *Pennsylvania Bulletin*.

(b) Approved trout waters open to sucker fishing from March 1 to opening day of regular trout season are subject to the following restrictions:

(1) Fishing is limited to suckers only. It is unlawful to take, catch, kill or possess fish other than suckers when fishing on designated streams during this period.

(2) The only permissible bait, when fishing on these designated streams during the period March 1—opening day is worms. It is unlawful to fish with bait or device other than worms on these streams during the period March 1—opening day.]

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Blair and Huntingdon	Little Juniata River from the mouth of Bald Eagle Creek (near Tyrone) downstream to the railroad bridge at the east (downstream) border of Ironville [From the railroad bridge at the east (downstream) border of Ironville downstream to the mouth]	No closed season on trout. Daily limit: Opening day of trout season to Labor Day—eight trout. Labor Day to succeeding opening day of trout season—three trout. Inland regulations apply to warmwater species. [Trout: Opening day of trout season in April until midnight, day before Labor Day. Minimum size limit: 14 inches Daily creel limit: 2 trout (combined species) except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under the regulation. Other species: inland regulations apply.]
[Centre]	[Penns Creek]	[The following size and creel limits apply to an area from the confluence with Elk Creek at Coburn downstream a distance of 7 miles to the catch and release area: Trout—minimum size limit: 14 inches; daily creel limit: 2 trout per day (combined species) except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation. Other inland seasons, size and creel limits apply.]

* * * * *

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter C. COMMERCIAL FISHING LICENSES

§ 69.21. Limitations on number and types of licenses.

(a) [Except as otherwise provided in § 69.29 (relating to commercial fishing for underutilized species), the] The number and types of commercial fishing licenses for fishing in Lake Erie shall be limited as follows:

(1) [Gill netting:

(i) Boats under 26 feet in length: 0.

(ii) Boats 26 feet or more but less than 40 feet in length: 0.

(iii) Boats 40 feet or more in length: 0.

(2)]

Trap nets: Up to ten individuals may be licensed to fish up to [ten] twenty trap nets each. Each trap net requires a separate license.

[(3)] (2) ***

[(4)] (3) ***

[(5)] (4) ***

(b) [Exception. As a limited exception to the limitation on the number of licenses for gill netting under subsection (a)(1), a licensee may apply to the Commission to increase the size of the licensee's boat by one class and the Commission may issue a license for the larger boat class. The gear used by a licensee who increases his boat size under this exception shall remain limited to the total amount of gill net authorized for the smaller boat class under § 69.24 (relating to limitations on gear).

(c) [Implementation of trap net licenses. The Executive Director may implement subsection (a)[(2)] (1), providing for additional trap net licenses, by gradually increasing the number of trap net licenses on an annual basis up to the maximum number of licenses authorized. In making a determination on how many trap net licenses to issue [for 1993 and subsequent years], the Executive Director may consider the available estimates of fish populations and the possible impacts of additional commercial fishing efforts.

§ 69.22. Applications.

* * * * *

(c) Residency. Applicants for resident commercial fishing licenses shall submit proof of their residence in this Commonwealth by showing that they paid personal income tax to the Commonwealth for the year prior to the year of application. Proof shall include evidence that the applicant paid resident personal income tax to the Commonwealth and did not pay income tax as a resident of any other state or sovereignty. Applicants for resident commercial licenses shall also submit proof that boats [licensed] used for fishing in Commonwealth waters of Lake Erie are either registered with the Commonwealth or documented in accordance with law. [In order to] To qualify for a resident license, both the applicant and the principal operators of the gear subject to licensing [must] shall prove to the satisfaction of the Commission that they are bona fide residents of this Common-

wealth. The applicant shall submit the names and addresses of all operators of the gear [—such as boats and nets—] to be licensed, including proof of their residence in this Commonwealth.

(d) Ownership. The applicant for a Lake Erie commercial fishing license [must] shall prove to the satisfaction of the Commission that [he] the applicant is the owner or lessee of the gear [—such as boats and nets—] to be licensed. A license will not be issued to an individual who is not the owner or lessee of the gear for which application is made for licensing.

(e) Age. Applicants for a commercial fishing license under this chapter shall submit proof that they are at least 18 years of age.

(f) Boats. Applicants for a commercial fishing license under this chapter shall provide a description of the boats to be used with licensed gear.

§ 69.23. Responsibility of licensees.

* * * * *

(b) Licensees are personally responsible for, and shall be physically present during, the day-to-day operation of [boats and] gear licensed under this chapter and section 2903 of the code (relating to boat and net licenses for boundary lakes). Day-to-day operation of gear includes setting, lifting, pulling and clearing of nets and the sorting and the landing of catch. If exigent circumstances preclude the physical presence of the licensee during the day-to-day operation of gear, the licensee shall notify in advance the Northwest Region Law Enforcement Office.

(c) [Each] A licensee [must] shall prove to the satisfaction of the Commission that the licensee is responsible to carry out the obligations of the license. The proof [must] shall consist of the following:

(1) [For the first year of application for a license, the applicant must show proof of an investment of \$5000 in commercial fishing equipment.

(2) For the second and third consecutive years, the licensee must show proof of any of the following:

(i) An investment of \$5000 in commercial fishing equipment.

(ii) At least 50 days of commercial fishing in the Commonwealth waters of Lake Erie in the previous year.

(iii) A catch value of \$3000 from the Commonwealth waters of Lake Erie for the previous year.

(3) For the fourth and all subsequent years, the licensee must show proof of either of the following:

(i) Investment of \$7500 in commercial fishing equipment.

(ii) At least 75 days of commercial fishing in Commonwealth waters of Lake Erie during the previous year.]

For the first year of application for a license, the applicant shall show proof of ownership or lease of gear authorized for license under this chapter and section 2903 of the code.

(2) For the second and all subsequent years, the licensee shall show proof of at least 50 days of

commercial fishing in the Commonwealth waters of Lake Erie in the previous year.

§ 69.24. Limitations on gear.

(a) A licensed trap netter may not use or fish more than [10] 20 trap nets, singularly or in a series or tandem set, at any one time.

(b) [A licensed trap netter may not use or fish more than 10 trap nets at any one time.] No more than two licensed trap netters may fish from the same boat at any one time. If two licensed trap netters fish from the same boat at the same time, the trap netters shall clearly and distinctly separate their catch into containers or boxes marked with their respective license numbers.

§ 69.26. Reports.

(a) The holder of a license described in this chapter or section 2903 of the code (relating to boat and new licenses for boundary lakes), shall file a monthly report with the Commission describing the licensee's daily catch for each grid fished during the period. When a trap net licensee holds multiple trap net licenses, the licensee shall only file one consolidated report each month for catches with all trap nets. Separate reports shall be filed for other types of licensed gear. Reports shall be made on forms furnished by the Commission and shall be received on or before the 5th day of the month following the month to which the report pertains. Reports shall be sent to the Fish and Boat Commission, [Post Office Box 349 (1281 Otter Street), Franklin, Pennsylvania 16323] Northwest Region Law Enforcement Office.

* * * * *

(g) The holder of a license described in this chapter or section 2903 of the code shall estimate

the weight of the daily catch before landing and document this information on forms provided by the Commission.

§ 69.29. [Commercial fishing for underutilized species] (Reserved).

[(a) The Executive Director may issue to a licensee a special permit under section 2904 of the code (relating to permits for protection and management of particular fish), for the purpose of promoting commercial fishing for underutilized species by means of devices not otherwise licensed for commercial use. Permits will only be issued when the Executive Director determines the action is appropriate for the better protection and management of the particular species of fish. Permits issued under this subsection shall terminate on December 31 of the year in which they are issued unless the Executive Director specifies a different termination date. The fee for a special permit is \$50 a year. Permittees shall file such reports as required by the Executive Director.

(b) If a licensee under this chapter demonstrates to the satisfaction of the Executive Director that successful fishing for underutilized species requires use of boats or gear other than, in excess of, or of a different class than those licensed under §§ 69.21 and 69.24 (relating to limitations on numbers and types of licenses; and limitations on gear); and the Executive Director may authorize the issuance of an additional or different license under section 2903 of the code (relating to boat and net licenses for boundary lakes), to the licensee.

(c) Special permits for commercial fishing for underutilized species do not authorize the use of gear prohibited by Chapter 29 of the code (relating to special licenses and permits).]

Subchapter D. COMMERCIAL FISHING SEASONS AND NETS

§ 69.33. Use of trap nets.

(a) *Size.* [The minimum mesh size for trap net leads and lifting cribs shall be 2 1/4 inches stretch measure mesh to be measured over a rigid metal rule certified as accurate by the Commission or other appropriate authority. Cribs] Trap nets, cribs and associated leads shall be constructed of twine not [heavier than number 18 thread or] lighter than number 12 thread/cord. A trap net lead or lifting crib with a mesh [less than 2 1/4 inches or constructed with twine] in violation of this section, whether being fished or held in possession, shall be subject to confiscation by the Commission.

(b) *Species.* [Yellow perch (8 1/2 inches or larger), walleye (15 inches or larger), white fish (17 inches or larger), white perch and cisco caught in season may be possessed and sold.] A commercial trap net licensee may not possess or sell a fish except in compliance with the following size limits and seasons. The following size limits apply to commercial trap net licensees except that 5% of each licensee's daily catch by weight per species may be undersized fish that may be lawfully sold:

<i>Species</i>	<i>Size Limit</i>	<i>Season</i>
Yellow perch (<i>Perca flavescens</i>)	8 1/2 inches	March 1 until total allowable catch is taken
Walleye (<i>Stizostedion vitreum</i>)	15 inches	September 20 until December 1 or attainment of total allowable catch, whichever comes first
White fish (<i>Coregonus spp.</i>)	17 inches	No closed season
White perch (<i>Morone americana</i>)	No size limit	No closed season

<i>Species</i>	<i>Size Limit</i>	<i>Season</i>
Cisco (<i>Coregonus</i> spp. except <i>C. artedii</i>)	No size limit	No closed season
White bass (<i>Morone chrysops</i>)	No size limit	No closed season
Burbot (<i>Lota lota</i>)	No size limit	No closed season
Sheepshead (<i>Aplodinotus grunniens</i>)	No size limit	No closed season
Gizzard shad (<i>Dorosoma cepedianum</i>)	No size limit	No closed season
Goldfish (<i>Carassius auratus</i>)	No size limit	No closed season
Lake whitefish (<i>Coregonus clupeaformis</i>)	No size limit	No closed season
Brown bullhead (<i>Ictalurus nebulosus</i>)	No size limit	No closed season
Yellow bullhead (<i>Ictalurus natalis</i>)	No size limit	No closed season
Rainbow smelt (<i>Osmerus mordax</i>)	No size limit	No closed season
Channel catfish (<i>Ictalurus punctatus</i>)	No size limit	No closed season
Suckers (<i>Carpides</i> sp., <i>Catostomus</i> sp., <i>Ictiobus</i> sp. and <i>Moxmostoma</i> sp.)	No size limit	No closed season
Carp (<i>Cyprinus carpio</i>)	No size limit	No closed season

(c) *Buoys/tags.* Marker buoys shall be attached to the beginning of each lead and to the back of the crib. A staff extending 8 feet above the water with a minimum size flag of [1 foot by 1 foot displayed near the top shall be securely attached to each buoy] 18 inches by 18 inches secured near the top shall be attached to the anchor for the beginning of the lead and a staff extending 8 feet above the water with 2 minimum size flags of 18 inches by 18 inches (double flags) shall be attached to the anchor for the crib. [The Commission will provide numbered seals that shall be affixed to the marker buoy attached to the back of the crib.] The licensee shall affix a metal, numbered tag provided by the Commission to each of the required staffs showing the name and address of the owner or the lessee. Licensees shall report a seal that is lost, misplaced or stolen orally within 24 hours of discovery and in writing to the Commission at Northwest Law Enforcement Region [, P. O. Box 349, Franklin, Pennsylvania 16322] within 2 business days. Improperly marked or tagged nets shall be subject to confiscation by the Commission. Officers authorized to enforce the code and this part may mark trap nets for the purpose of determining the number of trap nets being used by a particular licensee.

(d) *Limitations on use.* [A] From March 1 through November 30, no part of a trap net may [not] be set within 1.5 miles of the Lake Erie shoreline. In addition, after [December 31] June 1 and before [June 1,] November 30, no part of a trap [nets] net may [not] be set [within the following areas:] closer to shore than the line from a point on the Ohio/

Pennsylvania border 42°:02.5'N, 80°:31.2'W; thence 063°T to 42°:13.0'N, 80°:00.0'W; thence 058°T to 42°:19.1'N, 70°:45.7'W.

(e) *Time.* Trap nets may be fished 24 hours a day, but it is unlawful to set or lift them during the period from 30 minutes after sunset to 30 minutes before sunrise. **Trap nets may be set or fished, or both, from March 1 to November 30.**

(f) *Description of trap net.*

(1) In the most general sense, a trap net is a compartmentalized trap, consisting of a lead, heart, tunnel and crib with wings and funnels. Fish are entrapped in the crib by swimming along a lead which directs the animal progressively through the heart, tunnel and [on to the nets] into the crib. The netting and webbing which make up the crib shall be a single sheet external panel, subject to mesh size regulation to allow small, young fish a means of escape.

* * * * *

(3) **As used in this chapter, the term "trap net" includes hoop nets and fyke nets.**

(g) **A boat engaged in the setting or tending of trap nets shall comply with Navigation Rule 26 (United States Coast Guard) from the time the boat leaves the dock until it arrives back at the dock.**

§ 69.34. [Use of trawl net]. (Reserved).

[It is unlawful to use a trawl net to fish in Lake Erie at a location less than 1.5 miles from the Lake Erie shoreline except during the period after December 31 and before June 1. Trawl nets may not

be used in any area where gill nets are prohibited by § 69.32(d) (relating to gill nets).]

§ 69.36. [Use of outlines] (Reserved).

[(a) Outlines shall be set with buoys (minimum size: 6 inches). The identification number of the license shall be attached to the lifting buoy.

(b) It is unlawful to use more than one outline with an unlimited number of hooks per outline license.

(c) It is unlawful to use set lines within 300 feet of the mouth of any tributary to Lake Erie.

(d) Fish caught under an outline license shall be subject to no minimum length restrictions except as provided in § 69.12 (relating to seasons, sizes and creel limits—Lake Erie).]

§ 69.37. Prohibited acts.

* * * * *

(d) It is unlawful to fish by hook and line from a boat engaged in commercial fishing under this chapter.

§ 69.39. Landing of catch.

* * * * *

(b) Fish caught under a Commonwealth commercial fishing license shall be landed in this Commonwealth not later than 2 hours after sunset the same day as the net is cleared.

(c) Fish caught under a Commonwealth commercial fishing license may not be off-loaded onto a boat other than a boat on which they were caught.

[(b)] (d) * * *

[Pa.B. Doc. No. 96-2094. Filed for public inspection December 13, 1996, 9:00 a.m.]

STATEMENTS OF POLICY

Title 10—BANKS AND BANKING

DEPARTMENT OF BANKING

[10 PA. CODE CH. 13]

Limited Purpose Banking Offices—Statement of Policy

The Department of Banking (Department) adopts §§ 13.61—13.68 (relating to exception to definition of “branch”—statement of policy). This statement of policy is published under sections 102 and 103 of the Banking Code of 1965 (act) (7 P. S. §§ 102 and 103) which was amended by the act of July 6, 1995 (P. L. 271, No. 39) (Act 39) and sections 201 and 202 of the Department of Banking Code (71 P. S. §§ 733-201 and 733-202).

Purpose of the Statement of Policy

Act 39 permits full interstate branching in this Commonwealth on a reciprocal basis. Consistent with creating a modern and responsive interstate branching environment in this Commonwealth, Act 39 also amended the definition of a “branch” office of a banking institution by removing several types of offices from the definition including: “automated teller machines,” “loan production offices” and “any other office the Department may determine by rule or regulation does not constitute a branch.” See section 102(h) of the act.

The Department has received numerous inquiries, from Pennsylvania State-chartered banking institutions and institutions chartered under the laws of other states, regarding whether offices of banking institutions which perform limited activities on behalf of those banking institutions are excepted from the definition of a “branch” under section 102(h)(vi) of the act. The Department has determined that the recognition of a “limited purpose banking office,” as an exception to the term “branch” under Commonwealth banking laws, is consistent with the purposes in section 103 of the act.

The Department has developed this statement of policy to provide guidance regarding: 1) the establishment of limited purpose banking offices located in this Commonwealth by banking institutions, as defined in § 13.61 (relating to definitions); and 2) the establishment of limited purpose banking offices located in other states by Pennsylvania State-chartered banking institutions.

The Department reserves the right to amend this statement of policy as needed.

Effective Date

The provisions of this statement of policy become effective immediately upon publication in the *Pennsylvania Bulletin*.

(*Editor's Note:* The regulations of the Department, 10 Pa.Code Chapter 13, are amended by adding a statement of policy at §§ 13.61—13.68 to read as set forth in Annex A.)

RICHARD C. RISHEL,
Secretary

Fiscal Note: 3-34. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 10. BANKS AND BANKING

PART II. BUREAU OF BANKS

CHAPTER 13. LOANS

EXCEPTION TO DEFINITION OF “BRANCH”—STATEMENT OF POLICY

Sec.	
13.61.	Definitions.
13.62.	Application.
13.63.	Permissible activities.
13.64.	Impermissible activities.
13.65.	Information required.
13.66.	Designation as a limited purpose banking office.
13.67.	Authority of the Department.
13.68.	Application of other Pennsylvania laws.

§ 13.61. Definitions.

The following words and terms, when used in this section and §§ 13.62—13.68, have the following meanings, unless the context clearly indicates otherwise:

Banking institution—

(i) A bank, bank and trust company, trust company and savings bank, chartered under the laws of the Commonwealth.

(ii) A National bank

(iii) A bank, bank and trust company, trust company and savings bank which is not regulated by the Office of Thrift Supervision, chartered under the laws of another state or territory of the United States.

*Pennsylvania banking institution—*A banking institution chartered under the laws of the Commonwealth.

*Non-Pennsylvania banking institution—*A banking institution chartered under the laws of the United States, Puerto Rico or a state or territory of the United States other than the Commonwealth.

*Limited purpose banking office—*An office of a banking institution which performs limited activities, such as those in § 13.63 (relating to permissible activities), on behalf of the banking institution but which does not:

(i) Accept or pay out deposits.

(ii) Make loans.

(iii) Pay checks.

(iv) Accept or administer any type of accounts, including trust or other fiduciary accounts.

§ 13.62. Application.

Sections 13.61, 13.63—13.68 and this section address limited purpose banking offices located in this Commonwealth which are established by Commonwealth and non-Pennsylvania banking institutions, as defined in § 13.61 (relating to definitions). In addition, these sections address Pennsylvania banking institutions locating limited purpose banking offices in other states. The establishment and maintenance of a limited purpose banking office located in this Commonwealth by a non-Pennsylvania banking institution and the establishment in another state of a limited purpose banking office by a Pennsylvania banking institution may not be in violation of, or otherwise contrary to, the laws of the other relevant state.

§ 13.63. Permissible activities.

(a) The following activities may be conducted at a limited purpose banking office of a banking institution, if, in instances where another state is involved, the performance of the activities at the limited purpose banking office does not violate, and is not otherwise contrary to, the laws of the other relevant state:

- (1) Loan production office activities, including:
 - (i) Soliciting loans, and, in connection therewith, assembling credit information.
 - (ii) Making property inspections and appraisals.
 - (iii) Securing title information.
 - (iv) Preparing applications for loans, including making recommendations with respect to action thereon.
 - (v) Soliciting investors to purchase loans from the banking institution.
 - (vi) Seeking to have the investors contract with the banking institution for the servicing of the loans.
 - (vii) Engaging in other similar agent-type activities.
- (2) Representative office activities, including: representational functions, such as soliciting banking and trust business, marketing services or acting as a liaison with customers on behalf of the banking institution:
 - (i) A banking institution may only solicit fiduciary business or other types of trust business at the limited purpose banking office if the banking institution is authorized to engage in fiduciary and trust activities under its laws of incorporation.
 - (ii) A banking institution which is chartered by or is headquartered in a state other than this Commonwealth may not act as a fiduciary or establish an office to conduct a fiduciary business in this Commonwealth, beyond the activities permitted in §§ 13.61, 13.62, 13.64—13.68 and this section, in contradiction of section 106(b) of the act (7 P. S. § 106(b)).
 - (3) Clerical, back office type of activities of the banking institution.
 - (4) Administrative activities related to the premises or personnel of the limited purpose banking office.
 - (5) Other similar activities, subject to the Department written nonobjection.

(b) The activities in subsection (a)(1) represent those activities which may be conducted by a loan production office, under section 102 (h)(v) of the act (7 P. S. § 102(h)(v)), and are consistent with the regulations of the Federal Reserve Board in 12 CFR 250.141 (h) (relating to member bank purchase of stock of "operations subsidiaries").

§ 13.64. Impermissible activities.

A limited purpose banking office of a banking institution may not:

- (1) Make final business decisions, other than decisions relating to the premises or personnel of the limited purpose banking office, for the account of the banking institution it represents, including contracting for or accepting any deposit or deposit-like liabilities on behalf of the banking institution.
- (2) Disburse loan funds, transmit funds, post loan repayments or be responsible for making the final decisions to approve loans.

(3) With respect to a banking institution which possesses fiduciary powers under its laws of incorporation, a limited purpose banking office of such a banking institution may not do any of the following: make final decisions regarding fiduciary account applications such as accepting fiduciary or other trust accounts, accept deposits for fiduciary or other trust accounts or administer fiduciary accounts. In addition, a non-Pennsylvania banking institution shall continue to satisfy the reciprocity and other requirements imposed by the Department under section 106(b) of the act (7 P. S. § 106(b)) to act as a fiduciary in this Commonwealth.

§ 13.65. Information required.

(a) A banking institution seeking to establish and maintain a limited purpose banking office under §§ 13.61—13.64, 13.66—13.68 and this section shall submit a prior notice to the Department's Manager of Corporate Applications in letter form. The Department may object to the establishment and maintenance of a limited purpose banking office within 20 business days of receiving the notice. If the Department objects to the notice, the banking institution may not establish or maintain the limited purpose banking office until the Department approves the action. The following information shall be included in the notice required under this section:

- (1) The name and address of the principal office of the banking institution.
- (2) The exact address and telephone number of the limited purpose banking office to be established.
- (3) The name of the banking institution's officer responsible for the activities of the limited purpose banking office.
- (4) A complete description of the activities to be performed at the proposed limited purpose banking office.
- (5) With respect to a non-Pennsylvania banking institution seeking to establish a limited purpose banking office in this Commonwealth or a Pennsylvania banking institution seeking to establish a limited purpose banking office in another state, a legal opinion providing that the establishment and maintenance of the proposed limited purpose banking office does not violate, and is not otherwise contrary to, the laws of the other relevant state, including reference to the applicable statutory or regulatory authority, or both, of the other state.
- (6) A statement providing that the banking institution has obtained the regulatory approvals required to establish and maintain the proposed limited purpose banking office.
- (7) Other information which is deemed necessary by the Department.

(b) Changes in the information submitted to the Department shall be promptly reported to the Department.

§ 13.66. Designation as a limited purpose banking office.

Office signs, stationery, telephone listings or print advertisements related to a limited purpose banking office established under §§ 13.61—13.65, 13.67, 13.68 and this section shall clearly indicate that the office is a representative type of office and is not a branch of the banking institution.

§ 13.67. Authority of the Department.

(a) When deemed necessary by the Department, a limited purpose banking office established and main-

tained under §§ 13.61—13.66, 13.68 and this section shall be subject to supervision, regulation, examination and orders issued by the Department. The Department has determined not to assess a fee associated with the establishment or maintenance of a limited purpose banking office. The Department reserves the right to assess a fee associated with the establishment, examination, supervision or regulation of a limited purpose banking office established under §§ 13.61—13.66, 13.68 and this section when deemed appropriate by the Department.

(b) Failure of a banking institution to comply with §§ 13.61—13.66, 13.68 and this section may cause the limited purpose banking office to be viewed by the Department as a branch, causing the office to be subject to the requirements related to bank branch offices contained in the act. Accordingly, the Department may take any enforcement action it deems appropriate under these circumstances.

§ 13.68. Application of other Pennsylvania laws.

A non-Pennsylvania banking institution may be required to register with the Department of State to do business in this Commonwealth under 15 Pa.C.S. Chapter 41 (relating to foreign business corporations). The Department recommends that a non-Pennsylvania banking institution seeking to establish a limited purpose banking office in this Commonwealth contact the Department of State to determine whether the banking institution must register with that agency to do business in this Commonwealth.

[Pa.B. Doc. No. 96-2095. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF BANKING

[10 PA. CODE CH. 21]

Insurance and Annuities Authority

The Department of Banking (Department) has received several inquiries regarding the authority of Pennsylvania State-chartered banks, bank and trust companies, and savings banks (banking institutions) to act as agents in the sale of all types of insurance products. Interest has been intensified by the recent unanimous decision of the United States Supreme Court in *Barnett Bank of Marion County, N. A. v. Bill Nelson, Florida Insurance Commissioner*, 116 S.Ct. 1103 (1996). *Barnett* confirms that National banks have the statutory authority to act as agents in the sale of life, property and casualty, and other types of insurance provided the bank is located in any place the population of which does not exceed 5,000 inhabitants. This authority exists even if state law contains provisions which state that banks cannot sell insurance.

The effect of *Barnett* in this Commonwealth is that the Pennsylvania anti-affiliation statute, 40 P.S. § 281, which prohibits "lending institutions" from acting as insurance agents is no longer applicable to National banks. However, this creates a competitive disadvantage of serious economic proportions to Pennsylvania State-chartered banking institutions. Recognizing this disparity between State and National banking powers, the Department is exercising its rulemaking authority and administrative discretion to ensure that Pennsylvania State-chartered institutions remain competitive with other financial organizations operating in this Commonwealth.

Therefore, Pennsylvania banking institutions may act as agents in the sale of property and casualty, life or other types of insurance provided the bank is located in any place the population of which does not exceed 5,000 inhabitants, under their incidental powers provided in sections 315(i) and 502(h) of the Banking Code of 1965 (act) (7 P.S. §§ 315(i) and 502(h)). This grant of authority to Pennsylvania State-chartered banking institutions is analogous to the authority provided to National banks in *Barnett*. The Department's position herein is consistent with the authority provided by the General Assembly to the Department in section 103 of the act (7 P.S. § 103).

The Department also has received several inquiries as to the authority of Pennsylvania State-chartered banking institutions to sell annuities issued by insurance companies. These inquiries reflect the intense interest in such activity expressed by the banking industry across the country. That interest has increased sharply because of the United States Supreme Court's decision in *Nationsbank of North Carolina N. A. v. Variable Annuity Life Insurance Co.*, 115 S.Ct. 810 (1995), which upheld a ruling of the Office of the Comptroller of the Currency (OCC) that a National bank and its subsidiary have the authority to sell fixed, variable and hybrid annuities as agents.

The Court based its decision on a finding that annuities are essentially financial instruments, which a National bank has the authority (as an incidental banking power) to broker just as it does with other financial instruments. The Court also ruled that the provision of the national banking laws which gives National banks specific authority to sell insurance was not pertinent to the case because annuities are properly classified as investments and not as insurance.

The Department has reviewed the provisions of the act, including sections 315 and 502 of the act, relating to the incidental powers of banks and savings banks, and has determined that Pennsylvania State-chartered banking institutions and savings banks may engage in the sale of annuities as a power incidental to the banking business, directly or indirectly through a subsidiary.

The incidental powers language found in the act is substantially similar to the incidental power provision contained in the National Bank Act, which was relied upon by the OCC in determining that National banks may sell annuities. In addition, Pennsylvania-chartered institutions, like National banks, are statutorily authorized to sell financial instruments as part of the institutions' banking business.

Furthermore, under section 103 of the act, the Department is authorized to exercise its administrative discretion to assure that Pennsylvania State-chartered banking institutions remain competitive, with each other and other financial organizations, and to assure that these institutions have the opportunity to expand their services to serve effectively the convenience and needs of customers.

Effective Date

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

(Editor's Note: The regulations of the Department of Banking, 10 Pa. Code Chapter 21, are amended by adding a statement of policy at § 21.61 to read as set forth in Annex A.

See 26 Pa. B. 5992 (December 14, 1996) for an Insurance Department document concerning this subject.)

RICHARD C. RISHEL,
Secretary

Fiscal Note: 3-35. No fiscal impact; (8) recommends adoption. The Department of Banking will not incur any increased administrative costs from this regulatory action. Any increased costs incurred by the Insurance Department to process new licenses will be offset by the revenue generated by licensing fees.

Annex A

TITLE 10. BANKS AND BANKING

PART II. BUREAU OF BANKS

CHAPTER 21. GENERAL PROVISIONS FOR ALL STATE-CHARTERED BANKING INSTITUTIONS

INSURANCE AND ANNUITIES

§ 21.61. Insurance and annuities—statement of policy.

(a) Pennsylvania State-chartered banks, bank and trust companies and savings banks may act as agents in the sale of property and casualty, life or other types of insurance if the bank is located in any place the population of which does not exceed 5,000 inhabitants, under the incidental powers provided in sections 315(i) and 502(h) of the Banking Code of 1965 (7 P. S. §§ 315(i) and 502(h)). This authority is consistent with section 103 of the Banking Code of 1965 (7 P. S. § 103). This grant of authority to Pennsylvania State-chartered banking institutions is analogous to the authority provided to National banks in *Barnett Bank of Marion County, N. A. v. Bill Nelson, Florida Insurance Commissioner*, 116 S.Ct. 1103 (1996).

(b) Pennsylvania State-chartered banks, bank and trust companies and savings banks may act as agents in the sale of annuities, under the incidental powers provided in sections 315 and 502 of the Banking Code of 1965. This authority is consistent with section 103 of the Banking Code of 1965. This grant of authority is analogous to the authority provided in *Nationsbank of North Carolina N. A. v. Variable Annuity Life Insurance Co.*, 115 S.Ct. 810 (1995).

(c) The license application requirements and procedures for the sale of insurance and annuities by banks are stated in an Insurance Department Statement of Policy in Chapter 38 (relating to procedures for State and Nationally chartered banking institutions selling annuities of insurance—statement of policy).

[Pa.B. Doc. No. 96-2096. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA CODE CH. 38]

Procedures for State and Nationally Chartered Banking Institutions Selling Annuities or Insurance

On January 18, 1995, the Supreme Court of the United States ruled in *NationsBank of North Carolina v. Variable Annuity Life Insurance Company (VALIC)*, 115 S.Ct. 810 (1995), that the incidental powers of Nationally chartered

banks in section 24(7) of the National Bank Act included the authority to engage in the sale of annuity products as agents of an insurance company. With respect to the sale of annuities, therefore, any state law prohibiting the sale of annuities by National banks is preempted. By decision dated April 16, 1996, Secretary of Banking, Richard C. Rishel (Secretary), determined that the sale of insurance company annuity products was also within the incidental powers of State chartered banks, under section 315 of the Banking Code of 1965 (7 P. S. § 315).

On March 26, 1996, the Supreme Court of the United States ruled in *Barnett Bank of Marion County, N. A. v. Bill Nelson, Florida Insurance Commissioner*, 116 S.Ct. 1103 (1996), that section 92 of the National Bank Act preempts any state law that prevents National banks from exercising the insurance powers granted under that law. Section 92 of the National Bank Act gives National banks located in a place with a population not exceeding 5,000 the authority to act as an agent for any insurance company authorized to do business in the state where the bank is located. Under the Court's analysis, significant impairment of, or interference with a bank's authority under Federal law will be viewed the same as an outright prohibition.

Because the Insurance Department (Department) must continue to carry out its responsibility to regulate the sale of insurance and annuities in this Commonwealth, it is in the public interest for the Insurance Commissioner to issue procedures for allowing either National banks to exercise the authority they are granted under Federal law or State banks to sell annuities under Secretary Rishel's April 16, 1996, letter decision, and insurance under the Secretary's December 3, 1996, letter decision and the Department of Banking's Statement of Policy at 10 Pa. Code § 21.61 (relating to insurance and annuities—statement of policy). Under the following procedures banks are subject, to the extent possible, to the same licensing and operating requirements as other insurance or annuities agents. These procedures will afford oversight of a bank's insurance business by the State agency which is best suited to this responsibility.

The purpose of this policy statement is to set forth the Department's procedures for the sale of insurance and annuities by National and State banks in compliance with the preemption of state law as announced in *VALIC* and *Barnett*. This policy statement does not attempt to answer all questions that may arise as banks enter this arena because National banks remain within the regulatory jurisdiction of the Office of the Comptroller of the Currency (OCC). The OCC, however, has issued a final advisory letter dated October 8, 1996, which provides guidance to National banks to insure that they conduct insurance and annuities sales in a safe and sound manner that protects the interests of their customers. National banks as well as State banks should refer to the OCC Advisory Letter 96-8 for guidance regarding insurance activities.

Neither the existence of, nor compliance with, these procedures confers any property or other rights on licensed entities other than the right to conduct the business of selling insurance or annuities in accordance with this policy statement unless it is superseded by other authority.

Contact Information

To obtain agent license applications, or to notify the Department of a change in ownership of an agency, call or write to:

Pennsylvania Insurance Department
Bureau of Producer Licensing
1300 Strawberry Square
Harrisburg, PA 17120
Phone: (717) 787-3840
Fax: (717) 787-8553

Effective Date

This statement of policy shall take effect upon publication in the *Pennsylvania Bulletin*.

(Editor's Note: The regulations of the Insurance Department, 31 Pa. Code, are amended by adding a statement of policy at §§ 38.1, 38.11, 38.21, 38.31—38.33 and 38.51—38.65 to read as set forth in Annex A. See 26 Pa. B. 5991 (December 14, 1996) for a Department of Banking document concerning the same subject.)

LINDA S. KAISER,
Insurance Commissioner

Fiscal Note: 11-145. No fiscal impact; (8) recommends adoption. Any administrative costs incurred by the Insurance Department to process new licenses will be offset by the revenue generated by the licensing fees.

Annex A

TITLE 31. INSURANCE

PART I. GENERAL PROVISIONS

Subpart C. AGENTS AND BROKERS

**CHAPTER 38. PROCEDURES FOR STATE AND
NATIONALLY CHARTERED BANKING
INSTITUTIONS SELLING ANNUITIES OR
INSURANCE—STATEMENT OF POLICY**

Sec.

PURPOSE

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PURPOSE

§ 38.1. Purpose.

(a) This chapter sets forth the Insurance Department's procedures for the sale of insurance and annuities by National and State banks in compliance with the preemption of State law as announced in *NationsBank of North Carolina v. Variable Annuity Life Insurance Company*,

115 S.Ct. 810 (1995) and *Barnett Bank of Marion County, N. A. v. Bill Nelson, Florida Insurance Commissioner*, 116 S.Ct. 1103 (1996). This chapter does not attempt to answer all questions that may arise as banks enter this arena because National banks remain within the regulatory jurisdiction of the Office of the Comptroller of the Currency (OCC). The OCC, however, has issued a final advisory letter dated October 8, 1996, which provides guidance to National banks to insure that they conduct insurance and annuities sales in a safe and sound manner that protects the interests of their customers. National banks as well as State banks should refer to the OCC Advisory Letter 96-8 for guidance regarding insurance activities.

(b) Neither the existence of, nor compliance with, these procedures confers any property or other rights on licensed entities other than the right to conduct the business of selling insurance or annuities in accordance with this chapter unless this chapter is superseded by other authority.

ACTIVITIES REQUIRING A LICENSE

§ 38.11. Activities requiring a license.

(a) A bank or person shall be licensed to engage in one or more of the following:

- (1) Soliciting individuals to purchase insurance or an annuity.
- (2) Collecting premiums.
- (3) Transmitting an application for an annuity or policy of insurance.
- (4) Negotiating for, or placing risks.
- (5) Delivering policies.
- (6) Aiding in the transaction of the insurance or annuities business.

(b) If the individual performs exclusively clerical tasks, a license is not required.

(c) Organizations, such as corporations, that intend to act as insurance agencies and receive commissions shall also be licensed, and at least one officer of the organization shall also obtain an agent's license for the lines of authority in which the agency will transact business.

COMMISSIONS

§ 38.21. Commissions.

Commissions may not be paid to a person who is not licensed as an insurance agent or broker, and may not be paid to an insurance agency, bank subsidiary, or affiliate, third party administrator, or the bank itself unless the organization has obtained an agent's license. Commissions for the sale of variable annuities may be paid only in accordance with the rules of the National Association of Securities Dealers. An agent may not share commissions with a bank, unless the bank is also licensed as an agent.

**PROCEDURES FOR AUTHORITY TO SELL
INSURANCE OR ANNUITIES**

§ 38.31. Annuities.

(a) A State chartered banking institution or a National bank may sell annuities if the bank and employees actively engaged in the sale of annuities have complied with the licensing requirements of the Insurance Department.

(b) Like all other agents, a banking institution's licensed employees or agents must hold the appropriate license to sell the types of annuities which they are actively selling.

§ 38.32. Insurance.

(a) A State chartered banking institution, a National bank or a subsidiary or affiliate of a State or National bank located and doing business in a place with a population not exceeding 5,000, as determined by the last decennial census, may sell insurance if the bank and employees actively engaged in the business of insurance have complied with all the licensing requirements of the Insurance Department.

(b) A State chartered banking institution or a National bank may directly employ a licensed insurance agent, or own a subsidiary, all or part of which is an insurance agency, or be affiliated with a licensed insurance agent located in a place with a population not exceeding 5,000. At this time, a branch of an insurance agency affiliated with a bank may not be located in a place with a population exceeding 5,000.

(c) The agency located in the place not exceeding 5,000 inhabitants (place of 5,000) must be bona fide. Agents should be managed from that location, and the place of 5,000 will be the agency's business location for licensing purposes. Each agency is responsible for collecting commissions from insurance carriers and paying commissions to its licensed sales staff. The agency is also responsible for processing insurance applications, delivering insurance policies and collecting premiums, where consistent with procedures of the relevant insurance carriers. In addition, business records of the agency, including copies of customer application and policy information, and licensing, customer complaint and other compliance records, should be available at the place of 5,000. In the alternative, the business records of the agency may be maintained and available at the agency in electronic form, with the original hard copy kept in offsite storage.

(d) The following principles should be applied by banks, bank affiliates or bank subsidiaries when acting as insurance agents (together, bank agencies) in determining the scope of solicitation and sales activities by bank agencies which are permissible outside the place of 5,000:

(1) Meetings with customers and solicitations and sales of insurance by agents of the bank agency may take place at locations inside or outside the place of 5,000, if the agents are managed and paid through the bank agency located in the place of 5,000 and use that bank agency location as their place of business for licensing purposes.

(2) Mailings to advertise and sell insurance may originate from inside or outside of the place of 5,000, and brochures, leaflets and other literature alerting potential customers to the bank's insurance activities may be distributed from locations both inside and outside of the place of 5,000, including other branches of the same bank.

(3) Personnel of bank branches outside of the place of 5,000 also may make referrals to the bank's insurance agency.

(4) Telephone and cybermarketing may be used and the calls and messages need not originate within the place of 5,000.

(e) The bank or bank agency may contract with third parties to assist the bank agency's sales activities.

(f) Like other agents, a banking institution's licensed employees or agents must hold the appropriate license for the lines of insurance which they are actively selling.

(g) An insurance agency in which a bank acquires any ownership interest must file a change of ownership notification with the Insurance Department. To advertise

under the bank name or participate in the sales of insurance operation, other than by receiving dividends from the insurance business, the bank must hold an agent's license.

§ 38.33. Application.

A bank, or its subsidiary or affiliate must apply for a license on the Insurance Department's application form and must include the following:

(1) A certified copy of its charter.

(2) An officer's certification of a board resolution authorizing the bank to engage in the sale of insurance or annuities and to make appropriate application to the Department.

(3) A list of the bank officers as required on the application.

(4) If the application is one for selling insurance, an affidavit from a qualifying active bank officer that the State chartered bank or National bank, or subsidiary or affiliate thereof, is located in a place with a population not exceeding 5,000 as measured by the last decennial census and stating the actual population as recorded by the census.

(5) Other information required of applicants for a bank agency's license.

CONSUMER PROTECTION**§ 38.51. Statutory requirements.**

Bank agencies selling insurance or annuities are subject to the consumer protection provisions of Pennsylvania law, including The Insurance Department Act of 1921 (40 P. S. §§ 341—991.1718), the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15), and the regulations thereunder. Many of the measures required to protect against possible consumer abuses and unfair competition by a lender who is also selling insurance are included in the Federal antitying provisions of section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C.A. § 1972), and the disclosure provisions of the February 14, 1994 Interagency Statement on Retail Sales of Nondeposit Investment Products, issued jointly by Federal bank regulatory agencies. Adherence to these standards may help avoid violations of State law but will not exempt banks acting as agents from compliance with State laws and regulations applicable to insurance agents.

§ 38.52. Licensed personnel.

Insurance or annuities sales transactions must be conducted by individually licensed agents. The bank officer responsible for the bank's insurance or annuities sales activities must ensure that all employees are aware that the conduct of the business of insurance or the sale of annuities by unlicensed bank employees may subject the bank, the responsible officer and the employees who do insurance business or sell annuities, to liability for transacting unauthorized insurance or annuities business.

§ 38.53. Qualifications and training.

A bank should have knowledgeable, experienced and qualified personnel to ensure that the bank's sales program is carried out in a manner that provides customers with competitive products, sound advice and accurate information. Licensed employees shall satisfy the continuing education requirements in the insurance laws and regulations.

§ 38.54. Authorized or approved carriers.

Banking institutions may offer only insurance and annuity products of insurance companies authorized or approved to do business in this Commonwealth.

§ 38.55. Tying of banking products with annuities or insurance products prohibited.

Bank products may not be tied in with annuities or insurance products. Banks may not require the purchase of insurance or annuities from the bank or from a designated insurer or agent as a condition of other bank transactions. A bank should train its employees about the tying prohibitions and monitor incentives, such as fees, commissions and fee splitting arrangements, that may encourage tying. Banking institutions should consult the Federal Reserve Board's 1995 grant of a regulatory "safe harbor" and the Office of the Comptroller of the Currency Guidance On Tying Arrangements.

§ 38.56. Inducements or rebating.

A banking institution may not offer special benefits, such as rebates or discounts, as an inducement to purchase annuities or insurance from the bank, except that a bank may offer a discount or benefit which is specified in the insurance policy or annuity contract. A banking institution may offer incentives in the form of rebates or discounts on banking services which are offered in conjunction with the sale of annuities or insurance products, unless the rebates or discounts would violate Federal antitying provisions. In distributing revenue resulting from the sale of annuities or insurance, a banking institution must be careful to avoid violation of rebating or inducement prohibitions under The Insurance Department Act of 1921 (40 P. S. §§ 1—297.4).

§ 38.57. Discrimination against nonaffiliated companies or agents prohibited.

A banking institution may not do any of the following:

- (1) Condition the provision or terms of any bank service upon acquisition of insurance or annuities through a particular insurer, agent or broker.
- (2) Reject a required policy solely because the policy was sold by a person who is not associated with the bank.
- (3) Impose a requirement on any agent or broker not associated with the bank that is not imposed on any agent who is associated with the bank.

§ 38.58. Disclosures.

(a) To avoid customer confusion, in addition to the disclosures specifically required by the insurance laws of the Commonwealth and the regulations thereunder, advertising, promotional material and solicitation shall include prominent disclosure that a purchase of insurance or annuities:

- (1) Is not a deposit.
- (2) Is not protected by the Federal Deposit Insurance Corporation or another agency or instrumentality of the Federal government.
- (3) Is not guaranteed by the banking institution.
- (4) If applicable, is subject to investment risk, including possible loss of principal, unless the bank affirmatively determines, for specific products or otherwise, that customers would not reasonably benefit from, or might in fact be confused by, these disclosures.

(b) If a particular carrier's product is described in an advertisement, the name of the insurance company underwriting the product must be identified.

§ 38.59. Disclosures when insurance is required as a condition of obtaining a loan.

When a bank requires a customer to obtain insurance in connection with a loan and the insurance is available through the bank, sales personnel may inform customers that insurance is available from the bank, its subsidiary or an affiliate. To avoid the impression that a linkage exists between the bank's credit decision and the customer's choice of insurance seller, the customer should also be advised at the time of solicitation that the customer need not purchase insurance from the bank, a subsidiary or an affiliate, and that the purchase of insurance from an agent of the customer's choice will not affect current or future credit decisions.

§ 38.60. Affirmative statement signed by insurance customer.

To the extent practicable, at the time a bank customer determines to purchase insurance from the bank and prior to the actual purchase, the bank should obtain a written affirmative statement from the bank customer which acknowledges that the bank customer has been advised that the customer was not required to purchase the insurance through the bank and that the additional disclosures in this chapter were provided to the customer.

§ 38.61. Separation from deposit and loan activities.

Sales of insurance and annuities should, to the extent practicable, take place in a location that is distinct from the area where retail deposits are taken and loan applications are discussed and accepted. Signs or other means should be used to distinguish the insurance or annuities sales area from the retail deposit taking and lending areas. Policy documents and account statements for the annuity and insurance products should contain required disclosures. If a customer's periodic deposit account and loan statements include account information concerning the customer's insurance or annuities products, the information concerning these products should be clearly separate from the information concerning the deposit and loan accounts.

§ 38.62. Distribution of revenue.

A portion of the insurance business profits may flow to parent companies or holding companies, but not as a sharing of commissions. Nonlicensed entities may not be awarded a portion of the insurance business revenue as a reward for referrals.

§ 38.63. Referral fees.

Tellers and other employees, while located in the routine deposit taking area, may not make general or specific investment recommendations regarding insurance or annuities products, qualify a customer as eligible to purchase the products, accept orders for the products, even if unsolicited, or perform other activities that involve the sale of an insurance or annuity product. Employees who are not authorized to sell insurance or annuity products may refer customers to individuals who are specifically licensed to assist customers interested in the purchase of the products. Since insurance agents not affiliated with a bank are prohibited from paying referral fees to unlicensed persons, unlicensed employees of a bank may not receive a referral fee from the bank or its subsidiary or affiliated agency.

§ 38.64. Customer privacy.

In the course of providing banking and other services, banks will acquire various types of financial and personal

information about their customers. Banking institutions should be sensitive to the privacy expectations of the bank's customers regarding this information. This includes taking appropriate internal measures to safeguard the security of customer information as well as determining the standards the bank will use to decide if and how it may use customer information. A banking institution must comply with applicable State laws regarding privacy and confidential information. Insurance and annuities sales and other activities may raise questions regarding the use and sharing of confidential information. Use of certain customer information such as a customer's credit standing in connection with the sale of annuities and insurance products may be regulated by law. The disclosure of this information to third parties, including bank subsidiaries or affiliates, may be restricted. Banks should consider especially whether any provisions of the Fair Credit Reporting Act (15 U.S.C.A. §§ 1681a—1681u) are applicable before using or disclosing customer information.

§ 38.65. Compliance.

Banking institutions should develop and implement policies and procedures to ensure that sales activities are conducted in compliance with applicable laws and regulations and in a manner consistent with this chapter. Compliance procedures should identify potential conflicts of interest and how conflicts should be addressed. The compliance procedures should also provide for a system to monitor customer complaints and their resolution. The compliance function should be conducted independently of insurance and annuity product sales and management activities.

[Pa.B. Doc. No. 96-2097. Filed for public inspection December 13, 1996, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1101]

Medical Assistance Manual; General Provisions

This statement of policy clarifies instances in which the Department of Public Welfare (Department) will refuse to enter into or terminate a provider agreement with providers of intermediate care for the mentally retarded (ICF/MR), nursing facility services, inpatient psychiatric or inpatient rehabilitation services.

Discussion

The Department is the single State agency designated to administer the Commonwealth's Medicaid Program, which is known in this Commonwealth as the Medical Assistance (MA) Program. The MA Program is a cooperative Federal-State program through which various health care services are provided to poor and needy individuals in this Commonwealth. As the single State agency, the Department is required by Federal law to adopt methods and standards that may be necessary to safeguard against the unnecessary utilization of care and services under the MA Program and to assure that MA payments are consistent with efficiency, economy and quality of care, 42 U.S.C.A. § 1396a(a)(30)(A).

On December 18, 1996, Chapter 7 and all other portions of the Health Care Facilities Act (35 P.S. §§ 448.701—448.712) pertaining to Certificate of Need

(CON) sunsets. The purpose of the CON process was to assure the quality of and access to health care services for Pennsylvanians while controlling health care costs by limiting the supply of certain clinically related health services. ICF/MR, nursing facility services, inpatient psychiatric services and inpatient rehabilitation services were included in the clinically related health care services subject to CON. Entities that desired to furnish these services were required to first obtain from the Department of Health a determination of need for the proposed service in the region of this Commonwealth in which it would be offered.

The CON requirement has been one of the mechanisms that the Department used to safeguard against unnecessary utilization of institutional services and to assure that its payments for these services are consistent with efficiency, economy and quality of care. To participate as a provider in the MA Program, an entity must be currently licensed and certified by the appropriate State agency. See 55 Pa. Code § 1101.42(a) (relating to prerequisites for participation). Prior to December 18, 1996, an entity could not obtain a license to operate in this Commonwealth as an ICF/MR, a nursing facility or a psychiatric or rehabilitation hospital or to expand its existing licensed capacity by ten beds or 10%, whichever is less, over a 2-year period, without first having secured a CON. Consequently, a prior determination of the need for the provider's services by the Commonwealth was a prerequisite to participation in the MA Program. The sunset of the CON mechanism removes an important safeguard against unnecessary utilization and creates the risk of increased and uncontrolled costs to the MA Program.

In the absence of the CON review process, the Department must otherwise continue to fulfill its obligation under Federal law to control unnecessary utilization and to assure that its payments are consistent with efficiency, economy and quality of care. Therefore, it is the Department's intent to adopt measures creating a need review process which entities will be required to follow in order to enroll as a provider of ICF/MR, nursing facility, inpatient psychiatric or inpatient rehabilitation services or to expand existing institutional services. These measures will, at a minimum, require a prior determination of need for the services.

Interpretation

Pending the adoption of measures creating a need review process, the Department has adopted the following interim policy. First, the Department will not enter into a provider agreement with an ICF/MR, nursing facility, inpatient psychiatric hospital or rehabilitation hospital that does not have a CON dated on or prior to December 18, 1996. See 55 Pa. Code § 1101.42(a). Second, the Department will terminate the provider agreement of any currently enrolled ICF/MR, nursing facility, inpatient psychiatric hospital or rehabilitation hospital that expands its existing licensed bed capacity by more than ten beds or 10%, whichever is less, over a 2-year period, without having obtained a CON or letter of nonreviewability dated on or prior to December 18, 1996, approving the expansion. See 55 Pa. Code § 1101.77(b)(1) (relating to enforcement actions by the Department). The Department will consider exceptions to this policy on a case-by-case basis.

Contact Person

Comments and questions regarding this statement of policy should be directed to Regulations Coordinator, Office of Medical Assistance, Room 515 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1870.

Effective Date

This statement of policy shall take effect on December 19, 1996.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-BUL-048. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 55. PUBLIC WELFARE****PART III. MEDICAL ASSISTANCE MANUAL****CHAPTER 1101. GENERAL PROVISIONS****PARTICIPATION****§ 1101.42b. Certificate of Need requirement for participation—statement of policy.**

(a) Effective December 19, 1996, the Department will not enter into a provider agreement with an ICF/MR, a nursing facility, an inpatient psychiatric hospital or a rehabilitation hospital unless the Department of Health issued a Certificate of Need authorizing construction of the facility or hospital in accordance with 28 Pa. Code Chapter 401 (relating to Certificate of Need program) or a letter of nonreviewability indicating that the facility or

hospital was not subject to review under 28 Pa. Code Chapter 401 dated on or before December 18, 1996.

(b) The Department will consider exceptions to subsection (a) on a case-by-case basis.

FEES AND PAYMENTS**§ 1101.77a. Termination for convenience and best interests of the Department—statement of policy.**

(a) Effective December 19, 1996, under § 1101.77(b)(1) (relating to enforcement actions by the Department), the Department will terminate the enrollment and direct and indirect participation of, and suspend payments to, an ICF/MR, nursing facility, inpatient psychiatric hospital or rehabilitation hospital provider that expands its existing licensed bed capacity by more than ten beds or 10%, whichever is less, over a 2-year period, unless the provider obtained a Certificate of Need or letter of nonreviewability from the Department of Health dated on or prior to December 18, 1996, approving the expansion.

(b) The Department will consider exceptions to subsection (a) on a case-by-case basis.

[Pa.B. Doc. No. 96-2098. Filed for public inspection December 13, 1996, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 3, 1996.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
11-25-96	Smithfield Trust Company Pittsburgh Allegheny County	20 Stanwix St. Suite 650 Pittsburgh Allegheny County	Commenced Operations
12-2-96	Pennwood Interim Savings Bank Pittsburgh Allegheny County	Pittsburgh	Approved
	Subject institution will be utilized to merge with Pennwood Savings Bank, Pittsburgh, and the surviving institution will be acquired by Pennwood Bancorp, Inc., Pittsburgh, a bank holding company in organization.		
12-2-96	First County Bank Doylestown Bucks County	842 N. Easton Rd. Doylestown Bucks County	Commenced Operations

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-26-96	Union Bank and Trust Company Pottsville Schuylkill County	Pottsville	Approved
	Purchase of assets/assumption of liabilities of two branch offices of Pennsylvania National Bank and Trust Company, Pottsville, located at:		
	101 North Front Street Auburn Schuylkill County	450 West Shamokin Street Trevorton Northumberland County	

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-28-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 2506 Knights Road Bensalem Bucks County	Opened
10-28-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 2603 Durham Road Bristol Bucks County	Opened
11-18-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 500 Lincoln Highway Fairless Hills Bucks County	Opened
11-18-96	East Penn Bank Emmaus Lehigh County	6890 Hamilton Blvd. Trexlerstown Lehigh County	Opened
11-20-96	The York Bank and Trust Company York York County	Weis Market 5140 Simpson Ferry Rd. Mechanicsburg Cumberland County	Opened

NOTICES

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<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-22-96	Apollo Trust Company Apollo Armstrong County	Hyde Park Road Leechburgh Allegheny Township Westmoreland County	Opened
11-27-96	Orrstown Bank Orrstown Franklin County	22 S. Hanover St. Carlisle Cumberland County	Approved
11-27-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 1000 Easton Road Cheltenham Montgomery County	Filed
11-27-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 700 York Avenue Warminster Bucks County	Filed
11-27-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 2510 Moreland Road Willow Grove Montgomery County	Filed
11-27-96	Summit Bank Bethlehem Northampton County	Pathmark Supermarket 840 Cottman Avenue Philadelphia Philadelphia County	Filed
12-3-96	Peoples Thrift Savings Bank Norristown Montgomery County	The Food Court at The Bellevue Hotel Broad and Walnut Sts. Philadelphia Philadelphia County	Filed

Branch Consolidation

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-27-96	S & T Bank Indiana Indiana County	<i>At:</i> 14 West Long Ave. Dubois Clearfield County <i>Into:</i> 35 West Scribner Ave. Dubois Clearfield County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-5-96	United Bank of Philadelphia Philadelphia Philadelphia County	1015 N. Marshall St. Philadelphia Philadelphia County	Effective
11-8-96	United Bank of Philadelphia Philadelphia Philadelphia County	1321 W. Lindley Ave. Philadelphia Philadelphia County	Effective

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
11-17-96	SEI Trust Company Wayne Chester County	To provide for a change in the principal place of business <i>From:</i> 650 East Swedesford Road, Wayne, Chester County, PA 19087; <i>To:</i> 100 Cider Mill Road, Oaks, Montgomery County, PA 19456.	Approved and Effective 12-2-96

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 96-2099. Filed for public inspection December 13, 1996, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of January 1997

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of January is 9%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which such individual owns and which such

individual occupies or has occupied as a principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in Pennsylvania. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the U. S. Treasury. The latest yield rate on long-term government securities is 6.56 to which was added 2.50 percentage points for a total of 9.06 that by law is rounded off to the nearest quarter at 9%.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 96-2100. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standard and regulations the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Applications for National Pollutant Discharge Elimination System (NPDES) Permit to discharge to State waters.

Southeast Regional Office, Regional Manager, Water Management, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.

PA 0057037. Industrial waste, **Mobil Oil Corporation**, 10617 Braddock Road, Room 108D, Fairfax, VA 22032.

This application is for issuance of an NPDES permit to discharge treated groundwater from a groundwater remediation system in Douglass Township, **Montgomery County**. This is a new discharge to Minister Creek.

The receiving stream is classified for warm water fish, trout stocking, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 0.007 mgd are as follows:

Parameter	Average Monthly (mg/l)	Minimum Daily (mg/l)	Instantaneous Maximum (mg/l)
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	

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Minimum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Xylenes	monitor/report	monitor/report	
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is in effect.

PA 0056995. Industrial waste, **PA American Water Company**, 852 Wesley Drive, Mechanicsburg, PA 17055.

This application is for issuance of an NPDES permit to discharge treated groundwater from excavation activities at the Pennsylvania American Water Company facility located in Norristown Borough, **Montgomery County**. This is a new discharge to the Schuylkill River.

The receiving stream is classified for warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 150 gpm are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease		15	30
pH	within limits of 6.0—9.0 standard units at all times		
Diesel Range Organics	monitor/report	monitor/report	monitor/report

The EPA waiver is in effect.

PA 0057011. Sewage, **Thornbury Township**, 8 Township Drive, Cheyney, PA 19319-1019.

This application is for issuance of an NPDES permit to discharge treated sewage from Bridlewood Farm STP in Thornbury Township, **Chester County**. This is a new discharge to Radley Run.

The receiving stream is classified for warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of .103 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	3.5		7.0
(11-1 to 4-30)	10.5		21.0
Phosphorus (as P)	2.0		4.0
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		
Total Residual Chlorine		0.2	0.5

The EPA waiver is in effect.

Other requirements:

- Effective chlorination and dechlorination
- Maximize spray irrigation

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

PA 0022365. Sewage, **Perryopolis Area Joint Authority**, P. O. Box 298, Perryopolis, PA 15473-0298.

This application is for renewal of an NPDES permit to discharge treated sewage from the Perryopolis Sewage Treatment Plant in Perryopolis Borough, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as the Youghiogheny River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of .750 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

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 100,000/100 ml as a geometric mean			
Total Residual Chlorine 1st month—36th month 37th month—expiration	monitor and report 0.5			1.6
pH	6.0—9.0			

The EPA waiver is in effect.

PA 0093475. Sewage, **Findlay Township**, Drawer W, Clinton, PA 15026.

This application is for renewal of an NPDES permit to discharge treated sewage from Maronda Farms STP in Findlay Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as tributary of Potato Garden Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Municipal Authority.

Outfall 001: existing discharge, design flow of .168 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) (11-1 to 4-30)	2.0 3.5	3.0 5.8		4.0 7.0
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.4			0.12
Dissolved Oxygen	not less than 5.0 mg/l			
pH	6.0—9.0			

The EPA waiver is in effect.

PA 0217506. Sewage, **Black's Mobile Home Park**, Mary Ann Turner Parish, R. D. 2, Big Knob Road, Lot No. 38, Rochester, PA 15074.

This application is for issuance of an NPDES permit to discharge treated sewage from Black's Mobile Home Park Sewage Treatment Plant in New Sewickley Township, **Beaver County**.

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

Outfall 001: new discharge, design flow of 0.0095 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) (11-1 to 4-30)	3 9			6 18
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.4			0.9
Dissolved Oxygen	not less than 4.0 mg/l			
pH	6.0—9.0			

The EPA waiver is in effect.

Northeast Regional Office, Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.

PA 0062634. Sewerage, **AWB Associates**, P. O. Box 388, Lionville, PA 19353.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into an unnamed tributary to Mahonney Creek in N. Manheim Township, **Schuylkill County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Pottstown Water Authority on Schuylkill River at Lat. 40°14'18", Long. 75°41'45".

The proposed effluent limits for Outfall 001 based on a design flow of 0.007 mgd are:

Parameter	Monthly Average (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	50
Total Suspended Solids	30	60
Fecal Coliforms		
(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—9.0 standard units at all times	
Total Residual Chlorine	1.2	2.8

The EPA waiver is in effect.

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of the Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should

contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 825-2511.

Northcentral Regional Office, Regional Water Management Program Manager, 208 W. Third Street, Williamsport, PA 17701, telephone (717) 327-3669.

Southcentral Regional Office, Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.

Berks County Conservation District, District Manager, P. O. Box 520 Ag. Ctr., Leesport, PA 19533, telephone (610) 372-4657.

NPDES Permit PAS10C027. Stormwater. **Frederick Snyder**, Group One Properties Inc., 4641 Pottsville Pike, Ste. E, Reading, PA 19605 has applied to discharge stormwater from a construction activity located in Muhlenberg Township, **Berks County**, to the Schuylkill River.

Blair County Conservation District, District Manager, 1407 Blair Street, Hollidaysburg, PA 16648, telephone (814) 696-0877.

NPDES Permit PAS100617. Stormwater. **Ralph Albarano Jr.**, Strawberry Meadows Partnership, P. O. Box 419, Hollidaysburg, PA 16648 has applied to discharge stormwater from a construction activity located in Allegheny and Blair Townships, **Blair County**, to Beaverdam Branch of the Juniata River.

Columbia County Conservation District, District Manager, 1127a Old Berwick Rd., Bloomsburg, PA 17815, telephone (717) 784-1310.

NPDES Permit PAS102102. Stormwater. **Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, 2 Public Square, Wilkes-Barre, PA 18711 has applied to discharge stormwater from a construction activity located in Conyngham Township, Columbia County, and Ashland Borough, **Schuylkill County**, to Big Mine Run and Mahanoy Creek.

Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, telephone (610) 820-3398.

NPDES Permit PAS10Q127. Stormwater. **Western Lehigh Valley Corporation**, 740 Hamilton Mall, Allentown, PA 18101 has applied to discharge stormwater from a construction activity located in North Whitehall Township, **Lehigh County**, to UNT to Jordan Creek.

NPDES Permit PAS10Q128. Stormwater. **Orefield Cold Storage**, 3824 Route 309, Orefield, PA 18069 has applied to discharge stormwater from a construction activity located in North Whitehall Township, **Lehigh County**, to UNT to Jordan Creek.

York County Conservation District, District Manager, 118 Pleasant Acres Rd., York, PA 17402, telephone (717) 840-7430.

NPDES Permit PAS10Y058. Stormwater. **Lutheran Social Services**, Mike Stoner, 1050 Pennsylvania Avenue, York, PA 17404 has applied to discharge stormwater from a construction activity located in Manchester Township, **York County**, to Codorus Creek.

NPDES Permit PAS10Y059. Stormwater. **Wilson Dickinson Hague LP**, Ste. 195, 939 Elk Ridge Landing Road, Linthicum, MD 21090 has applied to discharge stormwater from a construction activity located in Manchester Township, **York County**, to UNT to Codorus Creek.

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

NPDES Permit PAS10L014. Stormwater. **Fay-Penn Fiber, Inc.**, 7505 Waters Avenue, Suite F5, Savannah, GA 31406 has applied to discharge stormwater from a construction activity located in Georges Township, **Fayette County**, to Georges Creek.

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

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number, identification of the plan or application to which the protest is addressed and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protests. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.

1596415. Sewerage. **North Coventry Municipal Authority**, 1485 East Schuylkill Road, P. O. Box 833, Pottstown, PA 19464-0833. Construction of a sewer extension and pumping station to serve North Coventry Municipal Authority located in Warwick Township, **Bucks County**.

2396407. Sewerage. **James and Marjorie Hill**, 866 Shavertown Road, Boothwyn, PA 19061. Construction of a small flow sewage treatment plant to serve the Hill residence located in Concord Township, **Delaware County**.

1596416. Sewerage. **Township of West Brandywine**, 1199 Lafayette Road, Coatesville, PA 19320. Construction of sewers and a pumping station to serve Friendship Village located in West Brandywine Township, **Chester County**.

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

A. 6570407. Amendment No. 3. Sewerage, **Rostraver Township Sewage Authority**, P. O. Box 92, Brownsville, PA 15417. Application for the relocation of portions of the existing interceptor sewers to serve the Sweeney-Fellsburg Area (Pollock Run) located in the Township of Rostraver, **Westmoreland County**.

A. 6570410. Amendment No. 1. Sewerage, **Franklin A. and Janet A. Taddeo**, P. O. Box 297, Elizabeth, PA 15037. Application for the modification and operation of a sewage treatment plant to serve the Pine View Manor Mobile Home Park STP located in the Township of Hempfield, **Westmoreland County**.

A. 6596411. Sewerage, **Samuel C. Davis**, Route 819, R. D. 1, Box 206, Scottdale, PA 15683. Application for the construction and operation of a single residence sewage treatment plant to serve the Davis residence located in the Township of East Huntingdon, **Westmoreland County**.

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

Southcentral Regional Office, Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.

A. 0696509. Public water supply. **AVW Inc.**, Exeter Township, **Berks County** (Donald L. Peifer, P. O. Box 264, Birdsboro, PA 19508), construction of new treatment facilities for previously unpermitted well no. 9. Well no. 9 is to be used at a rate of 67 gpm. Treatment will include sodium hypochlorite for disinfection and a shallow tray aerator for volatile organic compound removal (Edward J. Gaydos, Vitillo Group, Inc./Flying Hills Corporate Center, Six Commerce Drive, Reading, PA 19607).

Southwest Regional Office, Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

A. 1189505-A1. **Gallitzin Water Authority**, 702 Jackson Street, Gallitzin, PA 16641. Addition of chemicals to

water treatment process for manganese removal/control, Gallitzin Township, **Cambria County**.

Northwest Regional Office, Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.

A. 2496501. Public water supply. **Wilcox Water Company, Inc.**, P. O. Box 96, Wilcox, PA 15870. This proposal involves the construction of a new well as a new water source, including disinfection in Jones Township, **Elk County**.

Acknowledgment of Notices of Intent to Remediate

Acknowledgment of Notices of Intent to Remediate submitted to the Department of Environmental Protection under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302, 303, 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a background standard, Statewide health standard, site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified below, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified below. During this comment period, a municipality may request that the person identified below, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, please contact the Department 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 1 (800) 654-5984.

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

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, telephone (717) 321-6525.

Berwick Industries, Inc. Fulton Plant, Borough of Berwick, **Columbia County**. Berwick Industries Inc., c/o Suite 800, 1845 Walnut Street, Philadelphia, PA 19103 and Henry Doherty, c/o R. Timothy Weston, Esquire, Kirkpatrick and Lockhart, The Payne Shoemaker Building, 240 North Third Street, Harrisburg, PA 17101-1503 have submitted a Notice of Intent to Remediate soil contaminated with toluene, and groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the Statewide health standard for soil and the site-specific standard for ground water. A summary of the Notice of Intent to Remediate was reported to have been published in the *Press Enterprise* on November 7, 1996.

Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.

Queen City Business Center, City of Allentown, **Lehigh County**. James F. Mattern, Regional Manager, Apex Environmental, Inc., 301 W. Lancaster Avenue, Reading, PA has submitted a Notice of Intent to Remediate (on behalf of his client, Queen City Business Center, 1801 South 12th Street, Allentown, PA) concerning the remediation of site groundwater suspected of being contaminated with solvents. 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 *East Penn Press* on November 25, 1996.

Star Pipe and Supply Company, Moosic Borough, **Lackawanna County**. Jerome X. Loftus, President, Northeastern Environmental Associates, Inc., 1620 N. Main Avenue, Scranton, PA has submitted a Notice of Intent to Remediate (on behalf of his client, Star Pipe and Supply Company, 100 State Highway, Moosic, PA) concerning the remediation of site soils found to have been contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds, polyaromatic hydrocarbons, and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the background standard. A Final Report was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notification.

Southeast Regional Office, Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.

Meadow Run Site, Concord Township, **Delaware County**. Darryl D. Borrelli, Manko, Gold & Katcher, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soils and sediment 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 Delaware County Daily Times* on November 15, 1996.

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) requires the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the back-

ground or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact 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 1 (800) 654-5984.

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

Southwest Field Office, John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.

West Rentals, Inc., Neville Township, **Allegheny County**. West Rentals, Inc., 6200 Grand Avenue, Neville Township, PA 15225 has submitted a Notice of Intent to Remediate soil contaminated with solvents, BTEX and PHCs. The applicant proposes to remediate the site to meet the Statewide health standard.

Northwest Regional Office, John Fruehstorfer, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.

National Forge Company, Brokenstraw Township, **Warren County**. One Front Street, Irvine, PA 16329, has submitted a Notice of Intent to Remediate soil, groundwater and sediment, at the former AOC-1 Wastewater System Settling Lagoon, Holding Pond Outfall, contaminated with PCBs, lead, heavy metals, PHCs, volatiles and semi-volatiles. 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 *Warren Times Observer* on October 17, 1996.

Opening of the Administrative Record and Proposed Interim Response Under the Hazardous Sites Cleanup Act

Leighton Industries Site
Borough of Phoenixville, Chester County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has proposed an interim response at the Leighton Industries Site (site). The site is located at 40 South Second Avenue, Phoenixville Borough, Chester County.

The site consists of a 7.5 acre property which was abandoned in 1993. The site has been under investigation by the Department since that time. Based upon the findings of the investigation the Department determined that soil on the site is contaminated by hazardous materials. The Department has also discovered dust,

waste piles, pits and tanks in site buildings and in exterior portions of the property which contain hazardous substances.

The Department conducted a Prompt Interim Response Action in April 1996 to address drums containing hazardous materials at the Site. The basis for the Prompt Interim Response was outlined in an Analysis of Alternatives and Proposed Response Document dated March 25, 1996.

The Department has determined that additional action is necessary to address contaminated soil and hazardous materials which were improperly disposed of at the site. Lead contamination at the site may pose a threat to public health and to the environment through direct contact, ingestion and/or inhalation. Contaminants and wastes from the site may be subject to migration by wind, in surface water or in groundwater. This migration could result in offsite contamination which could affect nearby residents or children at the adjacent elementary school.

The proposed Interim Response Action includes the excavation of soil which is contaminated at levels exceeding the Statewide Human Health Based cleanup standards. The Action would also include the removal and containerization of hazardous substances from the building floor, in waste piles, pits and tanks. After excavation or removal and staging, these materials would be sampled for transportation and disposal characterization and shipped to an approved facility for treatment and/or disposal.

The Department proposes to conduct the response action as an Interim Response under the authority of HSCA. The Department may undertake an Interim Response at a site if the cost is estimated to be less than \$2 million and the expected duration of the action is less than 12 months. The Department's estimates of cost and duration for the proposed response action meet the cost and time constraints imposed on Interim Response actions under HSCA. The Department considered taking no action at the site, and determined that taking no action would not address or resolve the threat to public health and the environment associated with the site.

The administrative record (AR), which contains the information that forms the basis for and documents the selection of this response action, is available for public review and comment Monday through Friday from 8 a.m. to 5 p.m., at the DEP offices located at 555 North Lane, Conshohocken, PA 19428. A second copy of this AR will also be made available for public inspection at the Chester County Free Library of Phoenixville located at the corner of Second Avenue and Main Street from 9 a.m. to 9 p.m. Monday through Thursday and from 9 a.m. to 5 p.m. Friday and Saturday.

Written comments concerning the Department's proposed response and the information contained in the AR will be accepted in person, if delivered, or by mail, if postmarked on or before March 13, 1997. Written comments should be directed to the attention of Dustin Armstrong, DEP Project Officer, Suite 6010, Lee Park, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6206.

In addition, the public will have the opportunity to present oral comments at a public hearing. The public hearing has been scheduled for January 23, 1997, at 7 p.m. at the Phoenixville Borough Hall, 140 Church Street, Phoenixville, PA. Persons wishing to present oral comments may register on or before the date of the public hearing by contacting Rob Goldberg, the DEP Community Relations Coordinator at (610) 832-6010.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Rob Goldberg or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department may accommodate their needs.

The Department is providing this notice under sections 505(b) and 506(b) of the HSCA. The date of publication of this notice in the *Pennsylvania Bulletin* initiates the minimum 90-day public comment period on the administrative record, as provided under the act.

Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.

Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

There is a 30-day comment period from this date of publication.

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described below for the specified companies.

Permit: 15-312-023

Source: Four Petroleum Storage Tanks No. 1, 2, 3, & 4
Company: **Mobil Pipe Line**
Location: East Whiteland
County: **Chester**

Permit: 23-312-044D

Source: 33 Storage Tanks
Company: **Sun Company, Inc. (R&M)**
Location: Marcus Hook
County: **Delaware**

Permit: 46-302-205

Source: NOx Synthetic Minor
Company: **Unisys Corporation**
Location: Whippain
County: **Montgomery**

Permit: 46-302-206

Source: Two Boilers
Company: **Procter & Gamble**
Location: Hatboro
County: **Montgomery**

Permit: OP-15-0029

Source: VOC Emitting Facility
Company: **Dopaco, Inc.**
Location: Downingtown
County: **Chester**

Applications under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources.

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.

06-313-006C. Modification of several air contamination sources and control devices by **Morton International** (P. O. Box 15209, Reading, PA 19612) in Reading, **Berks County**.

06-1018A. Modification of two boilers controlled by low NOx burners by **Hershey Chocolate USA** (P. O. Box 15087, Reading, PA 19612-5087) in Reading, **Berks**

County. The sources are subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

PA-36-05014A. Installation of an emissions control system on 11 annealing furnaces by **Alumax Mill Products, Inc.** (1480 Manheim Pike, Lancaster, PA 17604) in Manheim Township, **Lancaster County**.

36-302-130A. Reactivation of an existing boiler by **R. R. Donnelley & Sons Company** (216 Greenfield Road, Lancaster, PA 17601) at their Lancaster East Facility in the City of Lancaster, **Lancaster County**.

38-318-030A. Installation of a paint spray area by **Supreme Corporation** (P. O. Box 779, 411 Jonestown Road, Jonestown, PA 17038) in Swatara Township, **Lebanon County**.

Southwest Regional Office, Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

PA-04-687A. Teledyne Rodney Metals (7544 Route 18N, Koppel, PA 16136) for a pickling tank at its Koppel Plant located in Koppel Borough, **Beaver County**.

Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.

22-317-003A. The Department intends to issue an Air Quality Operating Permit to **H. B. Reese Candy Company**, Division of Hershey Chocolate USA (925 Reese Avenue, Hershey, PA 17033) for a flour/sugar storage system in Derry Township, **Dauphin County**.

36-320-027A. The Department intends to issue an Air Quality Operating Permit to **Lancaster Press, Inc.** (3575 Hempland Road, Lancaster, PA 17604-3657) for six web-offset printing presses controlled by a thermal recuperative incinerator in West Hempfield Township, **Lancaster County**.

36-317-068B. The Department intends to issue an Air Quality Operating Permit to **Spangler's Flour Mills, Incorporated** (19 North Market Street, Mount Joy, PA 17552) for a wheat flour milling facility in Mount Joy Borough, **Lancaster County**.

36-2034. The Department intends to issue a Synthetic Minor RACT Operating Permit to **Filling Cleaners, Inc.** (3885 Columbia Avenue, Mountville, PA 17554) for two washers, six tumblers and one storage tank in West Hempfield Township, **Lancaster County**.

38-310-017A. The Department intends to issue an Air Quality Operating Permit to **Tarmac Minerals, Inc. d/b/a Tarmac America** (P. O. Box 160, Annville, PA 17003) for a portable sand crushing plant in North Londonderry Township, **Lebanon County**. The source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

67-318-113A. The Department intends to issue an Air Quality Operating Permit to **Root Corporation**, Division of New York Wire (152 North Main Street, Mt. Wolf, PA 17347) for a coating and curing line in Mt. Wolf Borough, **York County**. The source is subject to 40 CFR 60, Subpart VVV, Standards of Performance for New Stationary Sources.

Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

8-399-046. The Department intends to issue an operating permit to **Osram Sylvania, Inc.** (Box 504, Towanda, PA 18848-0504) for the operation of various tungsten/molybdenum welding rod grinders and cutoff saws and associated air cleaning devices (a "media air cleaner" and a "HEPA filter") in North Towanda Township, **Bradford County**.

41-313-011B. The Department intends to issue an operating permit to **Lonza, Inc.** (3500 Trenton Avenue, Williamsport, PA 17701) for the operation of a solid Glydant production process and associated air cleaning devices (three cartridge collectors, a fabric collector and a packed bed scrubber) in the City of Williamsport, **Lycoming County**.

60-318-008. The Department intends to issue an operating permit to **Pillings FRP, Inc.** (P. O. Box 119, West Milton, PA 17886) for the operation of a fiberglass reinforced plastics manufacturing facility in White Deer Township, **Union County**.

Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

56-322-002. The Department intends to issue an Air Quality Operating Permit to **Resource Conservation Corporation** (R. R. 1, Box 305, Cairnbrook, PA 15924) for a landfill gas management system at its Shade Township Waste Management Facility located in Shade Township, **Somerset County**.

32-302-033A. The Department intends to issue an Air Quality Operating Permit to **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for Auxiliary Boiler A at its Conemaugh Station facility located in West Wheatfield Township, **Indiana County**.

11-307-039. The Department intends to issue an Air Quality Operating Permit to **Bar Technologies, Inc.** (227 Franklin Street, Suite 300, Johnstown, PA 15901) for a continuous bloom/billet caster at its Johnstown Plant located in Franklin Borough, **Cambria County**.

65-307-079. The Department intends to issue an Air Quality Operating Permit to **Kennametal, Inc.** (P. O. Box 231, Latrobe, PA 15650) for dust collectors on the jet mill at its Kingston Plant located in Derry Township, **Westmoreland County**.

65-301-061A. The Department intends to issue an Air Quality Operating Permit to **Torrance State Hospital** (Torrance, PA 15779) for an infectious waste incinerator at its facility located in Derry Township, **Westmoreland County**.

04-309-008D. The Department intends to issue an Air Quality Operating Permit to **Armstrong World Industries, Inc.** (1018 Eleventh Street, P. O. Box 441, Beaver Falls, PA 15010) for baghouses on the RIMS, conveyors and emboss line at its facility located in Beaver Falls, **Beaver County**.

Applications received for Minor Source Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

OP-32-201. The Department received a Minor Source Air Quality Operating Permit application from **FMC Corporation** (57 Cooper Avenue, Homer City, PA 15748) for material handling equipment manufacturing at its Homer City Plant located in Homer City Borough, **Indiana County**.

OP-03-175. The Department received a Minor Source Air Quality Operating Permit application from **Babcox & Wilcox Company** (R. R. 1, Box 355, Vandergrift, PA 15690) for Building A at its Parks Facility located in Parks Township, **Armstrong County**.

OP-65-816. The Department received a Minor Source Air Quality Operating Permit application from **Keystone Oil and Gas, Inc.** (One Williamsburg Place, Suite 110, Warrendale, PA 15086) for a natural gas transmission station at its Silvis Station located in Hempfield Township, **Westmoreland County**.

OP-32-323. The Department received a Minor Source Air Quality Operating Permit application from **Keystone Oil and Gas, Inc.** (One Williamsburg Place, Warrendale, PA 15086) for a natural gas transmission station at its McAnulty Station located in Montgomery Township, **Indiana County**.

OP-32-324. The Department received a Minor Source Air Quality Operating Permit application from **Keystone Oil and Gas, Inc.** (One Williamsburg Place, Suite 110, Warrendale, PA 15086) for a natural gas transmission station at its Myers Station located in Montgomery Township, **Indiana County**.

OP-32-325. The Department received a Minor Source Air Quality Operating Permit application from **Keystone Oil and Gas, Inc.** (One Williamsburg Place, Suite 110, Warrendale, PA 15086) for a natural gas transmission station at its Wandin Station located in Green Township, **Indiana County**.

OP-32-326. The Department received a Minor Source Air Quality Operating Permit application from **Shawmut Production Corporation** (One Williamsburg Place, Suite 240, Warrendale, PA 15086) for a natural gas transmission station at its Rhea Station located in Cherryhill Township, **Indiana County**.

OP-32-327. The Department received a Minor Source Air Quality Operating Permit application from **Shawmut Production Corporation** (One Williamsburg Place, Suite 240, Warrendale, PA 15086) for a natural gas transmission station at its Murdick Station located in Cherryhill Township, **Indiana County**.

OP-65-878. The Department received a Minor Source Air Quality Operating Permit application from **R. E. Uptegraff Manufacturing Company** (P. O. Box 182, Scottdale, PA 15683) for a transformer manufacturing operation at its facility located in Scottdale Borough, **Westmoreland County**.

OP-04-693. The Department received a Minor Source Air Quality Operating Permit application from **Littell Steel Company** (P. O. Box 298, New Brighton, PA 15066) for a structural steel manufacturing process at its facility located in Bridgewater Borough, **Beaver County**.

OP-04-694. The Department received a Minor Source Air Quality Operating Permit application from **Morgan Brothers** (P. O. Box 208, Beaver Falls, PA 15010) for a metal coating process at its facility located in Beaver Falls, **Beaver County**.

OP-65-877. The Department received a Minor Source Air Quality Operating Permit application from **Allegheny Ludlum Corporation** (100 River Road, Brackenridge, PA 15014) for a residual waste landfill at its Route 356 Landfill located in Allegheny Township, **Westmoreland County**.

OP-04-006. The Department received a Minor Source Air Quality Operating Permit application from **Brighton**

Electric Steel Company (P. O. Box 206, Beaver Falls, PA 15010) for a steel foundry at its facility located in Beaver Falls, **Beaver County**.

OP-65-127. The Department received a Minor Source Air Quality Operating Permit application from **National Roll Company** (Railroad Avenue, P. O. Box 655, Avonmore, PA 15618) for a steel foundry at its Avonmore Plant located in Avonmore Borough, **Westmoreland County**.

OP-65-101. The Department received a Minor Source Air Quality Operating Permit application from **Mill Service, Inc.** (R. R. 1, Box 135A, Yukon, PA 15698) for a refuse system at its Yukon Plant located in South Huntingdon Township, **Westmoreland County**.

OP-63-616. The Department received a Minor Source Air Quality Operating Permit application from **Therm-O-Rock, Inc.** (P. O. Box 429, New Eagle, PA 15067) for a non-metallic mineral process at its Plant 1 located in New Eagle Borough, **Washington County**.

OP-65-799. The Department received a Minor Source Air Quality Operating Permit application from **CNG Transmission Corporation** (445 West Main Street, P. O. Box 2450, Clarksburg, WV 26302) for a natural gas transmission station at its Lincoln Heights Station located in Hempfield Township, **Westmoreland County**.

OP-63-584. The Department received a Minor Source Air Quality Operating Permit application from **Washington Mould Company** (P. O. Box 518, Greene and Madison Avenue, Washington, PA 15301) for an iron foundry at its facility located in Washington, **Washington County**.

OP-63-650. The Department received a Minor Source Air Quality Operating Permit application from **Goldschmidt Industrial Chemical Corporation** (941 Robinson Highway, P. O. Box 279, McDonald, PA 15057) for an industrial inorganic chemical operation at its McDonald Plant located in Robinson Township, **Washington County**.

OP-65-844. The Department received a Minor Source Air Quality Operating Permit application from **Sterling Lebanon Packaging Corporation** (P. O. Box 768, Thomas Avenue and Lafferty Street, Jeannette, PA 15644) for a packaging manufacturing operation at its Jeannette Plant located in Jeannette, **Westmoreland County**.

OP-03-202. The Department received a Minor Source Air Quality Operating Permit application from **The Peoples Natural Gas Company** (625 Liberty Avenue, CNG Tower, Pittsburgh, PA 15222) for a natural gas compressor station at its Roaring Run Compressor Station located in Kiskiminetas Township, **Armstrong County**.

OP-32-322. The Department received a Minor Source Air Quality Operating Permit application from **T. W. Phillips Gas and Oil Company** (205 North Main Street, Butler, PA 16001) for a natural gas compressor station at its Clark Compressor Station located in Banks Township, **Indiana County**.

OP-03-201. The Department received a Minor Source Air Quality Operating Permit application from **The Peoples Natural Gas Company** (625 Liberty Avenue, CNG Tower, Pittsburgh, PA 15222) for a natural gas compressor station at its Baum Compressor Station located in Boggs Township, **Armstrong County**.

OP-63-878. The Department received a Minor Source Air Quality Operating Permit application from **The Peoples Natural Gas Company** (625 Liberty Avenue,

CNG Tower, Pittsburgh, PA 15222) for a natural gas compressor station at its Gibson Compressor Station located in Fallowfield Township, **Washington County**.

OP-65-258. The Department received a Minor Source Air Quality Operating Permit application from **Aluminum Company of America** (P. O. Box 772, 600 Freeport Road, New Kensington, PA 15068) for a melting/casting/metal process at its ARL Operations located in New Kensington, **Westmoreland County**.

OP-63-877. The Department received a Minor Source Air Quality Operating Permit application from **Guttman Oil Company** (200 Speers Road, Belle Vernon, PA 15012) for a bulk terminal at its Belle Vernon Bulk Terminal located in Speers Borough, **Washington County**.

OP-65-235. The Department received a Minor Source Air Quality Operating Permit application from **Aluminum Company of America** (100 Technical Drive, Alcoa Center, PA 15069) for a research and development operation at its Alcoa Technical Center located in Upper Burrell Township, **Westmoreland County**.

OP-03-050. The Department received a Minor Source Air Quality Operating Permit application from **Creekside Mushrooms Ltd.** (One Moonlight Drive, Worthington, PA 16262) for a mushroom cultivation process at its facility located in West Franklin Township, **Armstrong County**.

OP-65-863. The Department received a Minor Source Air Quality Operating Permit application from **Braeburn Alloy Steel** (101 Braeburn Road, Lower Burrell, PA 15068) for a nonferrous forging operation at its Division of CCX operation located in Lower Burrell City, **Westmoreland County**.

OP-63-028. The Department received a Minor Source Air Quality Operating Permit application from **Cerdec Corporation** (P. O. Box 519, Washington, PA 15301) for an inorganic pigment manufacturing process at its Drakenfeld Products Plant located in Canton Township, **Washington County**.

OP-03-139. The Department received a Minor Source Air Quality Operating Permit application from **Brady's Bend Corporation** (930 Cass Street, New Castle, PA 16101) for a limestone crushing/screening operation at its Kaylor Plant located in Brady's Bend Township, **Armstrong County**.

OP-63-538. The Department received a Minor Source Air Quality Operating Permit application from **Dynamet, Inc.** (195 Museum Road, Washington, PA 15301) for a non-ferrous metal extrusion process at its Arden Facility located in Chartiers Township, **Washington County**.

Applications received for General Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

GP-65-526. The Department received a General Operating Permit application from **Angerman Associates** (109 Zeta Drive, Pittsburgh, PA 15238) for a natural gas compressor station at its Mamont Station located in Washington Township, **Westmoreland County**.

GP-32-245. The Department received a General Operating Permit application from **Cabot Oil & Gas Corporation** (400 Fairway Drive, Suite 400, Coraopolis, PA 15018) for a natural gas compressor station at its Bootman Compressor Station located in Montgomery Township, **Indiana County**.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for such certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. Such NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chs. 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor, application number, a brief summary of the issues to be raised by the requestor at the conference and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.

Coal Mining Applications Received

63841302. Maple Creek Mining, Inc. (P. O. Box 517, Bentleyville, PA 15314), to revise the permit for the Maple Creek bituminous deep mine in New Eagle Borough, **Washington County** to add two portals at the New Eagle Portal Facility, no additional discharge. Application received October 15, 1996.

56911302. RoxCoal, Inc. (P. O. Box 149, Friedens, PA 15541), to revise the permit for the Long T bituminous deep mine in Stoneycreek Township, **Somerset County** to add new treatment ponds and relocate hydraulic barrier, no additional discharge. Application received November 4, 1996.

56821304. Quemahoning Collieries, Inc. (P. O. Box 955, Somerset, PA 15501), to renew the permit for the Quemahoning No. 1 bituminous deep mine in Quemahoning Township, **Somerset County** for reclamation only, no additional discharge. Application received November 18, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

49860102T. Mid Valley Coal Sales, Inc. (5 Woodland Drive, Mt. Carmel Estates, Mt. Carmel, PA 17851), transferred from D & F Coal Company in Coal Township, **Northumberland County**, affecting 1,280 acres, receiving stream Shamokin Creek. Application received October 30, 1996.

District Mining Operations, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

Noncoal Applications Received

11960801. Laurel Land Development, Inc. (P. O. Box 629, Carrolltown, PA 15722), commencement, operation and restoration of a noncoal mine in Jackson Township, **Cambria County**, affecting 3.6 acres, receiving stream unnamed tributary to Hinckston Run, application received November 15, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

49960301. Central Builders Supply Company (Island Park, P. O. Box 152, Sunbury, PA) commencement, operation and restoration of a noncoal sand and gravel quarry operation in West Chilliquaques Township, **Northumberland County**, affecting 204.1 acres, receiving stream west branch of Susquehanna River. Application received November 18, 1996.

5276SM5C4. Eureka Stone Quarry, Inc. (Pickertown and Lower State Roads, Chalfont, PA), renewal of NPDES Permit #PA0595217 in Dingman Township, **Pike County**, affecting 177.0 acres, receiving stream Sawkill Creek. Application received November 14, 1996.

09890303C2. Miller & Son Paving, Inc. (P. O. Box 161, 1371 West Street Road, Warminster, PA 18974), correction to an existing quarry operation to revise the blasting plan in Plumstead Township, **Bucks County** affecting 155.57 acres, receiving stream unnamed tributary to north branch of Neshaminy Creek. Application received November 14, 1996.

40960304. Ppork Properties, Inc. (34 Alfred Road, Wyoming, PA 18644), commencement, operation and restoration of a noncoal-topsoil operation in Plains Township, **Luzerne County**, affecting 71.98 acres, receiving stream Susquehanna River. Application received November 6, 1996.

54950302C. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105), correction to an existing noncoal quarry operation to include an incidental boundary correction and a stream variance in Wayne Township, **Schuylkill County**, affecting 154.21 acres, receiving stream Bear Creek. Application received October 29, 1996.

7776SM1. Martin Stone Quarries, Inc. (P. O. Box 297, Bechtelsville, PA 19505), application for bonding increment including a stream variance and wetlands area in Colebrookdale Township, **Berks County**, affecting 32.3 acres, receiving stream Swamp Creek. The wetlands are being mitigated for plan approved by the DEP and Game Commission. Application received November 4, 1996.

7573SM1A1C2. Hempt Brothers, Inc. (205 Creek Road, Camp Hill, PA 17011), correction to an existing noncoal quarry operation in Dickinson Township, **Cumberland County**, affecting 683.7 acres, receiving stream Mountain Creek to Susquehanna River. Application received November 8, 1996.

The following Dam Safety and Encroachment permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department).

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

Applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), 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.

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, telephone (717) 657-4590.

E01-171. Encroachment. Middle Creek Bible Conference, Inc., Elizabeth Crowley, P. O. Box 1, Cascade, MD 21719. To place fill in 2,000 square feet of jurisdictional wetlands for the purpose of providing an emergency access drive for the proposed Middle Creek Conference and Retreat Center located north of the intersection of Water Street and Station Road in Freedom and Liberty Townships, **Adams County**. (Fairfield, PA Quadrangle N: 2 inches; W: 10 inches). The permittee is required to construct 4,000 square feet of replacement wetlands.

E29-72. Encroachment. Dept. of Transportation, Engineering District 9-0, J. Dain Davis, 1620 Junita Street, Hollidaysburg, PA 16648. To remove the existing structure, construct and maintain a prestressed concrete box beam bridge (Waterfall Bridge) having a clear span of 75 feet on a 70 degree skew, with a minimum underclearance of 10.5 feet across Sideling Hill Creek on S. R. 4011, Section 001. New bridge will be located about 875 feet downstream of existing bridge, and 900 feet of new roadway will disturb 0.07 acre of wetlands (Saltillo, PA Quadrangle N: 0.08 inch; W: 6.58 inches) in Taylor Township, **Fulton County**.

E36-625. Encroachment. Timber Villa, Inc., David Heisey, 1898 North Market Street, P. O. Box 408, Elizabethtown, PA 17022. To construct and maintain 100 L. F. of 79 inches × 62.5 inches corrugated metal pipe-arch culvert in a tributary to Snitz Creek, and fill 0.15 acre of wetlands for construction of Waterfront Drive and Quail Drive for access to 28 retirement units located within Timber Villa, Phase 2. Utility lines to serve residences include construction of 4 inch water line across 450 feet of wetlands, a 6 inch PVC collector sewer line and an 8 inch PVC sanitary sewer across tributary to Snitz Creek and adjacent wetlands (Middletown, PA Quadrangle N: 2.8 inches; W: 3.4 inches) in West Donegal Township, **Lancaster County**.

Northwest Regional Office, Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.

E10-251. Encroachment. Leona M. Miller, P. O. Box 170, Chicora, PA 16052. To complete construction of a 10-foot diameter culvert in Buffalo Creek (HQ-CWF and stocked trout) for industrial and residential purposes. The project is located approximately 200 feet north of S. R. 0068 and approximately 2,200 feet east of the intersection of S. R. 0068 and Calputa Road (East Butler, PA Quadrangle N: 12.9 inches; W: 0.7 inch) located in Donegal Township, **Butler County**.

E10-252. Encroachment. James A. West Sr., 222 Oxford Drive, Allison Park, PA 15101. To place and maintain an 8-foot 2-inch wide by 5-foot 9-inch high by 210-foot long arch pipe culvert enclosure onto an existing culvert of the same size under Graham School Road in a tributary to Brush Creek (WWF). The project is located approximately 100 feet north of Rochester Road (S. R. 3022) between Graham School Road and PA Turnpike I-76 (Mars, PA Quadrangle N: 13.3 inches; W: 16.3 inches) located in Cranberry Township, **Butler County**.

E33-177. Encroachment. Jefferson County Commissioners, Jefferson Place, 155 Main Street, Brookville, PA 15825. To remove an existing 34-foot single span steel plate girder bridge and to construct and maintain a single-span concrete spread box beam bridge with a 48.27-foot clear span with a minimum vertical underclearance of 5.72 feet on a 60-degree skew across Laurel Run (HQ-CWF, TSF). The project is known as Jefferson County Bridge No. 4 and is located on T-622 across Laurel Run approximately 6,000 feet south of the intersection of S. R. 0410 and T-622 (McGees Mills, PA Quadrangle N: 19.7 inches; W: 8.4 inches) located in Henderson Township, **Jefferson County**.

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

E15-527. Encroachment. Radley Run Country Club, 1100 Country Club Road, West Chester, PA 19382. To place fill and maintain fill and approximately 400 feet of

safety net fencing within the assumed 100-year floodway of Radley Run (WWF) associated with construction activities at the Radley Run Country Club. This site is located approximately 580 feet northeast of the intersection of Country Club Road and General Lafayette Boulevard (West Chester USGS Quadrangle N: 7.5 inches; W: 16.4 inches) in Birmingham Township, **Chester County**.

E15-528. Encroachment. **Department of Transportation**, 200 Radnor Chester Road, St. Davids, PA 19087-5178. To remove a concrete encased steel I-beam bridge with a clear span of 22.7 feet and maximum underclearance of 5.5 feet, to remove associated abutments and wingwalls, to construct and maintain a prestressed concrete box beam bridge with a clear span of 43.6 feet and maximum underclearance of 5.5 feet, to construct and maintain associated bridge abutments, wingwalls and roadway fill at this location in and along Goose Creek (WWF), tributary to the east branch of Chester Creek. This site is located approximately 1,200 feet north of the intersection of Westbourne Road (S. R. 2006) and Street Road (S. R. 0926) (West Chester USGS Quadrangle N: 10.6 inches; W: 7.6 inches) in Westtown Township, **Chester County**.

E46-659. Encroachment. **Waste Management Disposal Services of PA**, 1525 Sell Road, Pottstown, PA 19464. To amend permit E46-659 for the following additional work: 1) construction of a nature trail with two walkway bridges along Goose Run; 2) restore original alignment of 135 feet of Goose Run in the vicinity of Levensgood Road (Boyerstown, PA Quadrangle starting at N: 6.7 inches; W: 4.87 inches and ending N: 3.25 inches; W: 6.15 inches) in Upper Pottsgrove Township, West Pottsgrove Township, Montgomery County and Douglass Township, **Berks County**.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-5485.

E35-275. Encroachment. **Joseph W. Scotchlas**, 110 Tuttle Street, Simpson, PA 18407. To remove the existing deteriorated structure and to construct and maintain a concrete tie retaining wall having a length of approximately 70 feet with a height of 12 feet to 18 feet. The project is located along the left bank of the Lackawanna River (TSF) approximately 300 feet downstream of the intersection of S. R. 0171 and the Lackawanna River (Waymart, PA Quadrangle N: 16.9 inches; W: 15.0 inches) in Simpson Borough, **Lackawanna County** (Baltimore District, Army Corps of Engineers).

E39-321. Encroachment. **Cogle's Recycling, Inc.**, 1000 South 4th Street, Hamburg, PA 19526. To construct and maintain a single span precast concrete arch bridge across Trout Creek (CWF) having a span of 40.38 feet with an underclearance of 9.67 feet to provide access to the proposed Cogle's Recycling facility. The project is located immediately upstream of Trout Creek and the Conrail Railroad approximately 0.8 mile northwest of the intersection of S. R. 0145 and S. R. 2002 (Allentown East, PA Quadrangle N: 15.5 inches; W: 12.7 inches) in the City of Allentown, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

E39-322. Encroachment. **Oliver S. Schadt, III**, 5335 Lindsey Lane, Schnecksville, PA 18078. To fill in 0.31 acre of PFO wetlands and to construct and maintain seven 78-inch diameter CMP culverts to provide sole access to the proposed Spring Creek Estates Residential Subdivision. The project is located on the south side of S. R. 0309 approximately 0.4 mile west of the intersection of S. R.

0309 and T730 (Slatedale, PA Quadrangle N: 9.4 inches; W: 1.5 inches) in North Whitehall Township, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

E45-313. Encroachment. **Keystone Hollow Corporation**, P. O. Box 1158, Marshalls Creek, PA 18335-1158. To construct and maintain facilities associated with the Great Bear Golf Course, with activities including the following: (1) placement of fill in wetlands for the construction of a golf tee (Hole #14); (2) construction and maintenance of a 24-inch CMP screened intake structure in a pond for irrigation; (3) construction and maintenance of approximately 50 linear feet of rock-lined channel change in a tributary to Sand Hill Creek (HQ-CWF) (associated with "Crossing 2"); (4) construction and maintenance of approximately 140 linear feet of rock-lined channel change in a tributary to Sand Hill Creek (associated with "Crossing 3"); and (5) modification and maintenance of an existing road crossing of a tributary to Sand Hill Creek and adjacent wetlands, utilizing a 36-inch or 43-inch x 27-inch CMP and affecting approximately 60 linear feet of channel. The activities impact approximately 0.33 acre of wetlands. The project is located along Keystone Road (T-550), south of S. R. 0209 (Bushkill, PA-NJ Quadrangle N: 9 inches; W: 9 inches) in Middle Smithfield Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

E52-145. Encroachment. **Department of Conservation and Natural Resources**, Bureau of Forestry, 400 Rachel Carson State Office Building, 8th Floor, P. O. Box 8451, Harrisburg, PA 17105-8451. To remove the existing superstructure on Bridge No. 51-7935-5119-0004 and to construct and maintain a two span timber deck on the existing stone masonry abutments and pier across Bushkill Creek (HQ-CWF). This superstructure has spans of 22.5 feet and a minimum underclearance of 6.3 feet and is located along Pine Flats Road approximately 1.5 miles west of S. R. 0402 (Twelvemile Pond, PA Quadrangle N: 21.5 inches; W: 13.5 inches) in the Delaware State Forest, District No. 19, Porter Township, **Pike County** (Philadelphia District, Army Corps of Engineers).

E52-146. Encroachment. **Drs. Peter Seitzman and Joseph Minola**, 18 East 77th Street, New York, NY 10021. To construct and maintain a 6' x 12' cantilevered boat dock on the west bank of Mill Rift Pond (EV). This project is located along the west side of S. R. 1017 (Delaware Drive) approximately 200 feet north of Township Road T-400 (Port Jervis North, PA Quadrangle N: 6.7 inches; W: 16.6 inches) in Westfall Township, **Pike County** (Philadelphia District, Army Corps of Engineers).

DEP Central Office, Bureau of Dams, Waterways and Wetlands, 400 Market Street, Floor 6, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

Requests for Environmental Assessment approval under 25 Pa. Code § 105.15 and requests for certification under section 401 of the Federal Water Pollution Control Act.

EA23-007C0. Environmental assessment. **Trilogy Development Company**, 1541 East Strasburg Road, West Chester, PA 19380-6380. To construct and maintain a non-jurisdictional dam across a tributary to west branch Chester Creek (TSF) for the purpose of stormwater management at the proposed Concord Woods II subdivision located approximately 3,600 feet west of the intersection of Ivy Mills Road and Pole Cat Road (Media, PA Quadrangle N: 2.05 inches; W: 17.25 inches) in Concord Township, **Delaware County**.

EA46-025C0. Environmental assessment. **T. H. Properties**, 437 Harleysville Pike, P. O. Box 159, Franconia,

PA 18924. To construct and maintain two non-jurisdictional dams across tributaries to Indian Creek (TSF) for the purpose of stormwater management at the proposed Kingscote subdivision located approximately 1,000 feet southeast of the intersection of Indian Creek Road and Hunsicker Road (Perkiomenville, PA Quadrangle N: 8.5 inches; W: 2.3 inches) in Franconia Township, **Montgomery County**.

Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

E02-1171. Encroachment. **Township of Wilkins**, 110 Peffer Street, Turtle Creek, PA 15145. To remove the existing structure and to construct and maintain a 50-foot long, 16.5-foot × 10-foot CMP arch culvert in Saw Mill Run (WWF) for the purpose of safe access to three residences located along Russell Lane at the intersection of Russell Lane and Brown Avenue (S. R. 1030) (Brad-dock, PA Quadrangle N: 8.6 inches; W: 11.7 inches) in Wilkins Township, **Allegheny County**.

E02-1172. Encroachment. **Manor Healthcare Corporation**, 11555 Darnestown Rd., Gaithersburg, PA 20879-3200. To construct and maintain a 102-inch diameter, 562-foot long CMP in an unnamed tributary to Sawmill Run known as Weyman Run (WWF) and to realign and maintain a portion of said stream. The proposed enclosure will be an addition to the existing stream enclosure and is for the purpose of developing a 4-acre site for a Skilled Nursing Facility Complex, located 1,000 feet north of Caste Village along the east side of Weyman Road (Bridgeville, PA Quadrangle N: 20.2 inches; W: 0.05 inch) in Whitehall Borough, **Allegheny County**.

E03-174. Encroachment. **Russell Industries**, 3025 Washington Road, McMurray, PA 15317. To renew Permit No. E03-174 to perform commercial sand and gravel dredging in the Allegheny River at various locations from Mile Marker 30.6 to 33.7 in Pool 5 located in South Buffalo and Gilpin Townships, **Armstrong County**.

E30-171. Encroachment. **Department of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing structure and to construct and maintain a prestressed concrete bridge having two clear spans of 77.2 feet each and a minimum underclearance of 14.0 feet to carry S. R. 0188 Section F11 over South Fork Tenmile Creek (WWF); and to construct and maintain during pier construction a temporary causeway having three 60-inch pipes. The project is located along S. R. 0188 approximately 3,000 feet southwest of Jefferson Morgan High School (Mather, PA Quadrangle N: 8.7 inches; W: 10.2 inches) in Jefferson and Morgan Townships, **Greene County**.

E30-172. Encroachment. **Department of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing structure and to construct and maintain a 2-span bridge having a normal spans of 60.0 feet and underclearance of 20.0 feet across South Fork Tenmile Creek (WWF); and to construct and maintain a temporary rock causeway during pier construction in said stream. The project is located on S. R. 0188, Section B10 (Waynesburg, PA Quadrangle N: 6.0 inches; W: 2.5 inches) in Franklin Township, **Greene County**.

E30-173. Encroachment. **Department of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove existing structure and to construct and maintain a two-span bridge having normal spans of 56.0 feet and underclearance of 16.7 feet across the South Fork Tenmile Creek (WWF); and to construct and maintain a temporary

causeway consisting of three 60-inch pipes in said stream. The project is located on S. R. 0188 Section C10 and C11 (Waynesburg, PA Quadrangle N: 6.6 inches; W: 0.75 inch) in Franklin Township, **Greene County**.

E56-271. Encroachment. **Somerset County Commissioners**, 11 E. Union St., Ste. 100, Somerset, PA 15501. To rehabilitate and maintain the existing Glessner Covered Bridge across Stony Creek (TSF) including replacement of wooden beams, planks and southern abutment. The bridge is located on T-565 (Stoystown, PA Quadrangle N: 4.75 inches; W: 6.45 inches) in Stony Creek Township, **Somerset County**.

E56-272. Encroachment. **Department of Transportation**, 1620 N. Juniata St., Hollidaysburg, PA 16648. To remove existing structure and to construct and maintain a prestressed concrete adjacent box beam bridge having two clear spans of 48.5 feet and minimum underclearances of 6.8 feet and 9.5 feet over Coxes Creek (WWF). The project is located at Rockwood Jct. Station along S. R. 3019 at its intersection with S. R. 3015 (Rockwood, PA Quadrangle N: 9.7 inches; W: 3.3 inches) in Black and Milford Townships, **Somerset County**.

E63-422. Encroachment. **James and John Makrinos**, 269 Valley Rd., Eighty Four, PA 15330. To construct and maintain a 20-foot by 22-foot wooden plank bridge with an underclearance of 8 feet over an unnamed tributary to Peters Creek (TSF) to provide access to residential structures located on the west side of Bebout Road approximately 1,500 feet north of the intersection of Bebout Road and Venetia Road (S. R. 1006) (Bridgeville, PA Quadrangle N: 0.1 inch; W: 6.2 inches) in Peters Township, **Washington County**.

E65-655. Encroachment. **Davison Sand & Gravel Co.**, P. O. Box 5P, New Kensington, PA 15068. To construct and maintain 115 feet of steel sheet "z-pile" river wall along the left bank of Allegheny River (WWF) and to perform maintenance dredging consisting of removal of approximately 400 cubic yards of material, for the purpose of expanding/improving existing unloading facility located approximately at Mile Marker 18.0 (New Kensington West, PA Quadrangle N: 9.3 inches; W: 1.9 inches) in the City of Lower Burrell, **Westmoreland County**.

E65-656. Encroachment. **Department of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain twin-cell reinforced concrete box culverts, each having a normal span of 12.0 feet, an effective underclearance of 3.5 feet, and inverts depressed 1.0 foot; to remove existing downstream retaining wall and to place and maintain rock riprap for a distance of 67.0 feet, all in Speers Run (WWF). The bridge is located on S. R. 3003 at Section A01 (Donora, PA Quadrangle N: 2.7 inches; W: 14.0 inches) in Rostraver Township, **Westmoreland County**.

EA32002SW. Environmental assessment. **Bureau of Abandoned Mine Reclamation**, 122 S. Center Street, Ebensburg, PA 15931-0149. To place and maintain fill in a 1,600 linear feet abandoned water filled surface mining pit (POW) for purpose of eliminating a dangerous highwall of 40 to 50 feet in height; to construct and maintain 400 linear feet of stream channel to re-establish it to the original (pre-mining) location. The stream is an unnamed tributary to north branch Little Mahoning Creek (HQ-CWF) and currently flows into the abandoned pit. The site is located approximately 200 feet east of S. R. 1046, 0.2 mile west of the village of Canoe Ridge (Rochester Mills, PA Quadrangle N: 21.2 inches; W: 8.6 inches) in Canoe Township, **Indiana County**.

ACTIONS

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

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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Permits Issued

Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.

NPDES Permit No. PA0012467. Amendment No. 1. Industrial waste. **Laurel Pipeline Company**, Booth Station, P. O. Box 368, Emmaus, PA 18049-0368 is authorized to discharge from a facility located in Bethel Township, **Delaware County** into an unnamed tributary to Green Creek.

NPDES Permit No. PA0029441. Sewerage. **Township of Upper Dublin**, 801 Lock Alsh Avenue, Fort Washington, PA 19034 is authorized to discharge from a facility located in Upper Dublin, **Montgomery County** into Pine Run.

NPDES Permit No. PA0050741. Amendment No. 1. Sewerage. **Selas Corporation of America**, 2034 South Limekiln Pike, Dresher, PA 19025 is authorized to discharge from a facility located in Upper Dublin Township, **Montgomery County** into an unnamed tributary to Pine Run.

NPDES Permit No. PA0051616. Industrial waste. **Citizens Utilities Water Company of Pennsylvania**, 135 North Fourth Street, Royersford, PA 19468 is authorized to discharge from a facility located in East Vincent Township, **Chester County** into the Schuylkill River.

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

NPDES Permit No. PA0096474. Amendment No. 1. Industrial waste, **Buckeye Pipe Line Company**, 520 Narrows Run Road, Coraopolis, PA 15108 is authorized to discharge from a facility located at Buckeye Pipe Line Coraopolis Station, Coraopolis Borough, **Allegheny County**.

NPDES Permit No. PA0021768. Sewage, **Borough of Somerset**, 1043 South Center Avenue, Somerset, PA 15501 is authorized to discharge from a facility located at Main Sewage Treatment Plant, Somerset Township, **Somerset County** to east branch of Coxes Creek.

NPDES Permit No. PA0025003. Sewage, **U. S. Army Corps of Engineers**, CEORP-OR-T, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186 is authorized to discharge from a facility located at Tub Run Recreation Area STP, Henry Clay Township, **Fayette County** to Youghiogheny River Reservoir.

NPDES Permit No. PA0031658. Sewage, **Chadwick Mobile Home Park**, 802 West Main Street, Smethport, PA 16749 is authorized to discharge from a facility located at Chadwick Mobile Home Park STP, South Franklin Township, **Washington County** to a named tributary of Fork of Bane Creek.

Coraopolis Borough, Allegheny County. U. S. Army Corps of Engineers, CEORP-OR-T, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186 is authorized to discharge from a facility located at Somerfield South Recreation Area STP, Addison Township, **Somerset County** to Youghiogheny River Reservoir.

NPDES Permit No. PA0205346. Sewage, **Regis and Marianne Belback**, 139 Wilma Drive, Apollo, PA 15613 is authorized to discharge from a facility located at Belback SRSTP, Washington Township, **Westmoreland County** to unnamed tributary of Pucketa Creek.

Notices of Intent for Coverages Under NPDES General Permits and Department Final Actions

The Department of Environmental Protection has received Notices of Intent (NOI) for approval of coverage under General NPDES Permits and has taken the following final actions by approving the requested general permit coverages.

These actions of the Department may be appealed 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, by any aggrieved person under The Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Environmental Hearing 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.

NPDES General Permit Final Actions

The Department of Environmental Protection has taken the following final actions on previously received Notices of Intent for approval of coverage under General NPDES Permits.

**List of NPDES General Permits Issued by DEP's
Water Management Deputate**

<i>General Permit No.</i>	<i>Short Title of General Permit</i>	<i>Responsible Bureau</i>
PAG-2	Stormwater—Construction Activities	BLWC
PAG-3	Stormwater—Industrial Activities	BWQM
PAG-4	Single Residence Sewage Treatment Plant	BWQM
PAG-6	Combined Sewer Overflows	BWQM

NOI Received and Final Actions Under NPDES General Permits

Coverage under the General Permits issued under the National Pollutant Discharge Elimination System (NPDES) Permit Program to discharge wastewater to the waters of the Commonwealth.

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

<i>NPDES No.</i>	<i>GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAG066127	6	Borough of Munhall 1900 West Street Munhall, PA 15120	Allegheny Munhall Borough	Homestead Run	4952
PAR206134	3	Airo Die Casting, Inc. P. O. Box 7 Loyalhanna, PA 15661	Westmoreland Derry Township	Saxman Run Unnamed Tributary to Saxman Run	3363
PAR116115	3	Latrobe Plastics Company Loyalhanna Industrial Park Loyalhanna, PA 15661	Westmoreland Derry Township	Unnamed Tributary to Saxman Run	3544

Notices of Intent for Coverage Under NPDES General Permit for Construction Activities and Department Final Actions

Allegheny County Conservation District, District Manager, 875 Greentree Rd., Rm. 208 Acacia Bldg., Pittsburgh, PA 15220, telephone (412) 921-1999.

Beaver County Conservation District, District Manager, 1000 Third St., Ste. 202, Beaver, PA 15009-2026, telephone (412) 774-7090.

Berks County Conservation District, District Manager, P. O. Box 520, Ag. Ctr., Leesport, PA 19533, telephone (610) 372-4657.

Blair County Conservation District, District Manager, 1407 Blair Street, Hollidaysburg, PA 16648, telephone (814) 696-0877.

Bucks County Conservation District, District Manager, 924 Town Center, New Britain, PA 18901, telephone (215) 345-7577.

Cumberland County Conservation District, District Manager, 43 Brookwood Ave., Ste. 4, Carlisle, PA 17013, telephone (717) 249-8632.

Dauphin County Conservation District, District Manager, 1451 Peters Mtn. Rd., Dauphin, PA 17018, telephone (717) 921-8100.

Franklin County Conservation District, District Manager, 550 Cleveland Ave., Chambersburg, PA 17201, telephone (717) 264-8074.

Montgomery County Conservation District, District Manager, 1015 Bridge Rd., Ste. B, Collegeville, PA 19426, telephone (610) 489-4506.

Montour County Conservation District, District Manager, 112C Woodbine Lane, Danville, PA 17821, telephone (717) 271-1140.

Union County Conservation District, District Manager, 60 Bull Run Crossing, Lewisburg, PA 17837, telephone (717) 523-8782.

York County Conservation District, District Manager, 118 Pleasant Acres Rd., York, PA 17402, telephone (717) 840-7430.

The following parties have submitted Notices of Intent for coverage under NPDES General Permit PAG-2, General Permit for Discharges of Stormwater From Construction Activities. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection will authorize, subject to the terms and conditions contained in the general permit, the discharge of stormwater from eligible new and existing discharges.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above.

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR10A187	New Church of Sewickley 338 14th St. Ambridge, PA	Allegheny Co. Ohio Twp.	Toms Run
PAR10A190	Pine Richland School District 4046 Ewalt Rd. Gibsonia, PA	Allegheny Co. Pine Twp.	Pine Crk.
PAR100237	Leroy Friend 211 Woodbine Dr. Beaver, PA 15009	Beaver Co. Baden Boro & Harmony Twp.	Ohio Rvr.
PAR10C168	Fleetwood Area School District N. Richmond St. Fleetwood, PA	Berks Co. Fleetwood Boro.	Willow Crk.
PAR100647	Jack Campbell, Unit 13 764 Plaza Duncansville, PA 16635	Blair Co. Allegheny Twp.	Gillans Run
PAR100650	Conrail 425 Holiday Dr., Ste. 213 Pittsburgh, PA	Blair Co. Allegheny Twp.	UNT to Sugar Rn.
PAR10D274	Lower Makefield Twp. 1100 Edgewood Rd. Yardley, PA 19067	Bucks Co. L. Makefield Twp.	Delaware Rvr.
PAR10D275	American Stores P. O. Box 30658 Salt Lake City, UT	Bucks Co. N. Britain Twp.	Neshaminy Crk.
PAR10D276	Irving Von Zelowitz Box 448 Solebury, PA	Bucks Co. Solebury Twp.	Neshaminy Crk.
PAR10D277	Land Instruments Inter. 2525 B Pearl S. Buck Rd. Bristol, PA 19007	Bucks Co. Newtown Twp.	Delaware Rvr.
PAR10H113	Kollas & Costopoulos 1104 Fernwood Ave. Camp Hill, PA 17011	Cumberland Co. N. Middleton Twp.	Wertz Run
PAR10I104	Bindley Western Indus. 10333 N. Meridian St. Indianapolis, IN	Dauphin Co. L. Swatara Twp.	Swatara Crk.
PAR10I108	Merit Homes Inc. 2050 State St. Harrisburg, PA 17103	Dauphin Co. L. Paxton Twp.	Beaver Crk.
PAR10M130	G S & G Properties 691 Montgomery Ave. Chambersburg, PA	Franklin Co. Chambersburg Boro.	Falling Spg. Crk.
PAR10T296	Corrado Constr. Co. 1021 Egypt Rd. Oaks, PA 19456	Montgomery Co. L. Providence Twp.	UNT to Perkiomen
PAR10T295	Corrado Constr. Co. 1021 Egypt Rd. Oaks, PA 19456	Montgomery Co. L. Providence Twp.	Eagles Brk. Crk.
PAR10T287	Jack Gambone 1030 W. Germantown Ave. Fairview Village, PA	Montgomery Co. U. Merion Twp.	Crow Crk.
PAR10T276	Edward Callaghan 100 Abbey Dr. Royersford, PA 19468	Montgomery Co. Limerick Twp.	Brooke Evans Crk.
PAR10T314	Co. of Montgomery Montgomery Co. Court House Norristown, PA	Montgomery Co. L. Providence Twp.	Skippack Crk.

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR10T309	Upper Merion Twp. 175 W. Valley Forge Rd. King of Prussia, PA	Montgomery Co. U. Merion Twp.	Trout Crk.
PAR104710	Danville Area School District 600 Walnut St. Danville, PA	Montour Co. Valley Twp.	Mauses Crk.
PAR106821	Lewisburg Area School District 208 S. 4th St. Lewisburg, PA	Union Co. E. Buffalo Twp.	Limestone Run
PAR10Y232	John Brady 3635 Hartzdale Dr. Camp Hill, PA 17011	York Co. Carroll Twp.	Yellow Breeches

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Environmental Hearing 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.

The following approvals for coverage under NPDES Individual Permit for Discharges of Storm Water from Construction Activities have been issued.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10A052-1	Metro Property Developers 300 Park Manor Dr. Pittsburgh, PA 15205	N. Fayette Twp. Allegheny County	UNT Montour Run
PAS10A075-1	FORE Systems, Inc. 174 Thorn Hill Rd. Warrendale, PA 15086 Penn Transportation Services P. O. Box 110 Uniontown, PA 15401	Marshall Twp. Allegheny County	UNT Brush Creek
PAS10B008	Edward Soloski 301 S. Jefferson St. Kittanning, PA 16201	E. Franklin Twp. Armstrong	UNT Glade Run

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, telephone (717) 657-4590.

PAS-10-0046. Individual NPDES. **R.E.M.M. Group**, 161 Spring Grove Road, East Earl, PA 17519. To implement an Erosion and Sedimentation Control Plan for construction of the Shady Maple Plaza Commercial Development on 60+ acres in East Earl Township, **Lancaster County**. The project is located along the north side of U. S. Route 322, to the south side of S. R. 23, and west of S. R. 897 (New Holland, PA Quadrangle N: 21 inches; W: 4.5 inches). Drainage will be to a tributary of Cedar Creek.

PAS-10-H056. Individual NPDES. **East Pennsboro Township**, 98 South Enola Drive, Enola, PA 17025. To implement an Erosion and Sedimentation Control Plan for the relocation of Center Street (S. R. 1015) on 56 acres in East Pennsboro Township, **Cumberland County**. The project is located beginning at a point 620 feet west of Center Street and ends at its intersection with Creekside Drive (Harrisburg West, PA Quadrangle N: 3.5 inches; W: 8.85 inches). Drainage will be to Conodoguinet Creek.

PAS-10-I013-1. Individual NPDES. **A.J.S. Land Development**, 1527 Old Reliance Road, Middletown, PA 17057. To implement an Erosion and Sedimentation Control Plan for a single family housing development called Old Reliance Farms on 12.42 acres in Lower Swatara Township, **Dauphin County**. The project is located on the northwestern part of the existing Old Reliance Farms development west of Old Reliance Road (Steelton, PA Quadrangle N: 20.8 inches; W: 2.0 inches.) Drainage will be to unnamed tributary to Swatara Creek.

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

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10U057	Liberty Property Limited Partnership 1510 Valley Center Parkway Bethlehem, PA 18017	Northampton Co. Hanover Twp.	Monocacy Creek

Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-D077	Newtown Enterprises P. O. Box 8297 Trenton, NJ 08650	Newtown Township Bucks County	Houghs Creek Delaware River

Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Permits Issued

Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.

Permit No. 0996422. Sewerage. **Newtown Bucks County Joint Municipal Authority** (P. O. Box 329, Newtown, PA 18940). Construction and operation of a sewage collection system and pump station located in Newtown Township, **Bucks County** to serve Eagleton Farms.

Permit No. 0996418. Sewerage. **Warrington Township and The Cutler Group** (P. O. Box 366, Warrington, PA 18976). Construction and operation of a sanitary sewers, pump stations and force mains located in Warrington Township, **Bucks County** to serve Warrington Hunt Subdivision.

Permit No. 0996416. Sewerage. **Bedminster Municipal Authority** (3112 Bedminster Road, Bedminster, PA 18910). Construction and operation of a force main and modifications to an existing pump station located in Bedminster Township, **Bucks County** to serve Kern Drive.

Permit No. 4696419. Sewerage. **Upper Montgomery Joint Authority** (P. O. Box 6, Mensch Dam Road, Pennsburg, PA 18073). Construction and operation of a sewage pump station located in East Greenville Borough, **Montgomery County** to serve Colonial Village Development.

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

Permit No. 1196404. Sewerage, **Conemaugh Construction Corporation**, R 972 Bedford Street, Johnstown, PA 15902. Construction of sewer extension, pump station and force main located in the Township of Richland, **Cambria County** to serve Skyview Estates.

Permit No. 3296403. Sewerage, **White Township Municipal Authority**, 950 Indian Springs Road, Indiana, PA 15701-3595. Construction of interceptor sewers, pump station and force main located in the Township of White, **Indiana County** to serve the Cherry Run and Shadowood Areas.

Permit No. 6573407. Amendment No. 3. Sewerage, **Latrobe Municipal Authority**, P. O. Box 88, Latrobe, PA 15650. Modification of facility mechanical bar screens and sewage pump facilities located in the Borough of Latrobe, **Westmoreland County** to serve the Latrobe Municipal Authority STP.

Plan revision approval granted November 12, 1996 under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

Southcentral Regional Office, Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110.

Location: Caernarvon Township, **Lancaster County**, 2147 Main Street, Narvon, PA 17555.

The approved plan revision consists of an expansion of the existing nursing home facility from 50 EDUs to 90 EDUs. The existing sewage treatment plant will be abandoned and a new treatment plant capable of treating 36,000 gpd will be constructed. The total sewage flows of 36,000 gpd of wastewater will be treated by the new plant.

Northeast Regional Office, Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2553.

Location: Parkland High School located at the north side of Ritter Road (T599) between Cedar Crest Boulevard (S. R. 1019) and Orefield Road (S. R. 4003), South Whitehall Township, **Lehigh County**.

Project Description:

This project proposes the construction of a 460,000 square foot high school on a 119.67 acre tract. The school district projects an ultimate school population of 3,236 including students and staff for grades 9 through 12. The proposed 32,360 gpd of sewage flows are based on a 10 gpd/person flow figure.

The construction of a package treatment plant is proposed as the method of sewage disposal to serve the school. Public water will be supplied to the school by an extension of the South Whitehall Township Municipal Water System.

This treatment plant has been designated the interim regional treatment facility to allow for future joint use of

this sewage treatment plant to handle the present and future short-term needs of the area.

This treatment plant will discharge into the Jordan Creek. Acceptance of this revision is conceptual. It leaves to be addressed at a later date both (1) the effluent limitations necessary to satisfy protection requirements and to protect public health, and (2) specific treatment technology.

A hydrogeologic study must be submitted for this project along with the application for the NPDES Permit.

Please be advised that this covers only the planning aspects of this project and as it relates to the municipality's Official Sewage Plan. Except for those projects qualifying for a permit exemption under Act 40, the developer may need to receive a permit for the extension and construction of the necessary sewer work. Should you need a permit, a copy of this letter must accompany the application. This permit may be obtained from the Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711.

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

Location: Bulltown/Remaley Road Sewer Extension Project. The sewer lines will be extended along Bulltown and Remaley Roads. Municipality of Murrysville, **Westmoreland County**.

Project Description:

Approval of a revision to the Official Sewage Plan of Municipality of Murrysville, Westmoreland County. Project involves the installation of approximately 25,000 lineal feet of 8-inch and 10-inch diameter PVC sanitary sewer pipe, precast concrete manholes and appurtenances. This sewer project will provide service to 132 existing residences located along Bulltown and Remaley Roads. The sewage is to be conveyed and treated at the Franklin Township Municipal Sanitary Authority's Meadowbrook Road Water Pollution Control Plant.

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

Northwest Regional Office, Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.

Permit No. 6196501. Public water supply. **Country Estates Mobile Home Park**, R. R. 2, Box 12A, Kennerdell, PA 16347-8706. This proposal involves permitting an existing, previously unpermitted water system. The current system consists of well no. 1 (Artesian) and well no. 2 (Drilled) in Clinton Township, **Venango County**.

Type of Facility: Public water supply.

Consulting Engineer: William Humphrey, Frank B. Taylor Engineering, R. D. 1, Box 93, New Castle, PA 16101.

Permit to Construct Issued: November 18, 1996.

Permit No. 6296503. Public water supply. **Southwest Warren County Municipal Authority**, 174 Main Street, Tidioute, PA 16351. This permit was issued for an exceedance of lead and copper; lead and copper equipment installed in Triumph Township, **Warren County**.

Type of Facility: Public water supply.

Consulting Engineer: Allan R. Vanderpoel, P. E., E & M Engineers and Surveyors, 24 Derrick Road, Bradford, PA 16701.

Permit to Construct Issued: November 18, 1996.

Permit No. 2593501. Public water supply. **Vlasion Mobile Home Park**, c/o Vlasion, Inc., 2805 West 12th Street, Erie, PA 16505. Permit issued for the construction of a new dug well ("A") and treatment for Iron and Manganese by addition of sequestering agent. Proposed well is to provide additional water for designed 72-unit mobile home park located in Fairview Township, **Erie County**.

Type of Facility: Public water supply servicing mobile home park.

Consulting Engineer: Robert L. Rabell, P. E., Robert L. Rabell Surveying and Engineering, 10560 Walnut Street, Albion, PA 16401.

Permit to Construct Issued: November 22, 1996.

Permit No. 6296502. Public water supply. **Clarendon Water Company**, 7 Center Street, Clarendon, PA 16313. Permit issued for the installation of an Iron and Manganese sequestering chemical and the existing booster pump station, located in Clarendon Borough, **Warren County**.

Type of Facility: Public water supply.

Consulting Engineer: Douglas A. Fry, Northwest Engineering, Inc., R. D. 1, P. O. Box Q, Tidioute, PA 16351.

Permit to Construct Issued: November 25, 1996.

Regional Office, Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.

Permit No. 2896501. Public water supply. **Quincy United Methodist Home**, Quincy Township, **Franklin County** (Kathleen R. Hoos, President, Quincy United Methodist Home, P. O. Box 217, Quincy, PA 17247), one new well and new disinfection and softening treatment. Project also includes a new treatment building, transmission pipes and miscellaneous site work.

Southwest Regional Office, Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.

Permit No. 0294506. Public water supply. **The Pittsburgh Water and Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222.

Type of Facility: Herron Hill Reservoir Covers.

Permit to Operate Issued: November 19, 1996.

Permit No. 0293507. Public water supply. **Borough of Millvale**, 501 Lincoln Avenue, Millvale, PA 15209.

Type of Facility: New 0.5 MG Sigel Street storage tank and a connection to the City of Pittsburgh's 60" transmission main.

Permit to Operate Issued: November 19, 1996.

Permit No. 0486502-A1. Public water supply. **Borough of Baden**, 369 State Street, Baden, PA 15005.

Type of Facility: Modification of the Prospect Street pump station.

Permit to Operate Issued: November 22, 1996.

Permit No. 5696507. Public water supply. **Windber Area Authority**, 1700 Stockholm Avenue, Windber, PA 15963.

Type of Facility: A 377,000 gallon water storage tank.

Permit to Construct Issued: November 22, 1996.

Permit No. 6594502. Public water supply. **Municipal Authority of Westmoreland County**, SW Corner of US Route 30 and South Greengate Road, Greensburg, PA 15601.

Type of Facility. Clelian Heights Tank.

Permit to Operate Issued: November 22, 1996.

Permit No. 1189510. Public water supply. **Twin Rocks Water Authority**, P. O. Box 272, Twin Rocks, PA 15960.

Type of Facility. Distribution system improvements and an interconnection with Nanty-Glo.

Permit to Operate Issued: November 22, 1996.

Permit No. 5056-A2. Public water supply. **Borough of Tarentum**, 304 Lock Street, Tarentum, PA 15084.

Type of Facility. New chemical feed equipment.

Permit to Operate Issued: November 18, 1996.

Submission of Final Reports on Attainment of Background and Statewide Health Standards (§§ 302(e)(2) and 303(h)(2))

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final reports.

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Schmucks Tailors and Cleaners, York Township, **York County**. Schmucks Cleaners and Tailors, 2460 S. Queen Street, York, PA 17405-0293 has submitted a final report concerning remediation of site soil contaminated with tetrachloroethene (PCE). The report is intended to document remediation of the site to meet the Statewide health standard.

Van Brunt Trucking, Maxatawny Township, **Berks County**. Van Brunt Trucking, 218 Quarry Road,

Kutztown, PA 19530 has submitted a final report concerning remediation of site soil contaminated with BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Statewide health standard.

Southwest Field Office, John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-5217.

ALCOA Pilot Atomizer, Upper Burrell Township, **Westmoreland County**. Aluminum Company of America, ALCOA Technical Center, 100 Technical Drive, Alcoa Center, PA 15069-0001 has submitted a Final Report addressing soil contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

West Rentals, Inc., Neville Township, **Allegheny County**. West Rentals, Inc., 6200 Grand Avenue, Neville Township, PA 15225 has submitted a Final Report addressing soil contaminated with solvents, BTEX, and PHCs. The report is intended to document remediation of the site to meet the Statewide health standard.

Northwest Regional Office, John Fruehstorfer, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.

National Forge Company, Brokenstraw Township, **Warren County**. One Front Street, Irvine, PA 16329, has submitted a Final Report to Remediate soil, groundwater and sediment contaminated with PCBs, lead, heavy metals, PHCs, volatiles and semivolatiles. The report is intended to document remediation of the site to meet the Statewide health standard.

Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.

Pennsylvania Power & Light Company (PP&L)—distribution pole #51878N49457, Overfield Township, **Wyoming County**. PP&L, 2 North Ninth Street, Allentown, PA has submitted a Final Report concerning the remediation of the site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant remediated the site to meet the Statewide health standard.

Pennsylvania Power & Light Company (PP&L)—distribution pole #67186N35887, Paradise Township, **Monroe County**. PP&L, 2 North Ninth Street, Allentown, PA has submitted a Final Report concerning the remediation of site soils found to be contaminated with polychlorinated biphenyls (PCBs). The applicant remediated the site to meet the Statewide health standard.

Star Pipe and Supply Company, Moosic Borough, **Lackawanna County**. Jerome X. Loftus, President, Northeastern Environmental Associates, Inc., 1620 N. Main Avenue, Scranton, PA has submitted a Final Report (on behalf of his client, Star Pipe and Supply Company, 100 State Highway, Moosic, PA) concerning the remediation of site soils found to have been contaminated with BTEX (benzene, toluene, ethylbenzene and xylene) compounds, polyaromatic hydrocarbons, and petroleum hydrocarbons. The applicant remediated the site to meet the background standard. A Notice of Intent to Remediate was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notification.

Applications denied under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a solid waste processing or disposal area or site.

Northcentral Regional Office, Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, telephone (717) 327-3653.

A. 301279. Pine Hills Landfill, Eagle Environmental, L. P. (9 Logan Boulevard, 2nd Floor, Altoona, PA 16602). Application for class I residual waste landfill located in Chest Township, **Clearfield County** was denied in the regional office on November 25, 1996.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a solid waste processing or disposal area or site.

Southcentral Regional Office, Regional Solid Waste Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4588.

Permit No. 101389 and 400592. Frey Farm Landfill and Resource Recovery Facility, Lancaster County Solid Waste Management Authority (1299 Harrisburg Pike, Lancaster, PA 17604-4425). Application for modification for shredding and processing of non-PCB containing capacitors at a site in Manor and Conoy Townships, **Lancaster County**. Permit issued in the Regional Office November 21, 1996.

Closure Plan approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for closure of a solid waste disposal area or site.

Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2516.

A. 301275UNP. Martins Creek SES Low Volume Waste Basin, Pennsylvania Power and Light Company, Two North Ninth Street, Allentown, PA 18101-1179. A Closure Plan Approval for this Residual Waste Disposal Impoundment, located in Lower Mt. Bethel Township, **Northampton County**. The Closure Plan Approval was granted by the Regional Office on November 15, 1996. The LVWB will be regraded and revegetated, and the groundwater will be monitored until final closure.

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

Northeast Regional Office, Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2516.

A. 101634. Chapin Sewage Disposal, Roy F. Chapin, Sr., R. R. 1, Box 236, Stillwater, PA 17878. A permit authorizing the construction and operation of this municipal waste sewage sludge (septage) transfer facility, located in New Columbus Borough, **Luzerne County**. The permit was issued in the Regional Office on November 18, 1996.

Operating Permits transferred under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

The Department transferred the following air quality operating permits for the operation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **09-316-001**
Source: Spray Booth
Company: **J. G. Furniture Group, Inc.**
Location: Quakertown
County: **Bucks**

Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

55-302-012. The Department intends to issue an operating permit to **NRB Industries, Inc.** (441 West Market Street, Beavertown, PA 17813) for the operation of a #4 fuel oil-fired boiler previously owned by GWD Realty Company and operated by Beavertown Mills, Inc. in Beavertown Borough, **Snyder County**.

Operating Permits transferred under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an operating permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

The Department transferred the following air quality operating permits for the operation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **OP-23-0024**
Source: Two Batch Asphalt Plants and 2 Baghouses
Company: **Milestone Materials, Inc.**
Formerly General Crushed Stone, Inc.
Location: Glen Mills
County: **Delaware**

General Plan Approval and Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northwest Regional Office, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

General Plan Approval and Permit No. BAQ-GPA/GP-1 for small combustion units were issued to the following:

GP1-43-295
Farmers Cheese/Savoldi Cheese
R. D. 1, P. O. Box 198
New Wilmington, PA 16142
Date Issued: October 31, 1996

GP1-10-239**MSA**

P. O. Box 427
Pittsburgh, PA 15230
Date Issued: November 30, 1996

GP1-10-047**Callery Chemical Co.**

1420 Mars-Evans City Rd.
Evans City, PA 16033
Date Issued: November 30, 1996

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.

38-310-017A. On November 18, 1996, the Department issued a Plan Approval to **Tarmac Minerals, Inc. d/b/a Tarmac America** (Route 422, P. O. Box 160, Annville, PA 17003) for the construction of a portable sand crushing plant controlled by wet suppression at their Millard Quarry in North Londonderry Township, **Lebanon County**. The source is subject to 40 CFR 60, Subpart 000, Standards of Performance for New Stationary Sources.

Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

04-308-037. On November 1, 1996, a Plan Approval was issued to **The ALTA Group** (195 Hartzell School Road, Fombell, PA 16123) for a scrubber on the electrolytic cells at its facility located in Marion Township, **Beaver County**.

Plan Approval extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate and operate air contaminant sources or air cleaning devices.

Southwest Regional Office, Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

63-303-007. On November 1, 1996, a plan approval expiration date was extended to March 1, 1997 for **Commercial Stone Company, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) for a baghouse on the bituminous asphalt manufacturing process at its Dunningville facility located in Somerset Township, **Washington County**.

30-000-099. On November 1, 1996, a plan approval expiration date was extended to March 1, 1997 for **West Penn Power Company** (800 Cabin Hill Drive, Greensburg, PA 15601) for Low NOx Burners with separated overfire air on the NOx and VOC sources at its Hatfield Power Station facility located in Monongahela Township, **Greene County**.

26-303-006A. On November 1, 1996, a plan approval expiration date was extended to June 1, 1997 for **Commercial Stone Company, Inc.** (2200 Connellsville, PA 15425) for a RAP Processing System on the Asphaltic Concrete Plant at its facility located in Connellsville Township, **Fayette County**.

32-000-059. On November 1, 1996, a plan approval expiration date was extended to February 1, 1997 for **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for Conemaugh Station NOx Sources at its Conemaugh Station facility located in West Wheatfield Township, **Indiana County**.

03-000-027. On November 1, 1996, a plan approval expiration date was extended to February 1, 1997 for **GPU Generation Corporation** (1001 Broad Street,

Johnstown, PA 15907) for Low NOx Burners on the steam electric generator at its Keystone Generating Station facility located in Plumcreek Township, **Armstrong County**.

32-306-010A. On November 1, 1996, a plan approval expiration date was extended to February 1, 1997 for **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for scrubbers on the boilers of unit no. 1 and no. 2 at its Conemaugh Station facility located in West Wheatfield Township, **Indiana County**.

04-307-073C. On November 1, 1996, a plan approval expiration date was extended to February 28, 1997 for **Koppel Steel Corporation** (P. O. Box 750, Beaver Falls, PA 15010) for a fabric filter on the multi-lance manipulator at its Koppel Plant facility located in Koppel Borough, **Beaver County**.

63-307-028. On October 24, 1996, a plan approval expiration date was extended to February 28, 1997 for **Regal Industrial Corporation** (P. O. Box 291, Donora, PA 15033) for a baghouse on the abrasive blasting operation at its facility located in Donora Borough, **Washington County**.

32-000-055. On October 24, 1996, a plan approval expiration date was extended to February 1, 1997 for **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for Low NOx Burners on the boilers at its Homer City Station facility located in Center Township, **Indiana County**.

32-306-009B. On October 24, 1996, a plan approval expiration date was extended to January 1, 1997 for **GPU Generation Corporation** (1001 Broad Street, Johnstown, PA 15907) for a selective non-catalytic reduction system on boiler no. 15 at its Seward Station facility located in East Wheatfield Township, **Indiana County**.

MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

District Mining Operations, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

Coal Applications Issued

56950103. Heritage Mining Company (Box 126, Cresson, PA 16630), commencement, operation and restoration of a bituminous strip mine in Shade Township, **Somerset County**, affecting 78.5 acres, receiving stream unnamed tributary to/and Oven Run, unnamed tributary to/and Stony Creek River, application received April 10, 1995, permit issued November 15, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54940203. Wilbur White Coal Company, Inc. (R. R. 2, Box 2683, Pottsville, PA 17901), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Butler Township, **Schuylkill County** affecting 27.3 acres, receiving stream none. Permit issued November 26, 1996.

54830206R2. Meadowbrook Coal Co., Inc. (P. O. Box 477, Lykens, PA 17048), renewal of an existing coal refuse reprocessing operation in Tremont Township, **Schuylkill County** affecting 11.1 acres, receiving stream Stumps Run to Lorberry Creek. Renewal issued November 27, 1996.

40910201R. Diamond Coal Company, Inc. (Route 309 North, Box Q, Milnesville, PA 18239), renewal of an existing coal refuse reprocessing operation in Hazle Township, **Luzerne County** affecting 11.8 acres, receiving stream none. Renewal issued November 22, 1996.

40663024R2. Pagnotti Coal Company (800 Exeter Avenue, West Pittston, PA 18643), renewal of an existing anthracite surface mine operation in Hazle Township, **Luzerne County** affecting 780.0 acres, receiving stream none. Renewal issued November 14, 1996.

40860101R2. Northampton Fuel Supply Co., Inc. (7500 Old Georgetown Road, 13th Floor, Bethesda, MD 20814), renewal of an existing anthracite surface mine operation in Newport Township, **Luzerne County** affecting 116.0 acres, receiving stream none. Renewal issued November 14, 1996.

Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.

63901302. Bologna Coal Company (Box 271, Avella, PA 15021), to renew the permit for the Avella bituminous deep mine in Cross Creek Township, **Washington County** for reclamation only, no additional discharge. Permit issued November 19, 1996.

56961301. Lion Mining Company (P. O. Box 209, Jennerstown, PA 15547), to operate the Sarah bituminous deep mine in Jenners Township, **Somerset County**, new mine, receiving streams Card Machine Run and unnamed tributary to Card Machine Run. Permit issued November 19, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Permits Issued

09890301T. Naceville Materials (1371 West Street Road, P. O. Box 161, Warminster, PA 18974-0612), transfer of an existing quarry operation in West Rockhill Township, **Bucks County**, affecting 81.37 acres, receiving stream unnamed tributary to Ridge Valley Creek. Transfer issued November 26, 1996.

District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.

63960301. Dick Enterprises, Inc. (P. O. Box 10896, Pittsburgh, PA 15236). Permit issued for commencement, operation and restoration of a large noncoal surface mining operation located in Hanover Township, **Washington County**, affecting 33.2 acres. Receiving streams unnamed tributary to Kings Creek, Kings Creek to Ohio River. Application received September 13, 1996. Permit issued November 22, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

4873SM5T2. Global Stone PenRoc, Inc. (P. O. Box 1967, York, PA 17405), transfer of an existing quarry operation in West Manchester Township, **York County** affecting 148.9 acres receiving stream unnamed tributary to Codorus Creek. Transfer issued November 22, 1996.

Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

General Small Noncoal Authorizations Granted

55960802. Scott E. Garrison Excavating (R. R. 1, Box 2064, Beavertown, PA 17813), commencement, operation and restoration of a small quarry operation in Spring Township, **Snyder County** affecting 1.0 acre, receiving stream none. Authorization granted November 14, 1996.

34960802. Kenneth L. Cramer (R. R. 2, Box 430, Millerstown, PA 17062), commencement, operation and restoration of a small quarry operation in Greenwood Township, **Juniata County** affecting 2.0 acres, receiving stream none. Authorization granted November 14, 1996.

34960803. Donald R. Miller (R. R. 1, Box 122, Thompstown, PA 17094), commencement, operation and restoration of a small quarry operation in Greenwood Township, **Juniata County** affecting 1.0 acre, receiving stream none. Authorization granted November 26, 1996.

58960808. Terry Hunsinger (R. R. 1, Box 89B, Laceyville, PA 18623), commencement, operation and restoration of a small quarry operation in Rush Township, **Susquehanna County** affecting 2.0 acres, receiving stream none. Authorization granted November 26, 1996.

21960801. Valley-View Henry Farm (4756 Enola Road, Newville, PA 17241), commencement, operation and restoration of a small quarry operation in Lower Mifflin Township, **Cumberland County** affecting 2.0 acres, receiving stream none. Authorization granted November 18, 1996.

Field Operations—Mining and Reclamation, 5 West Laurel Boulevard, Pottsville, PA 17901.

Coal Applications Returned

54940101. D & F Coal Company (P. O. Box 250, Minersville, PA 17954), commencement, operation and restoration of an anthracite surface mine operation in Cass Township, **Schuylkill County** affecting 105.0 acres, receiving stream west branch Schuylkill River. Application received February 8, 1994. Application returned November 14, 1996.

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 (33 U.S.C.A. § 1341(a)).

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, 400 Market Street Second Floor, 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 proves a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of

itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of the act of June 22, 1937 (P. L. 1987, No. 394) (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

Permits Issued and Actions on 401 Certification

DEP Northwest Regional Office, Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.

E10-247. Encroachment. **Borough of Zelienople**, 111 West New Castle Street, Zelienople, PA 16063. To construct and maintain a pump building, two washwater/sludge holding tanks, a building addition to the existing control building and associated roadway improvements within the 100-year floodplain of Connoquenessing Creek at the existing water treatment plant adjacent to S. R. 19 (Zelienople, PA Quadrangle N: 6.0 inches; W: 1.6 inches) located in the Borough of Zelienople, **Butler County**. This permit was issued under section 105.13(e) "Small Projects."

E25-539. Encroachment. **Greene Township Supervisors**, 8899 Old Wattsburg Road, Erie, PA 16510. To remove the existing bridge, realign approximately 300 feet of stream channel, impact a de minimus wetland area (less than 0.05 acre) and to construct and maintain a 12-foot wide by 4.5-foot high C. M. pipe arch in a tributary to east branch LeBoeuf Creek on Bliley Road (T-646) approximately 3,900 feet north of S. R. 8 (Hammett, PA Quadrangle N: 12.8 inches; W: 7.8 inches) located in Greene Township, **Erie County**.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-5485.

E40-434. Encroachment. **Fish and Boat Commission**, 450 Robinson Lane, Bellefonte, PA 16823. To maintain existing structures and facilities located in, along and across regulated waters of this Commonwealth, at Fish and Boat Commission access areas, hatcheries and regional headquarters, with work including the following: (1) maintenance dredging within an area of approximately 0.2 acre in the vicinity of launching ramps, mooring areas and inlet/outlet structures; (2) maintenance of vehicular bridges and culverts and nonvehicular bridges; and (3) bank stabilization having a maximum length of 100 feet per location. The projects are located at existing facilities in **Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties**.

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

E15-514. Encroachment. **Douglass Barrie Duffield**, P. O. Box 207, Birchrunville, PA 19421. To modify and enlarge an existing pond permanently impacting 0.29 acre of wetlands and to construct and maintain an 8-inch PVC auxiliary intake pipe from an unnamed tributary to Birch Run (HQ, TSF). The proposed pond expansion is located

approximately 800 feet west of the intersection of Hollow Road (T-477) and Birchrun Road (S. R. 1030) (Pottstown, PA Quadrangle N: 0.70 inch; W: 2.90 inches) in West Vincent Township, **Chester County**.

E23-346. Encroachment. **Williamson Free School of Mechanical Trades**, 106 South New Middletown Road, Media, PA 19063-5299. To encroach into approximately 500 linear feet of an unnamed tributary to Chrome Run (TSF-MF) associated with the proposed Williamson Free School of Mechanical Trades land development. This project will include the following activities:

1. The restoration and maintenance of a pond created by an existing stone dam which will require excavating approximately 160 linear feet of stream channel, and impacting 0.50 acre of wetland.

2. The construction and maintenance of a proposed out-of-scope stormwater detention dam and its outfall structure which will impact approximately 210 linear feet of stream channel, and placement of fill in 0.05 acre of an adjacent wetland. The permit also includes an environmental assessment approval for this structure.

3. The excavation in approximately 130 linear feet of stream channel and floodway area to provide storage for the aforementioned proposed stormwater detention dam.

The project is located approximately 3,300 feet south of the intersection of New Middletown Road (S. R. 352) and U. S. Route 1 (Media, PA Quadrangle N: 5.7 inches; W: 6.3 inches) in Middletown Township, **Delaware County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E23-347. Encroachment. **Jerry N. Jordan**, 922 Twyckenham Lane, Media, PA 19061. To construct and maintain a stormwater management facility which will permanently disturb 0.16 acre of wetlands (POW/PEM). This work is associated with the proposed Hidden Acres residential subdivision located near the intersection of Beatty Road and Twyckenham Road (Media USGS Quadrangle N: 8.75 inches; W: 0.20 inch) in Upper Providence and Nether Providence Township, **Delaware County**. An environmental assessment for a non-scope dam, situated in this subdivision, is also approved.

E46-734. Encroachment. **Ambler Borough**, 122 East Butler Avenue, Ambler, PA 19002. To remove 100 linear feet of existing 10.0-foot wide by 4.0-foot high deteriorated open concrete channel along Stuart Farm Creek (TSF), and to install and maintain a reinforced 100 linear foot, 10.0-foot wide by 4.0-foot high concrete box stream enclosure. This project is situated near the intersection of South Main Street and Church Street (Ambler USGS Quadrangle N: 3.9 inches; W: 13.0 inches) in Ambler Borough, **Montgomery County**.

E46-212. Encroachment. **PECO Energy**, 2301 Market Street, Philadelphia, PA 19101-8699. To reissue and amend permit E46-212 to maintain an existing building and to demolish, replace and maintain a 2,500 square foot building for the fireman training facility within the 100-year floodplain of the Schuylkill River located along the west bank at a point approximately 500 feet above the Plymouth Dam (Norristown, PA Quadrangle N: 13.7 inches; W: 9.6 inches) in West Conshohocken Borough, **Montgomery County**.

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, telephone (717) 657-4590.

E05-239. Encroachment. **Harold E. Wertz**, Bedford County, R. D. 1, Box 160, Manns Choice, PA 15550. To remove the five existing 3 foot diameter corrugated metal pipe culvert and to construct and maintain a steel beam and concrete the deck bridge having a clear span of 24 feet with an underclearance of 3 feet across an unnamed tributary to Raystown Branch Juniata River located about 0.9 mile north of the PA 96 and 31 intersection in Manns Choice (Bedford, PA Quadrangle N: 2.6 inches; W: 12.7 inches) in Harrison Township, **Bedford County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E07-264. Encroachment. **Penn State University**, Altoona Campus, 113 Physical Plant, University Park, PA 16802. To construct and maintain a pedestrian bridge having a span of 50 feet across Spring Run to provide access from a parking lot along Juniata Gap Road located about 300 feet upstream of Iveyside Drive (Altoona, PA Quadrangle N: 7.0 inches; W: 4.6 inches) in the City of Altoona, **Blair County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E67-571. Encroachment. **Orchard Hill Real Estate, Inc.**, 450 Spangler Avenue, New Oxford, PA 17350. To place fill within 12,632 s. f. (0.29 acre) of wetlands on Lots 71, 72, 73, 74 and 75 located along the east side of Lilac Road and Cobblestone Lane in The Heathers at Barrington Place, a residential development (West York, PA Quadrangle N: 19.9 inches; W: 4.8 inches) in West Manchester Township, **York County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

DEP Central Office, Bureau of Dams, Waterways and Wetlands, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.

D54-190. Dam. **Gene Gangloff**, Route 61 South, Box 559, Schuylkill Haven, PA 17972. To modify, operate and maintain a dam across a tributary to Little Schuylkill River in East Brunswick Township, **Schuylkill County**.

Actions taken on applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

Northwest Regional Office, Regional Program Manager, Water Supply and Community Health, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.

Permits Issued

Permit No. WA 16-898A. Subsidiary water allocation. **Clarion Township General Authority**, R. D. 1, Box 12H, Strattanville, PA 16258. Granting the right to increase purchase up to 114,350 gpd, based on a 30-day average, from the Pennsylvania American Water Company—Clarion District. The Clarion Township General Authority (CTGA) is an independent general purpose Authority operating and maintaining the water distribute system for Clarion Township, **Clarion County**.

Type of Facility. General purpose Authority (Subsidiary Water Allocation).

Consulting Engineer. Ronald R. Bolam, P. E., The Warnick Company, Inc., 226 Sunset Drive, Butler, PA 16001-1334.

Permit Issue Date. November 22, 1996.

**Proposed Department of Environmental Protection
Division of Coastal Programs
Section 309 Assessment
for Public Review and Comment**

The Department of Environmental Protection Division of Coastal Programs has voluntarily developed a draft Assessment of the Coastal Zone Management Program in accordance with section 309 of the Coastal Zone Management Act (CZMA), amended in 1990. This assessment encourages states and territories to develop program changes in one or more of nine coastal enhancement areas, including wetlands, public access, coastal hazards, cumulative and secondary impacts, energy and government facility siting, marine debris, ocean resources, special area management plans and aquaculture. Under this program, the United States Secretary of Commerce is authorized to make awards to states and territories to develop and submit Federal approval program changes that support attainment of the objectives of one or more of the enhancement areas.

The assessment is available for public review and comment at the following locations:

Bucks County Library Center
150 South Pine Street
Doylestown, PA 18901-4932

Delco Community College Library
Media Line Rd.
Media, PA 190063

Bucks County Conservation District
924 Town Center
New Britain, PA 18901-5182

Delaware County Conservation District
Rose Tree Park Hunt Club
1521 No. Providence Road
Media, PA 19063

Erie County Conservation District
12723 Route 19
P. O. Box 801
Waterford, PA 16444

Erie County Department of Planning
Erie County Courthouse
140 W. 6th St.
Erie, PA 16501

Delaware Valley Regional Planning Commission
111 South Independence Mall East 8th Floor
Philadelphia, PA 19106-2515

The assessment is also available on the Department of Environmental Protection's World Wide Web site at <http://www.dep.state.pa.us>. Deadline for comments is January 15, 1997. All written comments should be sent to and a copy of the assessment may be obtained by contacting: Department of Environmental Protection, Bureau of Land and Water Conservation, Division of Coastal Programs, P. O. Box 8555, Harrisburg, PA 17105-8555, Attention: J. T. Hines, (717) 787-2529.

[Pa.B. Doc. No. 96-2101. Filed for public inspection December 13, 1996, 9:00 a.m.]

Availability of Technical Guidance

Governor's Office List

Once a year on the first Saturday in August, the Governor's Office publishes a list of the non-regulatory guidance documents of all State agencies in the *Pennsyl-*

vania Bulletin. The first publication of this list was in the August 3, 1996 edition of the *Bulletin*.

DEP's Technical Guidance Document Inventory

DEP publishes a list of its technical guidance documents in its Technical Guidance Document Inventory twice a year. DEP will publish the next edition of the Inventory December 1996. DEP will automatically mail a paper copy of the December 1996 Inventory to persons who received a paper copy of the June 1996 Inventory. Persons who wish to add their address to the mailing list should call Nina Huizinga at (717) 783-8727.

DEP posts the Inventory on its World Wide Web site. DEP's Web address is <http://www.dep.state.pa.us>. To go to the location of the Inventory once on the DEP home page, persons should choose Public Participation Center./ Recently Finalized Regulations and Legislation/Technical Guidance Document Inventory. The edition currently on the Web is the June 1996 Inventory. When the December Inventory is ready, DEP will announce its availability in its weekly newsletter, the *UPDATE* and in the *Pennsylvania Bulletin*.

DEP's Technical Guidance Documents on the World Wide Web

DEP's Web address is <http://www.dep.state.pa.us>. To go to the location of DEP's Technical Guidance Documents once on the DEP home page, persons should choose the Public Participation Center. The Center has several menus; the Technical Guidance menu has links to the Inventory, Draft Technical Guidance Documents, Recently Finalized Technical Guidance Documents and Final Documents on the Web.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a copy of the latest Inventory or a copy of any of the final documents listed on the Inventory by calling Elwyn Inc. (the printer) at 1 (800) 804-4020 if calling in Pennsylvania or (610) 497-5841 if calling from outside Pennsylvania.

Changes to Technical Guidance Documents

Between publication of its Inventory, DEP announces changes to its technical guidance documents in its weekly newsletter, the *UPDATE* and the *Pennsylvania Bulletin*. Here is the current list of recently finalized documents, draft documents and notices of intended changes to technical guidance.

Persons who have any questions or comments should call Nina Huizinga at (717) 783-8727.

Notice of Intent to Revise Technical Guidance—Revisions to Existing Guidance

DEP ID: 563-2112-217 BMR PGM: II:02:17 TITLE: Alkaline Addition for Surface Coal Mines BACKGROUND: The present guidance has been in use since 1988. Experience with alkaline addition on coal surface mines to date warrants reevaluating this guidance. Some discussions have occurred with the coal industry over the past year concerning the present guidance and considerations for making modifications. Anticipated Effective Date: May 1, 1997 Anticipated Draft Development Date: March 1, 1997 Proposed Development and Review Process: Drafting of the revisions will occur with the assistance of the District Mining Offices and will involve evaluations of existing sites with alkaline addition. The draft will be reviewed with the PA Coal Association and the PA Mining Professionals and will be available for public input. Contact: Keith Brady at (717) 783-8845.

DEP ID: 563-2112-605 BMR PGM: II:06:05 TITLE: Water Supply Replacement and Coal Surface Mine Permitting BACKGROUND: Determining the potential effects of surface coal mining on water supplies is one of the more significant technical evaluations performed during the permit application review process. Amendments to the PA Surface Mining Conservation and Reclamation Act (SMCRA), and case law relating to water supply replacement and several unresolved technical issues necessitate changes to this guidance. Although the SMCRA amendments are self-implementing, companion regulations are needed to codify case law. A separate guidance may be developed to address compliance procedures for water supply replacement. Anticipated Effective Date: December 31, 1997 (based upon anticipated effective date of regulation changes addressing SMCRA amendments and case law) Anticipated Draft Development Date: November 30, 1997 Proposed Development and Review Process: In order to resolve the outstanding technical issues, input will be solicited from, and discussions held with, experts from within and outside the mining program. Drafting of the revisions will occur with the assistance of select staff from the District Mining Offices. The draft will be provided to the District Mining Offices and the Policy Office for review and comment. The draft guidance will be reviewed with the PA Coal Association, the PA Mining Professionals and the public. Contact: Keith Brady at (717) 783-8845.

The Bureau of Mining and Reclamation announces in its Regulatory Basics Initiative (RBI) its intention to substantively revise many of its technical guidance documents. DEP has announced the Bureau's intention some of these documents in previous *Pennsylvania Bulletins*. DEP lists here the remainder of those documents the Bureau intends to substantively revise.

DEP ID	Title	Reason(s)
560-0600-105	Interagency Agreement, Waste Management	a,c,d,e,f,g
560-0600-103	Interagency Agreement, U. S. Dept. of Agriculture	d,h
560-0700-301	Coordination with PHMC	h
563-2000-102	Coal Exploration	h
563-2100-216	Renewal, Permits	h
563-2112-212	Application Review, Land Use Changes	h
563-3900-404	Act 54 Amendments (Inspection at Citizen's Request)	h
562-2112-503	Blasting, Vibration Limits	a,c
562-2402-501	Blasting, Licenses	ha,b,d
562-3400-106	Equipment	h,i
562-3900-402	Citizen's Request, Investigation	h,i
562-3900-403	Citizen's Request, Appeals	h,i
561-2305-102	SOAP, Review Procedures	h
561-2305-201	SOAP, Application Processing, Preassignment	c,d,e,g

<i>DEP ID</i>	<i>Title</i>	<i>Reason(s)</i>
561-2305-203	SOAP Application Processing	d,h
561-2305-601*	SOAP Liability and Reimbursement	d,h
561-5300-101*	Insurance Sales Guidance	d,e,i
561-5300-201*	Insurance Claims Guidance	d,e,i

*—Additions to the original list

- a—need more consistency with state statutes and regulations
- b—guidance is more stringent than Federal requirements
- c—need to reduce economic impacts upon regulated community or the agency
- d—need for a compliance assistance approach
- e—need to stress performance or outcome desired
- f—need to eliminate barriers to use of green technology
- g—need to promote pollution prevention
- h—guidance no longer needed or out-of-date
- i—guidance is unclear

Notice of Intent to Remove Technical Guidance from the Inventory—Bureau of Land and Water Conservation

DEP ID: 394-5500-016 TITLE: PA Coastal Zone Management Grant Administration Instructions (previously titled Coastal Zone Management Administration Booklet) BACKGROUND: These are a set of instructions and can be considered "Administrative Operating Procedures" rather than technical guidance. The Bureau will keep this document in the Bureau's binder for such materials. The document's authority derives from the Program's FEIS Document, which will be placed on DEP's Technical Guidance Document Inventory. Contact: Greg Williams at (717) 787-2529.

DEP ID: 394-5500-015 TITLE: PA Coastal Zone Management Program Project Application Instructions and Examples (previously titled: Coastal Zone Management Program Application Guidelines) BACKGROUND: These are a set of instructions for filling out application forms. They are not technical guidance although they derive their authority from the Program's FEIS document, which will be placed on the Inventory. Contact: Greg Williams at (717) 787-2529.

Notice of Intent to Remove Technical Guidance from the Inventory—Bureau of Mining and Reclamation

Persons having questions about any of the Bureau of Mining and Reclamation technical guidance documents listed in this section, should contact Dottie Shellehamer at (717) 787-5103.

DEP ID: 561-2100-250 TITLE: Number System BACKGROUND: This document contains information about a numbering system used by the Bureau internally, but it is not a technical guidance document.

DEP ID: 561-2100-701 TITLE: Permit Inventory BACKGROUND: This is an inventory list used by the Bureau internally. It is not a technical guidance document.

DEP ID: 561-2100-702 TITLE: Address Records, Coal BACKGROUND: This is administrative information used by the Bureau internally, but it is not a technical guidance document.

DEP ID: 561-2100-703 TITLE: Status Codes, LUMIS BACKGROUND: This list of codes for operating the Bureau's LUMIS data base contains administrative operating procedures. It is not a technical guidance document.

DEP ID: 561-2100-750 TITLE: Mapping BACKGROUND: This document contains useful information for the Bureau, but it is not a technical guidance document.

DEP ID: 562-4000-803 TITLE: Administration, LUMIS Enforcement BACKGROUND: This document contains

administrative operating procedures for using the Bureau's data base LUMIS system. It is not a technical guidance document.

Notice of Intent to Rescind Technical Guidance—Bureau of Mining and Reclamation

The following documents from the Small Operators Assistance Program (SOAP) are either out-of-date or no longer used.

<i>DEP ID</i>	<i>Title</i>
561-2305-101	Eligibility for Small Operator Assistance Program
561-2305-202	SOAP Application Processing, Work Orders
561-2305-204	SOAP Application Processing, Applicant Notification
561-2305-301	SOAP Grant Requests
561-2305-302	SOAP Grant Closeouts
561-2305-401	SOAP Contracts for Professional Services
561-2305-505	Tracking, SOAP Accounting
561-5500-101	Grant and Loan Applications

The following documents should also be rescinded because they are out-of-date.

<i>DEP ID</i>	<i>Title</i>
563-2112-606	Technical Review, Vibration Limitations
562-3200-201	Sample Identification Number

Persons having questions about any of these Bureau of Mining and Reclamation technical guidance documents listed in this section, should contact Dottie Shellehamer at (717) 787-5103.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 96-2102. Filed for public inspection December 13, 1996, 9:00 a.m.]

Water Quality Certification under Section 401 of the Federal Clean Water Act

The Department of Environmental Protection hereby provides public notice that 401 water quality certification is issued for certain abandoned mine reclamation activities conducted under the authority of Title 4 of the Surface Mining Control and Reclamation Act of 1977 et. seq., which may result in a discharge of dredge or fill

material into waters of the Commonwealth. The Department certifies that the activities comply with the following conditions, and meet the applicable requirements of the Federal Clean Water Act (CWA) (33 U.S.C.A. § 1341). The Department has also determined that these restoration activities qualify for a waiver of permit requirements set forth at 25 Pa. Code Chapter 105.12(a)(16), Dam Safety and Waterway Management rules and regulations under the Dam Safety and Encroachments Act (DSEA) (32 P. S. §§ 693.1—693.27).

Section 401(a) of the CWA (33 U.S.C.A. § 1341(a)), requires that any applicant for a Federal license or permit, which may result in a discharge to waters of the United States, must provide the licensing or permitting agency with a certification from the state in which the discharge will originate verifying that the discharge resulting from the construction or operation of the project will comply with sections 301—303, 306 and 307 of the CWA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) including applicable state water quality requirements. Section 7(a) of the DSEA (32 P. S. § 693.7) provides for the waiver of permit requirements by regulation, for any category of dam, water obstruction or encroachment which is determined to have an insignificant effect upon the safety and protection of life, health, property and the environment. The regulations, identifying which structures and activities are waived from the permit requirements of the DSEA, are set forth at 25 Pa. Code § 105.12(a).

On October 5, 1996 a notice was published in the *Pennsylvania Bulletin* regarding this proposed certification under section 401 of the Federal Clean Water Act and categorical waiver from the permit requirements of the DSEA. See 26 Pa.B. 4804-5. No written comments or objections were submitted within the 30-day period provided for public comment.

The Division of Wetlands Protection has reviewed the environmental assessment procedure under the requirements of the National Environmental Policy Act of 1969 (NEPA), as required for restoration projects under Title 4 of the Surface Mining Control and Reclamation Act of 1977 et. seq. and finds that procedure to be consistent with the environmental assessment requirements of 25 Pa. Code Chapter 105.15. The procedure includes an environmental assessment of the following factors which are also found in Chapter 105:

State and Federal Threatened and Endangered Species
Public Water Supply
Water Quality Standards
Scenic Rivers
Wetlands
Recreational Resource Value
Historic and Cultural Resources
Fish and Wildlife Resources
Topography

This assessment process along with the existing United States Fish and Wildlife Service Project Coordination Requirements, required by Section 7 Consultation of the Endangered Species Act, provides an adequate measure of regulatory oversight without necessitating additional permit application and review actions. The Department therefore categorically waives under the provisions of section 105.12(a)(16), water obstruction and encroachment activities approved under Title 4 of the Surface Mining Control and Reclamation Act of 1977 et. seq. and which meet the following environmental parameters:

(a) the site contains less than 0.05 acre of vegetated wetlands as defined in the 1987 U. S. Army Corps of Engineers Wetland Delineation Manual, or

(b) the body of water or associated discharge from a body of water* has a pH <5.0 or any one of the following elevated total metal levels:

Aluminum >0.6 mg/l
Iron >7.0 mg/l
Manganese >4.0 mg/l

*Body of water is defined as any natural or artificial lake, pond, reservoir, swamp, marsh or wetland.

Prior to commencing any activity set forth at 25 Pa. Code § 105.12(a)(16), the applicant must obtain all other necessary permits or approvals from the Department of Environmental Protection, including but not limited to, those required by The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the DSEA (32 P. S. §§ 693.1—693.27), the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) and the regulations promulgated thereunder including 25 Pa. Code Chapters 91, 91, 93, 95, 101, 102, 105 and 260—299.

For activities which impact wetlands, all delineations shall be conducted in accordance with Pennsylvania's procedures for wetland delineation. (The present procedure is published at 25 Pa. Code § 105.451.) On February 3, 1996, the Department adopted the Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1, 1987 Manual) with 6 March 1992 guidance as the methodology for delineating wetlands.

The exceptions to this waiver are those activities which require the construction, operation and maintenance of jurisdictional dams or projects located in floodways. Dams with drainage areas of greater than 100 acres, storage capacities of greater than 50 acre-feet, or with a maximum depth of water greater than 15 feet as measured by the upstream toe of the dam, require Dam Permits from the Department (see 25 Pa. Code § 105.3). If the proposed project is located within a floodway, a separate individual permit may need to be secured from the Regional Soils and Waterways Section. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

The Department retains the discretion, on a case-by-case basis, to deny or revoke certification under section 401(a) of the CWA for structures and activities listed in 25 Pa. Code § 105.12(a)(16) if the Department finds upon investigation or complaint, that a particular project is violating, or will violate section 401(a) of the CWA or state water quality requirements.

Projects which do not meet the above provisions will be individually reviewed by the Department for consideration of waiver applicability or necessary permit action. Activities not qualifying for this proposed categorical waiver will be processed through the normal public notice process required for 401 Water Quality Certification or Chapter 105 permit applications, whichever is appropriate.

This procedure and action are the result of a cooperative effort among Department of Environmental Protection, U. S. Army Corps of Engineers, U. S. Fish and

Wildlife Service, Fish and Boat Commission, Game Commission, U. S. Office of Surface Mining and U. S. Environmental Protection Agency.

In conjunction with the Department's October 5, 1996 notice, the Corps of Engineers also placed this proposal on public notice October 4, 1996 (refer to CENAB-OP-RR, Special Public Notice # 97-01) under the requirements of the Clean Water Act for incorporation with the Pennsylvania State Programmatic General Permit-1 (PASPGP-1). In response, the Corps of Engineers received only two written comments, and both were in support of the proposal.

Therefore, the restoration activities qualifying for 401 Water Quality Certification and for a waiver of permit requirements set forth at 25 Pa. Code Chapter 105.12(a)(16) are also incorporated into the PASPGP-1.

For further information concerning this certification and waiver, contact Fran Koch, Chief, Education and Technical Assistance Section, Division of Wetlands Protection, Bureau of Dams, Waterways and Wetlands, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-6827 or e-mail to Koch.Frances@a1.dep.state.pa.us, or Pam Milavec, Water Pollution Biologist Supervisor, Bureau of Abandoned Mine Reclamation, 122 S. Center Street, Ebensburg, PA 15931, (814) 472-1800 or e-mail to Milavec.Pamela@a1.dep.state.pa.us. This information is also available electronically through the DEP Web site (<http://www.dep.state.pa.us>). Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5788 (voice users).

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 96-2103. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF HEALTH

Grant Application for 1997 under Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990; Public Hearing

The Department of Health, Bureau of HIV/AIDS, is applying for a grant from the United States Department of Health and Human Services under Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (the Ryan White CARE Act), 42 U.S.C.A. §§ 300ff-21—300ff-30, the Ryan White CARE Act Amendments of 1996, P. L. 104—146 (110 Stat. 1346). The grant is to be used for improving the quality, availability and organization of health care support services for individuals with HIV disease and the families of those individuals.

In accordance with section 3(c)(4)(B) of the Ryan White CARE Act Amendments, P. L. 104—146, § 3(c)(4)(B), 110 Stat. 1346, 1355 (amending Section 2617(b)(3)(A) of the Ryan White Care Act, 42 U.S.C.A. § 300ff-27(b)(3)(A)), the Department is conducting a public hearing to solicit comments on how it should utilize the portion of the grant money under Title II that is to be dedicated to specific program areas. Specifically, the Department intends to use funds awarded to it under Title II of the Ryan White CARE Act, as amended, in accordance with two of the five possible program areas specified in that act:

1. HIV Care Consortia: To establish and operate, within areas most affected by HIV disease, HIV care consortia designed to provide a comprehensive continuum of care to individuals and families with HIV disease, Ryan White CARE Act Amendments, P. L. 104—146, § 3(c)(2)(A), (amending 42 U.S.C.A. § 300ff-22(a)(1)); and,

2. Provision of Treatments: To provide therapeutics (including devices necessary to administer such pharmaceuticals) to treat HIV disease or prevent the serious deterioration of health including treatment of opportunistic infections, Ryan White CARE Act Amendments, P. L. 104—146, § 3(c)(2)(A), (amending 42 U.S.C.A. § 300ff-22(a)(4)).

The hearing will be held from 10 a.m. to 1 p.m. on January 16, 1997, in the Health and Welfare Building (Room 327), Seventh and Forster Streets, Harrisburg, PA 17108, and is subject to cancellation without further notice.

In addition, the Department will accept written comments on how the portion of the grant money that is to be dedicated to these two specific program areas shall be utilized until 4 p.m. on May 1, 1997. These written comments should be sent to the Bureau of HIV/AIDS at the address noted below.

For additional information, or to obtain copies of the Department's grant application, contact the Department of Health, Bureau of HIV/AIDS, P. O. Box 90, Harrisburg, PA 17108, (717) 783-0479. Persons with a disability who require an alternate format of the Department's grant application, who desire to comment in an alternate format (for example, large print, audio tape, braille), or who require an auxiliary aid service or other accommodation to attend the hearing should notify George Schelzel, Bureau of HIV/AIDS, (717) 783-0574; TDD (717) 783-6514.

DANIEL F. HOFFMANN, FACHE,
Acting Secretary

[Pa.B. Doc. No. 96-2104. Filed for public inspection December 13, 1996, 9:00 a.m.]

Modification of License Review Activities Following Sunset of Certificate of Need

Chapter 7 and all other portions of the Health Care Facilities Act pertaining to Certificate of Need (CON) sunset on December 18, 1996.

The purpose of CON was to assure the quality of and access to health care services for Pennsylvanians while controlling health care costs by limiting the supply of certain clinically related health services. Those providers that desired to provide any of the 23 clinically related health services which were subject to CON were required to first obtain a determination of need from the Department.

The Department upon receiving applications for CONs would make (1) a determination of the reviewability of a proposed service; and, if reviewable, (2) a determination of need for the proposed service in the region of the Commonwealth in which it would be offered.

Under CON, the Department's determination of the need for a proposed service included assessing the extent to which it satisfied criteria contained in the State Health

Services Plan. The State Health Services Plan addresses the availability, accessibility and affordability of the clinically related health services necessary to meet the health needs of the population of the Commonwealth and contains qualitative and quantitative standards and criteria for the review of CON applications by the Department.

The statutory authority for the State Health Services Plan (35 P. S. § 448.201(6)) will not sunset on December 18, 1996. The criteria and information contained in the State Health Services Plan remain valid for the administration of the Health Care Facilities Act (35 P. S. § 448.101, *et seq.*)

The CON process included an assessment of the extent to which a proposed service met the quality criteria in the State Health Services Plan. Therefore, to avoid duplication in its review activities, the Department did not include satisfaction of criteria in the State Health Services Plan as part of the licensure process. The sunset of CON would eliminate the Department's review of an applicant's satisfaction of those standards in the State Health Services Plan which are relevant to the licensure determination.

Effective December 18, 1996, the Department, therefore, will modify its license review activities to include a consideration of the applicant's satisfaction of criteria in the State Health Services Plan which are relevant to the determination of whether the applicant satisfies the licensure criteria. In addition, the Department will consider these same criteria at the time when a licensee intends to offer a new service. New services which will be offered by a facility under its current license may be offered without additional licensure notwithstanding that a CON would have been required prior to December 18, 1996. The applicant or licensee shall continue to notify the division in the Department responsible for licensing the service and before providing that service.

An assessment of whether to renew a license or take disciplinary or corrective action under Chapter 8 of the Health Care Facilities Act shall incorporate a consideration of whether relevant criteria in the State Health Services Plan are being met.

Those services which as of December 18, 1996, will no longer be subject to CON but which are offered outside of licensed facilities, have not been subject to Department of Health licensure and have not been provided in the Commonwealth prior to December 18, 1996, should not be offered in the Commonwealth pending the Department's determination of whether these services should now be subject to licensure. The Department will commence an immediate review to determine if any of these services will be subject to licensure. If the Department determines that licensure will not be required for any of these services, it will publish notice in the *Pennsylvania Bulletin* upon such determination.

The Department will hold a public meeting to coincide with the next meeting of the Health Policy Board, tentatively scheduled for January 21, 1997, to consider whether these services should now be subject to licensure. Notice of the time and place of the public meeting will be published in the *Pennsylvania Bulletin*.

Under Governor Ridge's Executive Order 1996-1, regarding regulatory review, the Department shall conduct an expedited review of its current regulation of health care facilities. The Department shall promulgate regulations subjecting to licensure the services formerly covered

by certificate of need but which are not licensed by the Department of Health to the extent such licensure is authorized and deemed necessary.

DANIEL F. HOFFMANN, FACHE,
Acting Secretary

[Pa.B. Doc. No. 96-2105. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Availability of Education Awards from the National Service Trust

PennSERVE—The PA State Commission announce the availability of education awards from the National Service Trust (AmeriCorps) through a simplified application process for community service programs that can support most or all of the AmeriCorps Member and program costs from sources other than the Corporation for National Service. Applications can be obtained by calling PennSERVE (717) 787-1971. A pre-application conference will be offered at the Forum Building, Room G-50, Harrisburg, PA on December 17, 1996, from 1-3 p.m. In addition, PennSERVE—The PA State Commission and the Corporation for National Service will consider requests for up to \$1,000 per new full-time Member (prorated for a part-time Member) to manage these programs. A Letter of Intent is required (due: December 23, 1996) and the application is due to PennSERVE, February 3, 1997, by 4 p.m.

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 96-2106. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF REVENUE

Private Letter Valuations Fee

Effective January 1, 1997, the Department of Revenue will begin charging a fee for private letter valuations which involve an actuarial calculation. This fee is similar to that charged by the Internal Revenue Service for private letter rulings which involve an actuarial calculation, and is a result of the increase in requests due to rate changes in the 1995 amendments to the Pennsylvania Inheritance and Estate Tax Act.

The fee must be paid by a certified form of payment prior to the issuance of the valuation. Acceptable forms of payment are a money order, bank draft or certified check made payable to the Pennsylvania Department of Revenue. Personal or business account checks will not be accepted. The fee schedule is as follows:

\$250 A single life estate or term certain with no potential for invasion of the trust principal, or the need for a probability of survival computation for the remaindermen.

- \$450 A single life estate or term certain with potential for trust invasion and/or the need for a survival probability calculation, a double life estate, a fixed annual right of invasion, such as the standard 5% or \$5,000.
- \$650 A life estate calculation involving three or more ages and no right to invade the trust principal, a one or two life unitrust calculation, a one or two life pooled income fund calculation, a term certain with various distribution amounts during the term.
- \$850 Any complex actuarial calculation involving more than three ages, a trust involving more than a fixed 5% or \$5,000 annual right of invasion, a probability of at least one of three or more people surviving a life tenant for distribution to occur at a specific tax rate; or any calculation which requires the development of a specialized computer program(s).
- \$200 Revision of the computation due to a change in the information originally provided by the estate representative.

Each request for private letter valuation must include the name of the decedent, the date of death and the estate file number. Private letter valuations will not be issued for estate planning purposes. The Department of Revenue will continue to provide single life estate factors by telephone free of charge.

The Department should be contacted at least 3 weeks in advance of the date needed to request a written valuation. The calculation and written valuation will be mailed to the estate representative. Persons who have any questions may contact the Trust Valuation Specialists at (717) 787-8327. Requests can be mailed to Department of Revenue, Inheritance Tax Division, Specialty Tax Unit, Dept. 280601, Harrisburg, PA 17128-0601.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 96-2107. Filed for public inspection December 13, 1996, 9:00 a.m.]

Rate of Tax on Aviation Gasoline and Jet Fuels for 1997

Under 74 Pa.C.S. § 6121(b), the Secretary of Revenue announces that for the calendar year 1997 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 increase from the current rate of 3-5/10¢ to 3-7/10¢^{*} per gallon or fractional part thereof.

Under 74 Pa.C.S. § 6131(b), the Secretary of Revenue announces that for the calendar year 1997 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 increase from the current rate of 1-7/10¢ to 1-9/10¢ 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

^{*}The rate of 3-7/10¢ per gallon consists of the 1-1/2¢ per gallon tax imposed by section four of the Liquid Fuels Tax Act (72 P.S. § 2611d) and the 2-2/10¢ 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.

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 of a cent per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the U.S. 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, 1996, the most recently available 12-month period was September 1995 to September 1996, as reported in Bureau of Labor Statistics, U. S. Department of Labor, Producer Price Indexes, September 1996, for which the percentage change was +29.9 percent. Accordingly, the aviation gasoline tax rate and the jet fuel tax rate both increase by 2/10¢ per gallon.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 96-2108. Filed for public inspection December 13, 1996, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Retention of Engineering Firms

Erie County Reference No. 08430AG2034

The Department of Transportation will retain an engineering firm for final design, consultation during construction, and shop drawing review for the Nagle Road Bridge project located in the Lawrence Park and Harborcreek Townships, Erie County, PA. The engineering agreement will be administered by the Department on behalf of Lawrence Park and Harborcreek Townships.

This project involves the construction of a grade separated crossing over four railroad tracks in Lawrence Park Township and Harborcreek, Township, Erie County. Nagle Road currently ends at the railroad corridor on both the north and south sides; at one time there was an at-grade crossing. Environmental clearance has been obtained as part of the East Side Access Road E.I.S. S. R. 4034, Section A40. This project was identified as a non-T.S.M.

The project limits are from T. R. 20 (Buffalo Road) north to T. R. 955 (Iroquois Avenue). The railroads involved are Norfolk and Southern, ConRail (two tracks), and East Erie Commercial Railroad. Close coordination with the railroads will be required, as well as both Townships. The crossing was abolished in 1957 at the request of the Townships. The estimated construction cost is \$3.35 million.

In 1993, Lawrence Park and Harborcreek Townships applied to the PUC to reopen the road; this application was denied by the PUC. During preparation of the EIS for S. R. 4034, Section A40, also known as the East Side Access Road, the reestablishment of this crossing was identified as a key component in upgrading the transportation system in the study area.

The selected firm will provide engineering services which will include the following tasks: field surveys and property investigations; preliminary roadway and railroad design; traffic counts; a traffic circulation study; preliminary traffic signal design; a type, size and location

submission; a subsurface boring, sampling and testing program; utility coordination; preliminary and final right-of-way plans; meetings and design coordination; Public Utility Commission (PUC) and railroad coordination; final roadway design and preparation of construction drawings; final traffic signal design; foundation and final structure design and drawings; preparation of final plans, specifications and estimates; development of a CPM schedule for construction activities and project management and administration. The selected firm will also be required to perform shop drawing reviews, alternatives review and provide construction consultation.

The goal for Disadvantaged Business Enterprise (DBE) participation in this agreement shall be 10% of the total contract price. Additional information concerning DBE participation in this agreement is contained in the General Requirements and Information section after the advertised projects.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters-of-interest.

- a. Specialized experience and technical competence of firm on other projects of this type and magnitude.
- b. Past record of performance with respect to cost control, quality of work products and ability to meet schedules.
- c. Experience and managerial ability of proposed project manager and other key staff that will be assigned to this project.
- d. Available staffing for this assignment.
- e. Relative size of the firm to the size of the project.

The District's copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: John L. Baker, P. E. District Engineer, 1140 Liberty Street, Franklin, PA 16323.

Technical questions concerning the requirements for this project should be directed to William G. Petit, P.E., District 1-0, at (814) 437-4270 or Michael L. McMullen, P.E., District 1-0, at (814) 437-4331.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Berks, Carbon, Lehigh, Monroe, Northampton
and Schuylkill Counties
Reference No. 08430AG2035**

The Department of Transportation will retain an engineering firm to perform periodic NBIS inspections for various locally-owned bridges in the six county area of Engineering District 5-0, that is, Berks, Carbon, Lehigh, Monroe, Northampton and Schuylkill Counties. Approximately 440 bridges of various types and material will be involved; that is reinforced concrete, prestressed concrete, steel beam, steel truss and others. A detailed listing of the bridges will be distributed during the Scope of Work meeting. Two 2-year NBIS cycles are involved.

The selected firm will be required to inspect/reinspect approximately 440 selected locally-owned bridges at various locations with inspection due dates prior to April 30, 2000, and provide updated inspection reports including a bridge load capacity rating/rerating and/or posting recommendation as warranted; furnish bridge inventory and appraisal data and completed BMS coding sheets; to provide inventory and operating ratings based on existing conditions for H, HS and ML 80 loadings using the Department's approved computer program for load factor

design method (LFD) for all of the newly inspected bridges and for previously inspected bridges when deemed necessary; and to provide load posting recommendations in accordance with the Department's current load posting policy.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Past performance in regard to bridge inspection.
- b. Availability of sufficient bridge inspectors to handle peak inspection periods.
- c. Location.
- d. Inspectors' experience with emphasis on bridge inspection capabilities and bridge rating capabilities.
- e. Understanding of Department's requirements, policies and specifications and BMS System.

All of the work must be completed within 48 months following the Notice to Proceed.

The District's copy of the letter of interest and required form (see general requirements and information section) shall be sent to: Walter E. Bortree, P.E., District Engineer, 1713 Lehigh Street, Allentown, PA 18103.

Technical questions concerning the requirements for this project should be directed to Donald E. Lerch, P.E., District 5-0, at (610) 791-6019 or Anthony F. Testen, District 5-0, at (610) 798-4152.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Delaware County
Reference No. 08430AG2036**

The Department of Transportation will retain an engineering firm to perform environmental studies, preliminary engineering, final design, and construction consultation for S. R. 0452, Section 03S, Market Street, in Marcus Hook Borough, and Lower Chichester Township, Delaware County. This project involves replacement of the 17 span bridge over AMTRAK and SEPTA. The limit of work is from Segment 10 Offset 300 to Segment 10 Offset 1355. The estimated project construction cost is \$5.7 million.

The selected firm will be required to provide the following engineering and design services: surveys; roadway design; pavement design; preparation of cross sections; soils and geological investigations; erosion and sedimentation control design; right-of-way investigation and plan; structure design; hydrologic and hydraulic analysis; preparation of traffic control, pavement marking, and signing plans; traffic signal design; utility coordination and design; railroad catenary and electrification design; coordination with PUC, DEP, municipal officials, and the public; preparation of final plans, specifications, and estimates; shop drawing review and alternate design review.

The selected firm will also be required to provide environmental services to identify and assess the following: historic and archaeological resources; regional and community growth; land use and development patterns; surface water and ground water; vegetation; noise and air quality; parks and recreational facilities; emergency service, health, and educational facilities; utility locations; residential and commercial property values; hazardous waste; vibration; aesthetics and visual qualities; and construction impacts.

The environmental studies will be conducted to prepare a Categorical Exclusion in accordance with accepted analysis techniques and methodologies.

The selected firm will be required to perform the following to insure that a complete environmental investigation has been performed; provide all necessary environmental services, material and equipment necessary to collect, analyze and organize data, assess impacts, conduct agency and public involvement activities, and prepare reports and mitigation plans. The reports and other written graphic material to be prepared may include, but are not limited to, early coordination and scoping correspondence; project need; preliminary alternatives analysis; meeting minutes, public meetings; handouts and displays; NEPA environmental documents; Section 106 documents; Section 4(f) evaluation; mitigation plans and reports; hazardous waste mitigation plans; PADEP permits, formulating and participating in public involvement program; and coordinating the development of the study with various agencies and special interest groups.

Firms that are currently serving, or are being considered for selection, as the municipal engineer in the municipalities listed in the project description will not be considered for this assignment. Also, firms that are under contract, or are being considered, to provide engineering services to a land developer for a site located along the project will likewise not be considered for this assignment. Firms should state in the letter of interest that they are not serving in either capacity as a municipal engineer or as a representative of a site developer. Any questions concerning this requirement should be directed to Timothy R. O'Brien, P.E., at the telephone number listed below.

The goal for Disadvantaged Business Enterprise (DBE) participation in this agreement shall be 10% of the total contract price. Additional information concerning DBE participation in this agreement is contained in the General Requirements and Information section after the advertised projects.

We encourage small firms to submit a letter of interest for this assignment.

The District's copy of the letter of interest and required forms (see general requirements and information section) shall be sent to: Andrew Warren, District Administrator, 200 Radnor-Chester Road, St. Davids, PA 19087.

Technical questions concerning the requirements for this project should be directed to Timothy R. O'Brien, P.E., District 6-0, at (610) 964-6526 or Lawrence J. Link, P.E., District 6-0, at (610) 964-6536.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division, at (717) 783-9309.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit two copies of a letter of interest and required forms for each Project Reference Number for which the applicant wishes to be considered.

One copy of the letter of interest and required forms must be submitted to: Director, Bureau of Design, Consultant Selection Committee, Forum Place, 555 Walnut Street, 7th Floor, Harrisburg, Pennsylvania 17101-1900.

The letter of interest and required forms must be received within 13 calendar days of this notice. The deadline for receipt of a letter of interest at the above address is 4:30 p.m. prevailing time of the thirteenth day.

The second copy of the letter of interest and required forms must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If the individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm, or corporate which is permitted under the State law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the letter of interest. If the selected firm fails to meet the goal established, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms and other engineering firms who have not previously performed work for the Department of Transportation.

Each letter of interest must include the following:

1. The project reference number for which the applicant wishes to be considered.
2. The firm's legal name, factious name (if applicable), and the firm's Federal identification number.
3. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate the names and license number of individuals who are directing heads or employes of the firm is responsible charge of the firm's engineering activities, and whose names and seal shall be stamped on all plans, specifications, plats and reports issued by the firm.

4. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project." The Standard Form 255 must be signed, dated and filled out in its entirety including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project.

If a Disadvantage Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the firm and the work to be performed must be indicated in Item No. 6.

If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

5. Standard Form 254, "Architect-Engineer and Related Services Questionnaire" not more than 1 year old as of the date of this advertisement, must accompany each letter of interest for the firm, each party to a joint venture and for each subconsultant the firm or joint venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor of a Company, unless an acceptable Standard Form 254 for the prime and *each* subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the letter of interest the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

6. A "Workload Projection" form for the prime and each subconsultant/subcontractor. The "Workload Projection" form should indicate the firms current and anticipated workload compared to the anticipated capacity available during the agreement projected time frame.

7. Firms with out-of-State headquarters or corporations not incorporated in Pennsylvania must include with each letter of interest a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. The latest audited overhead rate of the prime consultant and each subconsultant.

9. The overhead rate that the prime would accept and the overhead that each subconsultant would accept for providing work services described under the Project Reference Number.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable letter of interest in response to this project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the

right to reject all letters submitted, to cancel the solicitations requested under this notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 96-2109. Filed for public inspection December 13, 1996, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Superior Tube Company v. DEP; EHB Doc. No. 95-115-MR

The Department of Environmental Protection (Department), and Superior Tube Company (Superior Tube) have agreed to a settlement of the appeal at the above-referenced docket.

Superior Tube owns and operates a manufacturing facility located at 3900 Germantown Pike, Evansburg, PA 19426-0159 in Lower Providence Township, Montgomery County (Facility). On May 6, 1995, the Department issued National Pollutant Discharge Elimination System (NPDES) Permit No. PA0011851 (Permit) to Superior Tube authorizing, effective June 1, 1995, the discharge from the Facility of treated effluent and stormwater in accordance with the limitations and requirements set forth in the Permit. Superior Tube filed a timely appeal from the Department's issuance of the Permit.

The parties have agreed to a settlement of the appeal in accordance with the following terms:

(1) Superior Tube has agreed to relocation of Outfalls 001, 002 and 004 to a single outfall to the Perkiomen Creek and to a schedule for the permitting and construction of the relocated outfall which is set forth in detail in the settlement agreement.

(2) The Department has agreed to issue a draft amendment to the Permit (Amendment No. 1) which proposes the following changes to the Permit:

a. removing certain fourth year effluent limitations in the permit for outfalls 001, 002 and 004 as follows:

001	002	004
Fluoride	Trichloroethylene	Trichloroethylene
Cadmium		
Copper		
Lead		
Nickel		
Silver		
Zinc		
Trichloroethylene		

b. deleting the requirements in the Permit to conduct a Toxics Reduction Evaluation;

c. a schedule for submission by Superior Tube of an application to amend the Part I NPDES permit to allow relocation of Outfalls 001, 002 and 004 to the Perkiomen Creek and for construction and completion of the relocated outfall.

(3) Superior Tube agrees not to appeal the final issuance of Amendment No. 1 to the Permit so long as such amendment contains the same, or less stringent, terms and conditions as those set forth in the settlement agreement.

(4) The parties recognize that Superior Tube shall have the right to appeal the Department's action on the permit application submitted for relocation of the outfalls and that Superior Tube shall not be precluded from raising in any such appeal any objection raised in the Notice of Appeal at this docket.

(5) The parties recognize that the Department may amend the Permit to include additional effluent limitations or conditions necessary to protect water quality at the existing outfalls. Superior Tube shall have the right to appeal any such amendment and Superior Tube shall not be precluded from raising in any such appeal any objection raised in the Notice of Appeal at this docket.

Copies of the full agreement are in the hands of:

Scott D. Patterson, Esquire, Saul, Ewing, Remick & Saul, 1055 Westlakes Drive, Suite 150, Westlakes Corporate Center, Berwyn, PA 19312, Telephone: (610) 251-5089;

Martha E. Blasberg or Mary Y. Peck, Assistant Counsel, Department of Environmental Protection, Office of Chief Counsel—Southeast Region, Lee Park—555 E. North Lane—Suite 6015, Conshohocken, PA 19428-2233, Telephone: (610) 832-6313;

and at the office of the Environmental Hearing Board and may be reviewed by any interested party on request during normal business hours.

Persons who are aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, 2nd Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457.

Appeals shall be filed within 20 days of this publication.

The Environmental Hearing Board is empowered to approve this settlement which becomes final if no objection is timely made.

GEORGE F. MILLER,
Chairperson

[Pa.B. Doc. No. 96-2110. Filed for public inspection December 13, 1996, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws; Kevin Taylor; Doc. No. SC96-11-034

Notice is hereby given of the Order to Show Cause issued on November 26, 1996, by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: sections 604 and 633 of the Insurance Department Act (40 P. S. §§ 234, 273); sections 4 and 5 of The Unfair Insurance Practices Act (40 P. S. §§ 1171.4 and 1171.5); 31 Pa. Code §§ 33.29 and 37.33.

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If Respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1—35.251; Special Rules

of Administrative Practice and Procedure, 31 Pa. Code §§ 56.1—56.3 and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the above-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, please contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-2111. Filed for public inspection December 13, 1996, 9:00 a.m.]

Blue Cross of Western Pennsylvania; Prescription Drug Rating Trend for Experience-Rated Group Business; Filing No. 2-FSD-96-WP

On November 22, 1996, Blue Cross of Western Pennsylvania submitted filing no. 2-FSD-96-WP for Insurance Department approval. This revises the rating trend factor from 6.1% to 9.9% per year, applicable to experience-rated groups having freestanding prescription drug programs. Approximately 500,000 group subscribers are covered under these programs. The requested effective date is March 1, 1997.

Copies of filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, Actuarial Review Division, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-2112. Filed for public inspection December 13, 1996, 9:00 a.m.]

Delta Dental of Pennsylvania; Proposed Modification Rider to Delta Dental Service Contract (MC-3, Rev. 9/94); Form M-26

Delta Dental of Pennsylvania has filed modification rider Form M-26 to its Dental Service Contract MC-3 for its provisions relating to the procedure for appeal of claims. The filing has no rate impact. This filing consists of one form and five pages.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg. Please refer to Insurance Department File No. 9612030043001 when referencing this filing.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Policy Examiner, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-2113. Filed for public inspection December 13, 1996, 9:00 a.m.]

Insurance Services Office, Inc. (ISO); Introduction of Building Code Effectiveness Grading Schedule

On November 25, 1996, the Insurance Department received from the Insurance Services Office, Inc. (ISO) a filing for the introduction of a Building Code Effectiveness Grading Schedule for homeowners insurance.

The company requests approval of a schedule to review the available public building code enforcement agencies. The resulting classification would be used for insurance underwriting and rating purposes.

Unless formal administrative action is taken prior to January 24, 1997, the subject filing may be deemed approved by operation of law.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Rick Pawelski, Insurance Department, Office of Rate and Policy Regulation, Bureau of Property and Casualty Insurance, Actuarial Review Division, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-2114. Filed for public inspection December 13, 1996, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policy.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Richard H. Morrison; file no. 96-121-06895; Erie Insurance Exchange; doc. no. P96-11-014; February 12, 1997, at 1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings,

witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4289.

LINDA S. KAISER,
Insurance Commissioner

[Pa.B. Doc. No. 96-2115. Filed for public inspection December 13, 1996, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Erie County, Wine & Spirits Shoppe # 2512, 66 N. Main Street, Union City, PA 16438-1032.

Lease Expiration Date: October 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,500 to 2,000 net useable square feet of new or existing retail commercial space serving the Union City area. Location should have off-street parking and good loading facilities.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Tom Deal, (412) 565-5130

Erie County, Wine & Spirits Shoppe # 2517, 3412 W. Lake Road, Erie, PA 16505-3612.

Lease Expiration Date: October 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space along West Lake Road between Powell Avenue and Peninsula Drive in Millcreek Township.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Jefferson County, Wine & Spirits Shoppe # 3303, 445 Main Street, Brockway, PA 15824-1337.

Lease Expiration Date: November 30, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space fronting PA Route 28 or U. S. Route 219 and serving the Brockway area.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Westmoreland County, Wine & Spirits Shoppe # 6510, 124 E. 1st Avenue, Derry, PA 15627-1926.

Lease Expiration Date: October 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,200 net useable square feet of new or existing retail commercial space in the Borough of Derry.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Franklin County, Wine & Spirits Shoppe # 2803, 324 W. Franklin Street, Greencastle, PA 17225-1544.

Lease Expiration Date: June 30, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 1,800 to 2,200 net useable square feet of new or existing retail commercial space along PA State Route 11 in Greencastle Borough.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard J. Rhodes, (717) 657-4228

Philadelphia County, Wine & Spirits Shoppe # 5115, 1206 Arch Street, Philadelphia, PA 19107-2816.

Lease Expiration Date: October 31, 1997

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in an area north of Market Street, south of Race Street, east of Broad Street and west of 11th Street.

Proposals due: January 10, 1997, at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Bureau of Real Estate, 4501 Kelly Drive, Philadelphia, PA 19129-1794

Contact: Robert Jolly, (215) 560-5310

JOHN E. JONES,
Chairperson

[Pa.B. Doc. No. 96-2116. Filed for public inspection December 13, 1996, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Fuel Cost Adjustment Statement; Doc. Nos.:
 M-FACG9604, 9608, 9609, 9610, 9611, 9612, 9613,
 9614, 9615, 9616, 9617 and 9618**

This notice is to inform the public that the following companies:

Gasco Distribution Systems, Inc.—Claysville Division
 Andreassi Gas Company
 Herman Oil & Gas Company, Inc.
 Kaylor Natural Gas Company
 Walker Gas & Oil Company, Inc.
 R. A. Baker Gas Company
 Herman Riemer Gas Company
 Chartiers Natural Gas Company, Inc.
 Pine-Roe Natural Gas Company
 Clarion River Gas
 North East Heat and Light Company
 Wally Gas Company

have filed statements of their revenues and expenses attributable to their use of the automatic adjustment clause (Fuel Cost Adjustment) for the 12 month period ending August 31, 1996.

The filing of these statements is required by section 1307(e) of the Public Utility Code, 66 Pa.C.S. § 1307 (e).

The Pennsylvania Public Utility Commission has scheduled an initial hearing on Thursday, December 19, 1996, at 10 a.m. in a Commission Hearing Room, Ground Floor, North Office Building, Harrisburg, PA when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2117. Filed for public inspection December 13, 1996, 9:00 a.m.]

Railroad With Hearing

A-00113375. Consolidated Rail Corporation. An application has been made to the Pennsylvania Public Utility Commission, under the provisions of Public Utility Code, by Consolidated Rail Corporation for approval of installation of Inert Retarders in both the Eastbound and Westbound Classification Yards at Conway Yard, Valuation Section 0137(733), RDBR: 40-2202, Pittsburgh Division and relief from requirements of Commission Order entered June 12, 1975 and amendment thereto entered July 18, 1985 at C-19560.

A public hearing on this application will be held Wednesday, February 12, 1997, at 10 a.m. in the 11th Floor Hearing Room, Pittsburgh State Office Building,

300 Liberty Avenue, Pittsburgh, PA, when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2118. Filed for public inspection December 13, 1996, 9:00 a.m.]

**Railroad
With Hearing**

C-00968418. Consolidated Rail Corporation. A complaint has been made to the Pennsylvania Public Utility Commission, under the provisions of Public Utility Code, by the *Borough of Topton v. Consolidated Rail Corporation* about faulty gates not functioning properly as per incident record as compiled by Northeastern Regional Police Department. Complainant would like Consolidated Rail Corporation to be required to update current signal devices and sensor equipment which is antiquated.

A public hearing on this application will be held Friday, January 24, 1997, at 10 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, PA, when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2119. Filed for public inspection December 13, 1996, 9:00 a.m.]

**Railroad
With Hearing**

I-00960044. Southeastern Pennsylvania Transportation Authority. Investigation into the matters pertaining to the maintenance, inspection and/or disposition of the rail-highway crossing (AAR 541 415 B) carrying Providence Road, S. R. 0252, over and above the grade of the tracks of Southeastern Pennsylvania Transportation Authority (SEPTA), in Nether Providence Township, Delaware County.

A public hearing in this investigation will be held Thursday, February 20, 1997, at 10 a.m. in an available hearing room, 13th Floor, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, PA, when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2120. Filed for public inspection December 13, 1996, 9:00 a.m.]

**Railroad
With Hearing**

I-00960045. Southeastern Pennsylvania Transportation Authority. Investigation into the matters pertaining to the maintenance, inspection and/or disposition of the rail-highway crossing (AAR 541 313 H) carrying

Indian Lane, T-344, over and above the grade of the tracks of Southeastern Pennsylvania Transportation Authority (SEPTA), in Middletown Township, Delaware County.

A public hearing in this investigation will be held Wednesday, February 19, 1997, at 10 a.m. in an available hearing room, 13th Floor, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, PA, when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2121. Filed for public inspection December 13, 1996, 9:00 a.m.]

**Railroad
With Hearing**

I-00960046. Southeastern Pennsylvania Transportation Authority. Investigation into the matters pertaining to the maintenance, inspection and/or disposition of the rail-highway crossing (AAR 531 076 W) carrying Allen Lane, S. R. 4003, over and above the grade of the tracks of Southeastern Pennsylvania Transportation Authority (SEPTA), in the City of Philadelphia.

A public hearing in this investigation will be held Friday, February 21, 1997, at 10 a.m. in an available hearing room, 13th Floor, Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, PA, when and where all persons in interest may appear and be heard if they so desire.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2122. Filed for public inspection December 13, 1996, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before January 6, 1997, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the right to *begin to operate as a broker for the transportation of persons as described under each application.*

A-00113565. Beverly K. Frey, t/d/b/a B & R Touring Company (62 Second Street, P. O. Box 213, Slatington, Lehigh County, PA 18080)—brokerage license—to arrange for the transportation of persons and their baggage, between points in Pennsylvania.

A-00113572. Centipede, Inc. (1315 Walnut Street, Philadelphia, Philadelphia County, PA 19107), a corporation of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons and their baggage between points in the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, and from points in the said counties to points in Pennsylvania. *Attorney:* John J. Gallagher, Suite 1100, 1760 Market Street, Philadelphia, PA 19103.

Notice of Motor Carrier Applications—Property, Excluding Household Goods in Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before December 30, 1996.

- A-00113563 Fleck Trucking, Inc.
8 Keen Road, Spring City, PA 19475
- A-00113564 P & N Excavating, Inc.
R. D. 1, Box 634, Annville, PA 17003
- A-00113570 Scott A. Sallack, t/d/b/a Scott A. Sallack Trucking
R. D. 6, Box 299, Punxsutawney, PA 15767
- A-00113571 Nexus Distribution Corporation
550 Albion Street, Schaumburg, IL 63193; David H. Radcliff, Esquire, Cherewka & Radcliff, LLP, 3905 North Front Street, Harrisburg, PA 17110
- A-00113573 Leaseway Motorcar Transport Co.
P. O. Box 563, Route 10 Green Hills, Reading, PA 19603; Andrew K. Light, Esquire, 10 West Market Street, Suite 1777, Indianapolis, IN 46204-2971
- A-00113574 Lehigh Petroleum Transport, Inc.
Tank & Shippers Road, Macungie, PA 18062; Andrew K. Light, Esquire, 10 West Market Street, Suite 1777, Indianapolis, IN 46204-2971
- A-00113575 Schuchart, Inc.
900 Elm Avenue, Hanover, PA 17331
- A-00113576 Eck Cartage Company
11201 Berea Road, Cleveland, OH 44102-2531
- A-00113577 Craig Squib, t/d/b/a Mountain Trucking
R. D. 1, Box 244A, Markleysburg, PA 15459
- A-00113578 Reifsneider Transportation, Inc.
P. O. Box 48, 519 Royersford Road, Royersford, PA 19468; Warren Vogel, Esquire, 486 Norristown Road, Suite 230, Blue Bell, PA 19433

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2123. Filed for public inspection December 13, 1996, 9:00 a.m.]

**Water Service
Without Hearing**

A-210620F2001. Country Club Gardens Water Company. Application of Country Club Gardens Water Company for approval of the abandonment of its right to provide water service to four lots in that portion of its service territory in South Whitehall Township known as Country Club Gardens.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before December 26, 1996, under 52 Pa. Code (relating to public utilities).

Applicant: Thomas T. Niesen, Esquire, Country Club Gardens Water Co., 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

JOHN G. ALFORD,
Secretary

[Pa.B. Doc. No. 96-2124. Filed for public inspection December 13, 1996, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Project #9337.8a, Repairs to Freight Elevators, Pier 84 South until 2 p.m. on Thursday, January 16, 1997. The bid documents can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Sq., 13th Fl., Phila., PA 19106, (215) 928-9100 and will be available December 17, 1996. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal opportunity laws and regulations.

Mandatory prebid job site meeting will be held January 9, 1997, 10 a.m. at Pier 84 South, Main Door. The PRPA will consider only those bids received from parties who attended the prebid meeting.

JAMES T. McDERMOTT,
Executive Director

[Pa.B. Doc. No. 96-2125. Filed for public inspection December 13, 1996, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Director of Purchases, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following contract:

Contract No. 96-006-RP87. Roadway repairs between M. P. A-37.22, Exit No. 33 and M. P. A-74.22, Exit 35 in Lehigh and Carbon Cos., PA.

Bid Opening Date: January 9, 1997, 11 a.m.

Bid Surety: 5%.

Plans, specifications and contract documents will be available and open to the public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per paper copy set (do not add State tax) by check or U.S.P.S. Money Order (no cash) to the Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676: Attn: Secretary/Treasurer's Office. No refund will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Director of Purchases for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 96-2126. Filed for public inspection December 13, 1996, 9:00 a.m.]

Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Director of Purchases, at the Administration Building,

Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following contract:

Contract No. 96-006-RS93. Roadway repairs between M. P. 75.20, Exit No. 8 and M. P. 109.90, Exit 10 in Westmoreland and Somerset Cos., PA.

Bid Opening Date: January 9, 1997, 11:30 a.m.

Bid Surety: 5%.

Plans, specifications and contract documents will be available and open to the public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per paper copy set (do not add State tax) by check or U.S.P.S. Money Order (no cash) to the Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676: Attn: Secretary/Treasurer's Office. No refund will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Director of Purchases for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 96-2127. Filed for public inspection December 13, 1996, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide

Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

⑥ Duration

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET THAT COMPETITIVE EDGE—FOR FREE!

Do you want to do business with your state government? The Treasury Department's office of Contract Information Services can assist you by providing you with information that may be helpful to you in successfully bidding on State contracts.

Act 244 of 1980 requires Commonwealth departments and agencies to file with the Treasury Department a copy of all contracts involving an expenditure of \$5,000 or more.

These fully executed contracts usually contain the vendor's name, dollar value, effective and termination dates and contract specifications. Some contracts also include the names of other bidding vendors and the bid proposal compiled by the awarded vendor. There is a minimal cost for photocopying contracts.

Allow the Treasury Department to "make a difference for you." For contract information call the office of Contract Information Services TOLL-FREE (in Pennsylvania) at 1-800-252-4700 or (717) 787-4586. Or you may write or visit the office at Room G13, Finance Building, Harrisburg, Pa. 17120.

CATHERINE BAKER KNOLL,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

PR-1503386 Cleaning equipment and supplies—1,800 each; 60" hardwood handles for use with council fire rake (Model LW12H).

Department: Conservation and Natural Resources
Location: Harrisburg, Dauphin County, PA 17105-8552
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1498116 Foods—various amounts; dry baby green lima beans; pinto beans; dry pea beans.

Department: Corrections
Location: Bellefonte, Centre County, PA 16823
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

8132740 Motor vehicles—1 each; used equipment: 1986 or newer model transit bus with less than 269,000 original miles.

Department: Transportation
Location: Harrisburg, Dauphin County, PA 17104
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1424216 Motor vehicles—1 each; 1997 model cutaway cab and chassis with omnibus body.

Department: General Services
Location: Altoona, Blair County, PA 16601
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1422216 Motor vehicles—1 each; 1997 model low profile cab and chassis with 16' van body and tailgate lift.

Department: General Services
Location: Ebensburg, Cambria County, PA 15931
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

1443126 Trucks and construction vehicles—1 each; 1997 model 4x4 crew cab pickup truck.

Department: Labor and Industry
Location: Harrisburg, Dauphin County, PA 17121
Duration: Indeterminate 1996-97
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

SERVICES

Advertising—01

PDA388 The Pennsylvania Department of Agriculture, Bureau of Dog Law, is requesting bids for the Marketing of Dog Licenses in one or more counties in the Commonwealth. The successful bidder will be paid for each dog license sold in excess of the licenses sold in the county or counties in the same period in 1996.

Department: Agriculture
Location: Statewide
Duration: Indeterminate 1996-97
Contact: Michael F. Mesaris, (717) 787-5674

Audio/Video—04

FD-1575 Provide cellular air time service for agency owned cellular phones based in Harrisburg, Selinsgrove, Hamburg, Indiana and Lewistown, PA.

Department: PA Emergency Management Agency
Location: Harrisburg, Selinsgrove, Hamburg, Indiana, Lewistown, PA areas
Duration: 2/1/97 through 6/30/98
Contact: Larry Eslinger, (717) 651-2191

Computer Related Services—08

Consulting Services The Department of Environmental Protection is soliciting proposals from Pennsylvania non-profit organizations, individually or in combination for "Mini-Grants" (\$500—\$10,000) to develop community or organization based projects, in conjunction with National Radon Action Week, October 1997. The purpose is to increase public and professional awareness about the health risks associated with radon exposure, the need for increased testing, and mitigation of such risks, if necessary. Attention to environmental justice issues and areas with the highest reported radon levels and/or areas of the Commonwealth where little or no radon testing has been done is encouraged. Proposals are due by 4:00 p.m., February 21, 1997. For copies of the detailed Request for Proposal and an application form contact Michelle M. Kaufman, Bureau of Radiation Protection, P. O. Box 8469, Rachel Carson State Office Building, 13th Floor, 400 Market Street, Harrisburg, PA 17105-8469, telephone (717) 783-3594.

Department: Environmental Protection
Location: Radiation Protection, 400 Market Street, RCSOB, 13th Floor, P. O. Box 8469, Harrisburg, PA 17105-8469
Duration: Originates December 31, 1997
Contact: Michelle M. Kaufman, (717) 783-3594

Construction and Construction Maintenance—09

080935 Snyder County, SR 11 (38M).

Department: Transportation
Location: District 3
Duration: FY 1996
Contact: V. C. Shah, (717) 787-5914

DGS A 581-48 Project title: Furnish and Install a New 125KW Diesel-Driven Standby Generator at the Boiler Plant. Electrical construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, PA 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Telephone: (717) 787-3923. Bid date: Wednesday, January 15, 1997 at 2:00 p.m.

Department: General Services
Location: White Haven Center, White Haven, Luzerne County, PA
Duration: 150 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 980-23 Project title: Installation of Power Upgrade for Network. Brief description: Install distribution panels, step-down transformers and branch circuit panels. Electrical construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, January 8, 1997 at 2:00 p.m.

Department: General Services
Location: State Museum of PA and Archives Buildings, Harrisburg, Dauphin County, PA
Duration: 90 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A1570-13ADA Project title: ADA Fire Alarm System. Brief description: replace fire alarm components and install new components to convert to an ADA system. Electrical construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, January 8, 1997 at 11:00 a.m.

Department: General Services
Location: State Correctional Institution, Greensburg, Westmoreland County, PA
Duration: 180 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

080936 Greene County, Gray's Fork Bridge (SR 21); Greene County, Transit, Carnegie Bridge; Snyder County, SR 11 (38M).

Department: Transportation
Location: Districts 3-0, 12-0
Duration: FY 1996
Contact: V. C. Shah, (717) 787-5914

Engineering Services and Consultation—14

08430AG2035 To provide for periodic NBIS inspections for 440 locally-owned bridges in Engineering District 5-0, that is, Berks, Carbon, Lehigh, Monroe, Northampton and Schuylkill Counties.

Department: Transportation
Location: Engineering District 5-0
Duration: Forty-eight (48) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2036 To perform environmental studies, preliminary engineering, final design, shop drawings review and consultation during construction for S. R. 0452, Section 03S, Market Street, Marcus Borough and Lower Chichester Township, Delaware County.

Department: Transportation
Location: Engineering District 6-0
Duration: Twenty-four (24) months
Contact: Consultant Agreement Division, (717) 783-9309

Environmental Maintenance Services—15

FM 08799602 Improvements to potable water distribution system by replacing various shut-off valves in this system.

Department: Public Welfare
Location: FOB State Agency, Selinsgrove Center, Box 500, Route 522, Selinsgrove, Snyder County, PA 17870
Duration: February 1, 1997 to June 30, 1997
Contact: Arletta K. Ney, Purchasing Agent, (717) 372-5070

11096014 One service purchase contract is necessary to comply with the minimum soils testing requirements as delineated in Strike-off Letter 4200-87-39 dated June 9, 1987. The contract will provide the labor, equipment and materials necessary to conduct proctor tests, compaction tests (either sand cone or nuclear gage methods), gradation analysis tests and wash tests. The contractor must be able to respond to a test within 24 hours of notification. All tests are to be in accordance with Pub. 19, Field Test Manual.

Department: Transportation
Location: Engineering District 11-0, Various locations within Maintenance District 11-1, Allegheny County, PA
Duration: 03/01/97 through 02/28/98 with renewal options
Contact: Bill Arnold, (412) 429-5061

Financial and Insurance Consulting—17

SWIF-14-96 Actuarial Analysis: Provide an actuarial analysis of the State Worker's Insurance Fund's (SWIF) financial condition for year ending December 31, 1996. The analysis is to address the adequacy of Loss Reserves and Surplus. The actuary will provide an opinion recommending expected loss, LAE, and Loss Ratio for 1997 based on assessment of the loss development expectation from the 1996 financial statements. The actuary is expected to meet with the Department of Labor and Industry and the Department of Insurance during the working stage of the engagement. A peer review and a report is to be completed by an organization independent of the actuary.

Department: Labor and Industry
Location: State Worker's Insurance Fund, 1714 Labor and Industry Building, 7th and Forster Streets, Harrisburg, Dauphin County, PA 17120
Duration: One year with four one-year renewal options
Contact: George D. Bull, Project Manager, (717) 783-2271

PSERS-AUDIT The Public School Employees' Retirement System is seeking a qualified firm to perform an audit of the financial statements of PSERS' Health Option Program (HOP). Experience in auditing health care programs with 40,000 or more participants. The examination must be performed in accordance with generally accepted auditing standards and will include all procedures considered necessary for the rendition of an opinion regarding the financial statements. Contact agency for complete bid package and specifications.

Department: Public School Employees' Retirement System
Location: 5 North 5th Street, Harrisburg, PA 17101
Duration: Indeterminate 1996-97
Contact: Rebecca A. Snead, (717) 720-4607

Food—19

1001 Fish, haddock. Breaded, 4 oz. portions, approximately 400 lbs./month. Unbreaded, 4 oz. portions, approximately 300 lbs./month. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1002 Meats—beef, veal and pork products. Meats to be in accordance with Inspection Meat Products Specs., fresh and frozen as specified. All items to be from Federal Inspected Plants. Approximate lbs./month: Beef bologna—180 lbs.; Lebanon bologna—100 lbs.; beef franks—200 lbs.; beef liver—150 lbs.; sandwich steaks—240 lbs.; beef cubes—170 lbs.; beef sausage—110 lbs.; cube steaks—120 lbs.; ground beef—1000 lbs.; Swiss steak—180 lbs.; round roast—150 lbs.; pork chops—150 lbs.; pork ham—200 lbs.; pork sausage—150 lbs.; salami—100 lbs.; veal steaks—100 lbs. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1003 Chicken and poultry products. Meats to be in accordance with PA Spec. C-94, fresh and frozen, as specified. All items to be from Federal Inspected Plants. Approximate lbs./month: whole turkey—450 lbs.; turkey ham—180 lbs.; chicken legs—350 lbs.; chicken breasts—150 lbs.; chicken nuggets—60 lbs.; turkey roll—50 lbs.; turkey roast—300 lbs.; poultry patties—150 lbs.; turkey pastrami—100 lbs. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1004 Fruits and vegetables. Fruits as per PA Spec. F-46 and vegetables as per PA Spec. V-14. Approximate lbs./month: onions—320 lbs.; cabbage—240 lbs.; cucumbers—240 lbs.; celery—240 lbs.; peppers—200 lbs.; carrots—240 lbs.; lettuce—16 cases; tomatoes—400 lbs.; potatoes—1800 lbs.; bananas—480 lbs.; apples—12 cases; oranges—12 cases; grapefruit—12 cases. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1005 Frozen foods. Approximate lbs./month: broccoli cuts—100 lbs.; cauliflower—50 lbs.; cheese pizza—700 each; waffles—17 cases; Hot Pockets—30 cases; French fries—90 lbs.; frozen eggs—100 lbs.; chicken pies—400 each; frozen strawberries—2 cases; bread dough—2 cases; popsicles—14 boxes. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1006 Bread and rolls. Bread, sliced, white—675 loaves; bread, sliced, wheat—675 loaves; hoagie rolls—300 bags; hamburger rolls—69 bags; hot dog rolls—126 bags. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

1007 Milk, 2%. Milk in accordance with PA Spec. M-18, fresh, Type III, pasteurized and homogenized. Approximately 800 gallons per month. "Or any like item."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

011 Vendor to supply approximately 300,000 lbs. of coffee to be bid quarterly. Coffee to be packaged at the direction of the agency.

Department: Corrections
Location: Correctional Industries, State Correctional Institution, Graterford, PA 19426
Duration: 12-1-96 to 11-30-97
Contact: Joseph P. Kanjorski, (717) 773-2158, ext. 560

012 Vendor to supply approximately 100,000 lbs. of tea to be bid quarterly. Tea to be packaged at the direction of the agency.

Department: Corrections
Location: Correctional Industries, State Correctional Institution, Graterford, PA 19426
Duration: 12-1-96 to 11-30-97
Contact: Joseph P. Kanjorski, (717) 773-2158, ext. 560

1000 Dairy products. Butter, 1 lb. containers, approximately 300 lbs./month; cottage cheese, 5 lb. containers, 150 lbs./month; American cheese, 5 lb. block, approximately 400 lbs./month; ice cream Dixie Cups, 24/box, approximately 40 boxes per month; ice cream sandwiches, 24/box, approximately 40 boxes per month; frozen novelty dessert, (Nuttty Buddy or equal), 24/case, approximately 6 cases per month; eggs, fresh, Class 1, approximately 800 dozen per month. "Or any like items."

Department: Corrections
Location: Quehanna Boot Camp, H-C Box 32, State Route 1011, Karthaus, PA 16845
Duration: January through December 1997
Contact: Carol R. Schaeffer, Purchasing Agent I, (814) 765-0644, ext. 234

PDA387 A meeting will be held on December 16, 1996 at 10:00 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA to discuss with potential bidders a contract to select commercial food distributors to provide food items packaged in household sizes for the Pennsylvania Department of Agriculture and deliver the food items to counties participating in the Commonwealth's State Food Purchase Program. For additional information, please contact Barry Shutt at (717) 787-2940.

Department: Agriculture
Location: Eight Distribution Regions
Duration: Three years beginning July 1, 1997
Contact: Barry Shutt, (717) 787-2940

IFB96-07-05 Bureau of Maternal and Child Health will be holding approximately 80 meetings with approximately 6 to 75 people attending over the time period March 1997 through December 1999. These meetings will require meals served in the Greater Harrisburg Area.

Department: Health
Location: Greater Harrisburg Area
Duration: March 1997 through December 1999
Contact: Susan M. Guy, (717) 787-7192

Heating, Ventilation, Air Conditioning—22

124001 Emergency repair/maintenance of existing electrical system(s) in District 12-4 Washington County and stocking shed areas to include all installations maintained by PennDOT Washington County, PA Department of Transportation.

Department: Transportation
Location: 12-4, 89 Murtland Avenue, P. O. Box 507, Washington, Washington County, PA 15301
Duration: March 1, 1997 to February 28, 1998—Estimated
Contact: Terri M. Schubenski, Purchasing Agent, (412) 223-4489

LH-SER035 Test, evaluate re-calibrate and repair as necessary, various controls and sensing equipment utilized to properly and safely operate Boilerhouse at State Correctional Institution at Laurel Highlands, in an efficient manner. A site visit will be required.

Department: Corrections
Location: State Correctional Institution Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631
Duration: 03/01/97 to 06/30/99
Contact: Richard C. Claycomb, Purchasing Agent II, (814) 443-0347

Janitorial Services—23

028001 Janitorial services at maintenance building located at St. Marys, PA. Contractor to supply necessary supervision and personnel for daily cleaning (Monday through Friday) of 16 areas. Consisting of floors, waste baskets, glass, desks. Restrooms cleaned and sanitized daily. Contractor to supply materials and equipment, the department will supply all paper products, garbage bags and hand soap.

Department: Transportation
Location: 028001, 805 Theresia Street, St. Marys, PA 15857
Duration: 03-01-97 to 02-28-98
Contact: Ronald J. Keim, (814) 465-7754

FM-189 Furnish all labor, equipment and materials to perform services including empty wastebaskets; clean lavatories, sweep floors, machine buff tile floors, vacuum carpets, dust furniture, wash windows inside and outside; general housecleaning twice a year, shampoo carpets, etc. at the Pennsylvania State Police, Mansfield Station, 1745 Valley Road, Mansfield, PA 16933-0230. Detailed bid specifications and bid must be obtained from the Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Mansfield Station, 1745 Valley Road, Mansfield, PA 16933-0230
Duration: 01/01/97 to 06/30/99
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

Laboratory Services—24

IFB 96-07-02 Laboratories approved to perform chlamydia, gonorrhea and syphilis diagnostic testing, plus testing for HIV infection (ELISA and Western blot), DC4+ T-Cell tests and HIV Viral Load tests (HIV-1 RNA PCR quantitative) shall provide laboratory services to approximately 300 provider sites in Pennsylvania. The anticipated number of tests per month is: chlamydia—7,500; gonorrhea—7,500; syphilis—6,000; HIV-ELISA—4,000; HIV CD4+ T-Cell—50 and HIV Viral Load—250. The laboratory shall provide all materials for the service including post-paid mailers. Courier service is desirable, but not necessary. Turn-around time is critical. Certain assurances, including previous testing experience, are required by the Department. Bidders should read the IFB carefully to determine eligibility and successfully compete.

Department: Health
Location: Pennsylvania, primarily outside of Philadelphia, PA
Duration: July 1, 1997 through June 30, 2000
Contact: Richard E. Berman, (610) 363-8500

Lodging/Meeting Facilities—27

SP 331501 Correction of dates for previously advertised meeting facilities, meals, and lodging for approximately 250 people (140 rooms) located within 100 mile radius of Harrisburg. Dates should have been October 7 through 9, 1997; or October 14 through 16, 1997; or October 21 through 23, 1997; or October 28 through 30, 1997. Facility must be available on one of these two dates.

Department: Conservation and Natural Resources
Location: Within a 100 mile radius of downtown Harrisburg, PA
Duration: Dates as stated above
Contact: Janet Wotring, (717) 783-3309

SP 323036 Correction of dates for previously advertised meeting facilities, meals, and lodging for approximately 225 to 250 people (140 rooms) located within 100 mile radius of Harrisburg. Dates should have been September 16 through 18, 1997; or September 23 through 25, 1997. Facility must be available on one of these dates.

Department: Conservation and Natural Resources
Location: Within a 100 mile radius of downtown Harrisburg, PA
Duration: Dates as stated above
Contact: Janet Wotring, (717) 783-3309

Medical Services—29

SC-96-024 Vendor to provide complete radiological coverage for all residents of the NEVC. All services are to be done at the Northeastern Veterans Center with portable x-ray equipment. For complete specifications send a written request to Mr. Joseph Libus c/o Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 1, 1997 through June 30, 2000
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

SC-96-023 To provide respiratory therapy services for residents of the Northeastern Veterans Center on an on-call basis as required. For complete specifications please send a written request to Mr. Joseph Libus c/o Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 1, 1997 through June 30, 2000
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

SC-96-025 To provide psychological and psychiatric services to residents of the Northeastern Veterans Center on an as-needed basis. For complete specifications send a written request to Mr. Joseph Libus c/o Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213.

Department: Military and Veterans Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 1, 1997 through June 30, 2000
Contact: Joseph Libus, Purchasing Agent II, (717) 961-4318

Photography Services—32

SP 322359 Custom photo finishing.

Department: General Services
Location: 333 Market Street, 2nd Floor, Harrisburg, PA 17126-0333
Duration: January 1, 1997—June 30, 1997
Contact: Sandy Geesey, (717) 787-2095

Property Maintenance—33

FM-190 Furnish all labor, materials and equipment for removal of snow, salting and cindering from the driveway and parking areas at the PA State Police, Carlisle Station, 1501 Commerce Avenue, Carlisle, PA 17013. Detailed bid specifications must be obtained from the Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Carlisle Station, 1501 Commerce Avenue, Carlisle, PA 17013
Duration: 01/01/96 to 06/30/98
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

FM-188 Furnish all labor, materials and equipment for removal of snow, salting and cindering from the driveway and parking areas at the PA State Police, Mansfield Station, 1745 Valley Road, Mansfield, PA 16933-0230. Detailed bid specifications must be obtained from the Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Mansfield Station, 1745 Valley Road, Mansfield, PA 16933-0230
Duration: 01/01/97 to 06/30/99
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

Real Estate Services—35

030-0284 Notice is hereby given that the Department of Transportation, pursuant to 71 P.S. § 513(e)(7), intends to sell certain land owned by it located at Route 15 southbound in Old Lycoming Township, Lycoming County, PA. The parcel consists of 5.330 acres of landlocked land. It has been determined that the land is no longer needed for present or future transportation purposes. Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to: Joel K. Hart, PA Department of Transportation, P. O. Box 218, Montoursville, PA 17754.

Department: Transportation
Location: Lycoming County, District 3-0
Duration: 120 days
Contact: Joel K. Hart, (717) 368-4237

S. R. 0033-002 Request proposal to have Real Estate Appraisals of various properties identified on official plans related to the condemnation of right-of-way for the southern extension of Highway S. R. 0033 in Western Lehigh Valley being a cross-connector between S. R. 0022 and I-78. Appraisers submitting bids must be pre-qualified, via PennDOT Pre-Approval List.

Department: Transportation
Location: Right of Way, 2460 Parkwood Drive, Allentown, PA 18103
Duration: 1996/1997
Contact: Kenneth W. Kipp, Chief Appraiser, (610) 791-6010

Miscellaneous—39

11096015 This work consists of complete maintenance and 24 hour staffing of a pair of all-weather safety rest areas on I-79 between exits 30 and 31 in Plain Grove Township, Lawrence County. Services also include landscape maintenance, lawn mowing, weeding and flower bed maintenance, garbage disposal, carpentry and painting to provide a total turn key operation. A performance bond and payment bond are required.

Department: Transportation
Location: Engineering District 11-0, Sites located on I-79, Plain Grove Township, Lawrence County between Exits 30 and 31 N.B. and S.B.
Duration: 04/01/97 through 03/31/98 with a 3 year renewal clause
Contact: Joe DiPietro, (412) 429-4954

Inquiry No. 7398 Interpreter Service.

Department: Public Welfare
Location: Danville State Hospital, Danville, Montour County, PA 17821-0700
Duration: 7/1/97—6/30/99
Contact: Pamela Bauman, Purchasing Agent, (717) 275-7412

[Pa.B. Doc. No. 96-2128. Filed for public inspection December 13, 1996, 9:00 a.m.]

Vehicle, Heavy Equipment and Powered Machinery Services—38

11096013 This work consists of furnishing properly licensed equipment, personnel, liability insurance, performance bond and traffic protection equipment necessary to perform mowing operations in "Southern" Allegheny County. Work includes mowing multi-lane highways 4 times per year and secondary roads (side-mowing) once per year.

Department: Transportation
Location: Engineering District 11-0, Roadsides in "Southern" Allegheny County, Maintenance District 11-1
Duration: 05/01/97 through 04/30/99 with a 2 year renewal clause
Contact: Joe DiPietro, (412) 429-4954

0015635 Repair parts for seasonal repair of two paint machines.

Department: Transportation
Location: Engineering District 0800, 2140 Herr Street, Harrisburg, PA 17103-1699
Duration: January 1, 1997—March 31, 1997
Contact: David L. Fromm, (717) 787-3146

2-0-00229 The Pennsylvania Department of Transportation Maintenance District 0220 Clearfield County, 0230 Clinton County and 0250, 0280 McKean and Elk Counties will be renting one mobile sweeper for each county to perform spring cleanup operations.

Department: Transportation
Location: Various locations within Clearfield, Clinton, McKean and Elk Counties, PA
Duration: April 1, 1997 to March 31, 2000
Contact: Grover C. Beightol, (814) 765-0492

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
1019156-01	12/02/96	Rough Brothers, Inc.	45,685.60
1160386-01	12/02/96	Bull International	28,300.00
1212116-01	12/02/96	Associated Supply Co., Inc.	15,700.00
1281116-01	12/02/96	York Corrugating Co.	28,013.00
1316116-01	12/02/96	United Restaurant Equipment	12,196.80
1331116-01	12/02/96	Linemans Supply, Inc.	11,043.60
1331116-02	12/02/96	Sammmpson Fire Sales, Inc.	10,992.00
5810-03 (Supplement No. 1)	12/03/96	Oracle Corp.	300,000.00

Requisition or Contract #	Awarded On	To	In the Amount Of
5810-03 (Supplement No. 1)	12/03/96	LBMS, Inc.	300,000.00
5810-03 (Supplement No. 1)	12/03/96	Microage	900,000.00
5810-03 (Supplement No. 1)	12/03/96	Microland of Rockville	600,000.00
8206840-01	12/02/96	Marc Fruchter Aviation, Inc.	669,239.20
8503430-01	12/02/96	American Decal and Mfg. Co.	372,270.00
9120-03 (Supplement No. 1)	12/05/96	Energy Sales Company	120,612.96
9120-03 (Supplement No. 1)	12/05/96	UGI Energy Services, Inc.	51,769.14

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 96-2129. Filed for public inspection December 13, 1996, 9:00 a.m.]

NOTICES

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Revisions to Schedule of Fees and Charges for State Recreation Areas

A. Summary

In accordance with the Conservation and Natural Resources Act (71 P.S. § 1340.313) the Department of Conservation and Natural Resources (DCNR or Department) proposed a schedule of fees for State park activities, uses and privileges and published the schedule in the *Pennsylvania Bulletin* on August 24, 1996 for a 60-day comment period. In accordance with 17 Pa. Code § 11.164 (relating to fees) the Department establishes the fee schedule as contained in Section D.

D. Fee Schedule

<i>Fee Title</i>	<i>Units</i>	<i>Resident</i>	<i>Non-resident</i>
Modern Cabins			
Cabin-A—Sleep 7/12—Week	Per Week	362.26	433.96
Cabin-A—Sleep 7/12—Friday-Saturday	Per Night	90.56	108.49
Cabin-A—Sleep 7/12—Sunday-Thursday	Per Night	54.71	65.09
Cabin-A—Sleep 6—Week	Per Week	290.56	350.94
Cabin-A—Sleep 6—Friday-Saturday	Per Night	72.64	87.73
Cabin-A—Sleep 6—Sunday-Thursday	Per Night	43.39	52.83
Rustic Cabins			
Cabin-C—Sleep 2/3—Week	Per Week	116.98	139.62
Cabin-C—Sleep 2/3—Friday-Saturday	Per Night	29.24	34.90
Cabin-C—Sleep 2/3—Sunday-Thursday	Per Night	17.92	20.75
Cabin-C—Sleep 4/5—Week	Per Week	158.49	188.68
Cabin-C—Sleep 4/5—Friday-Saturday	Per Night	39.62	47.17
Cabin-C—Sleep 4/5—Sunday-Thursday	Per Night	23.58	28.30
Cabin-C—Sleep 6/7—Week	Per Week	196.22	233.96
Cabin-C—Sleep 6/7—Friday-Saturday	Per Night	49.06	58.49
Cabin-C—Sleep 6/7—Sunday-Thursday	Per Night	29.24	34.90
Cabin-C—Sleep 8/9—Week	Per Week	233.96	283.02
Cabin-C—Sleep 8/9—Friday-Saturday	Per Night	58.49	70.75
Cabin-C—Sleep 8/9—Sunday-Thursday	Per Night	34.90	42.45
Cabin-C—Sleep 10/11—Week	Per Week	275.47	332.08
Cabin-C—Sleep 10/11—Friday-Saturday	Per Night	68.86	83.02
Cabin-C—Sleep 10/11—Sunday-Thursday	Per Night	42.45	50.00
Rustic Cabins S. B. Elliott			
Cabin-C—Sleep 4/5—S. B. Elliott—Week	Per Week	86.79	105.66
Cabin-C—Sleep 4/5—S. B. Elliott—Fri.-Sat.	Per Night	21.69	26.41
Cabin-C—Sleep 4/5—S. B. Elliott—Sun.-Thru.	Per Night	13.20	16.04
Cabin-C—Sleep 6/7—S. B. Elliott—Week	Per Week	113.20	135.85
Cabin-C—Sleep 6/7—S. B. Elliott—Fri.-Sat.	Per Night	28.30	33.96
Cabin-C—Sleep 6/7—S. B. Elliott—Sun.-Thur.	Per Night	16.98	20.75
Cabin-C—Sleep 8/9—S. B. Elliott—Week	Per Week	139.62	169.81
Cabin-C—Sleep 8/9—S. B. Elliott—Fri.-Sat.	Per Night	34.90	42.45
Cabin-C—Sleep 8/9—S. B. Elliott—Sun.-Thur.	Per Night	20.75	25.47
Camping			
Camping Class A	Per Week	72.00	84.00
Camping Class A—Fri.-Sat.	Per Night	14.00	16.00
Camping Class A—Sun.-Thur.	Per Night	11.00	13.00
Camping Class B	Per Week	58.00	70.00

The revisions to the fee schedule were approved by DCNR's Secretary John Oliver on November 26, 1996.

B. Contact Persons

For further information, DCNR's contact person is Roger Fickes, Director, Bureau of State Parks, Rachel Carson State Office Building, P. O. Box 8551, Harrisburg, PA 17105-8551, telephone number (717) 787-6640. Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800) 654-5988 (voice users).

C. Effective Date

The revised fee schedule will be effective on January 1, 1997, after publication as a notice in the *Pennsylvania Bulletin*.

JOHN C. OLIVER,
Secretary

<i>Fee Title</i>	<i>Units</i>	<i>Resident</i>	<i>Non-resident</i>
Camping Class B—Fri.-Sat.	Per Night	11.00	13.00
Camping Class B—Sun.-Thur.	Per Night	9.00	11.00
Camping With Electricity >30 amp	Per Night Additional	3.00	3.00
Camping With Electricity <=30 amp	Per Night Additional	2.00	2.00
Camping Shelter Provided			
Camping Class C Sleep 2 Hut	Per Week	116.00	134.00
Camping Class C Sleep 2 Hut—Fri.-Sat.	Per Night	20.00	23.00
Camping Class C Sleep 2 Hut—Sun.-Thur.	Per Night	19.00	22.00
Camping Class C Sleep 4 Hut	Per Week	126.00	152.00
Camping Class C Sleep 4 Hut—Fri.-Sat.	Per Night	23.00	26.00
Camping Class C Sleep 4 Hut—Sun.-Thur.	Per Night	20.00	25.00
Camping Class C Walled Tent	Per Week	144.00	170.00
Camping Class C Walled Tent—Fri.-Sat.	Per Night	26.00	29.00
Camping Class C Walled Tent—Sun.-Thur.	Per Night	23.00	28.00
Camping Class C Yurt	Per Week	162.00	188.00
Camping Class C Yurt—Fri.-Sat.	Per Night	29.00	32.00
Camping Class C Yurt—Sun.-Thur.	Per Night	26.00	31.00
Camping Miscellaneous			
Camping Backpack Laurel Ridge and Oil Creek	Per Site Per Night Per Person	3.00	4.00
Camping Backpack Laurel Ridge and Oil Creek	Maximum Per Night Per Group	8.00	9.00
Camping Extra Vehicle	Per Night	3.00	3.00
Camping Reduction	Per Night	3.00	3.00
For Senior Citizen 62 and/or Persons With Disabilities			
Camping Unit Storage	Per Day	2.50	2.50
Camping Unit Storage	Per Week	8.00	9.00
Camping Equestrian	Per Night	15.00	19.00
Camper Dump Station	Per Use for Non Registered Campers	8.00	9.00
Group Tenting and Group Camps			
Class A Group Tent Area	Capacity <=20 Per Night	25.00	35.00
	Capacity 21 to 40 Per Night	35.00	45.00
	Capacity 41 to 60 Per Night	45.00	55.00
	Capacity 61 and Over Per Night	55.00	65.00
	Trailer In Group Area Per Night	14.00	17.00
Class B Group Tent Area	Capacity <=20 Per Night	20.00	30.00
	Capacity 21 to 40 Per Night	30.00	40.00
	Capacity 41 to 60 Per Night	40.00	50.00
	Capacity 61 and Over Per Night	50.00	60.00
	Trailer in Group Area Per Night	11.00	14.00
Organized Group Camps Capacity <=50 Persons	Per Night Minimum Without Utilities	60.00	95.00
Organized Group Camps Capacity 51 to 125 Persons	Per Night Minimum Without Utilities	75.00	115.00
Org. Group Camps Capacity 126 Persons and Greater	Per Night Minimum Without Utilities	90.00	135.00
Marina Costs Neshaminy			
Cost Per Foot of Boat	Per Season 1997 Only	42.00	84.00
Cost Per Foot of Boat	Per Season Starting in 1998	50.00	100.00
Cost Per Foot of Boat	Per Day	0.50	1.00
Marina Costs Presque Isle			
Cost Per Foot of Stall	Per Season Without Utilities	33.00	66.00
Cost Per Foot of Stall	Per Day	0.45	0.90
Cost Per Foot of Stall	Per Season With Utilities	37.00	74.00
Cost For Bascomb	Per Season	315.00	630.00
Cost For Cradle Summer Storage	Per Season	35.00	70.00
Cost For Travel Lift	Per Lift Per Foot	4.00	8.00
Winter Boat Storage Per Foot Includes Lift	Per Season	14.00	28.00
Marina Costs M. K. Goddard			
"A" Docks	Per Foot Per Season	17.00	25.00
"B" Docks	Per Foot Per Season	15.00	23.00
"C" Docks	Per Foot Per Season	10.00	18.00

NOTICES

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<i>Fee Title</i>	<i>Units</i>	<i>Resident</i>	<i>Non-resident</i>
Marina Costs Moraine			
Fingerless Dock	Per Foot of Boat Per Season	21.00	28.00
Regular Finger Dock	Per Foot of Boat Per Season	23.00	30.00
Large Finger Dock	Per Foot of Boat Per Season	26.00	33.00
Off Shore Mooring	Per Foot of Boat Per Season	16.00	23.00
Dry Mooring	Per Season	130.00	150.00
Rack Spaces	Per Season	58.00	70.00
Regular Winter Storage	Per Season	130.00	150.00
Rack Winter Storage	Per Season	58.00	70.00
Dock Space	Per Foot of Boat Per Day	0.45	0.65
Offshore Mooring	Per Foot of Boat Per Day	0.20	0.40
All Other State Park Marinas			
Cost Per Foot	Per Season	19.00	30.00
Daily Transient	Per Foot Per Day	0.30	0.50
Daily Transient Nockamixon 16 Feet and Greater	Per Foot Per Day	0.45	0.75
Mooring Offshore Pymatuning	Per Season	45.00	45.00
Other Boating			
All Marina Waiting Lists	Per List	10.00	10.00
Mooring <=7' Shoreline	Per Season	35.00 to 80.00	40.00 to 100.00
Mooring <=7' Shoreline	Per Day \$5.00 Minimum	2.00	3.00
Mooring >7' Shoreline	Per Season	70.00 to 150.00	80.00 to 200.00
Mooring >7' Shoreline	Per Day \$5.00 Minimum	4.00	5.00
Boat Docks—Private	Per Season	40.00	50.00
Boat Launching Permit	Per Season	10.00	15.00
Boat Winter Storage	Per Season	110.00	120.00
Boating Canoe Racks	Per Season	50.00	55.00
Boating Dry Storage	Per Season	110.00	115.00
Boating Whitewater	Per Reservation	2.50	2.50
Boating Whitewater	Season Pass	15.00	15.00
Miscellaneous			
Abandoned Property	Base Charge	30.00	30.00
Abandoned Property	Per Day Above Base	5.00	5.00
Firewood Permit	Per Cord	10.00	10.00
Non Overnight Shower Unmetered	Per Person	2.00	2.00
Non Overnight Shower Metered	Per Person	0.50	0.50
Meeting Room	Per Day Per Group	75.00	85.00
Classroom	Per Day Per Group	50.00	55.00
Raccoon Creek	Rec. Hall Per Day	110.00	120.00
Ridley Creek	Classroom Per Day	175.00	200.00
Picnic Pavilions and Groves			
Pavilion-A With Electric	Min. + \$10./500 sq. ft. per day	50.00	70.00
Pavilion-B No Electric	Min. + \$10./500 sq. ft. per day	45.00	60.00
\$20 discount for pavilion rentals for Monday to Fridays—Summer holidays excluded			
Picnic Groves	Min. + \$15. for Every 10 Tables Above the Initial 10 Tables	35.00	50.00
State Operated Swimming Pools			
Swimming Pools Park Operated	User Per Day	1.75 to 3.50	1.75 to 3.50
Swimming Pools Park Operated	Senior Citizen	1.50 to 2.50	1.50 to 2.50
Swimming Pools Park Operated	After 4 PM Daily	1.00 to 2.00	1.00 to 2.00
Swimming Pools Park Operated	Children Under 38" Free	0.00	0.00
Swimming Pools Park Operated	Book Of 20 Tickets	25.00 to 35.00	25.00 to 40.00
Swimming Pools Park Operated	Season Pass Adult	50.00	55.00
Swimming Pools Park Operated	Season Pass Under 12 Years Old	30.00	35.00
Swimming Pools Park Operated	Season Pass Senior Citizen	35.00	45.00
Swimming Pools Park Operated	Yearly Family Pass	135.00	150.00
Swimming Pools Park Operated	Group 15 Or More People	1.50 to 2.00	1.50 to 2.00
Swimming Pools Park Operated	Park Camper Or Cabin	1.00 to 2.00	1.00 to 2.00
Swimming Pools Park Operated	Occupant W/Receipt		
Swimming Pools Park Operated	Non-Swimming Adult Free	0.00	0.00

[Pa.B. Doc. No. 96-2130. Filed for public inspection December 13, 1996, 9:00 a.m.]