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PENNSYLVANIA BULLETIN

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Agencies in this issue:

The General Assembly
The Courts
Department of Banking
Department of Community and Economic
Development
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Revenue
Department of Transportation
Health Care Cost Containment Council
Independent Regulatory Review Commission
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Office of General Counsel
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Turnpike Commission

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

No. 301, December 1999

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*.

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE GENERAL ASSEMBLY

Recent Actions During the 1999 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 1999 Regular Session.

1999 ACTS—ACTS 48 through 56 (numerical)

<i>Act No.</i>	<i>Enact. Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Effective Date</i>	<i>Subject Matter</i>
1999-48	Nov. 23	HB8	PN2625	Immediately*	Public School Code of 1949—omnibus amendments
1999-49	Nov. 24	HB115	PN2679	Immediately*	General Local Government Code (53 Pa.C.S.)—municipal police education and training and municipal ordinances application limitation
1999-50	Nov. 24	HB518	PN2626	60 days	Domestic Relations Code (23 Pa.C.S.)—county agency protective services for high risk abused children
1999-51	Nov. 24	HB1981	PN2628	Immediately	Pennsylvania Election Code—election district alteration and data reporting and year 2000 primary election date
1999-52	Nov. 24	SB405	PN1384	90 days	Medical Consent Act—enactment
1999-53	Nov. 24	SB504	PN1489	Immediately	Highway-Railroad and Highway Bridge Capital Budget Supplemental Act for 2000—enactment
1999-54	Nov. 24	SB670	PN1502	Immediately	Prescribed Pediatric Extended Care Centers Act—enactment
1999-55	Nov. 24	SB798	PN1482	60 days	Controlled Substance, Drug, Device and Cosmetic Act, The—controlled substance schedules and penalties
1999-56	Nov. 24	SB983	PN1488	Immediately	Conveyance—Commonwealth properties in Mercer, Dauphin and Venango counties

* With exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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CARL L. MEASE,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 99-2080. Filed for public inspection December 10, 1999, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

[231 PA. CODE CH. 71]

Amendment of Rules 203 and 204 of the Pennsylvania Bar Admission Rules; No. 231; Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 23rd day of November, 1999, Rules 203 and 204 of the Pennsylvania Bar Admission Rules are amended to read as follows.

To the extent that notice of proposed rule-making would be required by Pennsylvania Rule of Judicial Administration No. 103 or otherwise, the immediate amendment of Pa. B.A.R. 203 and 204 is hereby found to be required in the interest of justice and efficient administration.

This Order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter B. ADMISSION TO THE BAR GENERALLY

Rule 203. Admission of Graduates of Accredited and Unaccredited Institutions.

(a) *Bar examination.* The general requirements for permission to sit for the bar examination are:

* * * * *

Service under subparagraphs (i), (ii) and (iii) may be combined to satisfy the five year service requirement of this subparagraph.

(3) Presentation of a certificate of good standing from the highest court or the agency having jurisdiction over admission to the bar and the practice of law in every state or jurisdiction in which the applicant has been admitted to practice law, stating that the applicant is in good professional standing at the bar of such court or state. An applicant who is disbarred or suspended for disciplinary reasons from the practice of law in another jurisdiction at the time of filing an application for permission to sit for the bar exam shall not be eligible to sit for the bar exam.

* * * * *

Rule 204. Admission of Domestic Attorneys.

As an alternative to satisfying the requirements of Rule 203 (relating to admission of graduates of accredited and unaccredited institutions), an attorney of another state

may be admitted to the bar of this Commonwealth if the applicant has completed the study of law at and received without exception an earned Bachelor of Laws or Juris Doctor degree from an accredited law school, is a member of the bar of a reciprocal state at the time of filing of the application for admission to the bar of this Commonwealth, and meets the following qualifications:

(1) Presentation of a certificate **of good standing** from the highest court or **the agency [of such state]** having jurisdiction over admission to the bar and the practice of law **in every state or jurisdiction in which the applicant has been admitted to practice law**, stating that the applicant is in good **professional** standing at the bar of such court or such state. **An applicant who is disbarred or suspended for disciplinary reasons from the practice of law in another jurisdiction at the time of filing an application for admission to the bar shall not be eligible for admission to the bar of this Commonwealth.**

* * * * *

[Pa.B. Doc. No. 99-2081. Filed for public inspection December 10, 1999, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 33]

Notice of Adoption of Formal Opinion 99-1, Formal Opinion 99-2, and Formal Opinion 99-3

Notice is hereby given that the Ethics Committee of the Pennsylvania Conference of State Trial Judges has adopted its Formal Opinion 99-1, Formal Opinion 99-2, and Formal Opinion 99-3, which are set forth as follows.

HOWLAND W. ABRAMSON,

Chairman

Ethics Committee

Pennsylvania Conference of State Trial Judges

FORMAL OPINION 99-1

Campaign Advertising

The Code of Judicial Conduct provides that a candidate for judicial office, including an incumbent judge, should maintain the dignity appropriate to judicial office (Canon 7). Campaign advertising must, therefore, be dignified and appropriate to judicial office. The electorate is best served by advertising which accurately showcases the candidate's credentials. The ads should not pander to the electorate. The candidate must take particular care that the ad does not in any way suggest that he or she will favor any particular group of litigants or make decisions on any basis other than the facts and the law.

A campaign ad may compare a candidate's credentials to those of other candidates for the same office. However, Canon 7 provides that a candidate should not misrepresent his qualifications or any other fact. A candidate must be scrupulously careful that what the ads say about the candidate's opponents is accurate. Once again, the ads

must be dignified. Vituperative personal attacks against one's opponents are *per se* undignified.

The Ethics Committee will not approve or disapprove any particular campaign ad. Moreover, if a candidate seeks and obtains advice from the Committee regarding campaign advertising, the candidate may not claim that the Committee's advice constitutes an endorsement or approval of a particular campaign ad.

A candidate is responsible for any ads published by his or her campaign committee. A candidate should not permit others nor suggest to others that they publish ads which contravene the constraints of the Canons.

- Canon 7 does not specifically proscribe "negative advertising." While in some limited circumstances negative advertising may be appropriate, given the nature of political ads, the Committee strongly discourages negative ads. Given the time limits of television and radio ads (10 and 30 second spots), it is very difficult to say something negative about one's opponent which is not misleading.¹

- An ad should not paint an attorney with the reputation of his or her clients.

- An ad which either directly or by innuendo refers to the ethnic background of one's opponent is improper.

- To suggest that one's opponent favors one gender over another simply because he or she is of the opposite gender of the candidate being promoted by an ad would be a totally baseless falsification. If, on the other hand, a candidate acted in a manner which truly indicated gender bias, that fact would be fair comment.

- An ad can be accurate, but it can also be misleading. An ad which is factually accurate, but is intended to mislead the electorate by giving a false impression about one's opponent violates Canon 7. Once again, the electorate is best served by ads which showcase a candidate's credentials and seek the support of the electorate on the basis of those credentials.

In summary, Canon 7 provides that:

A candidate . . . should maintain the dignity appropriate to judicial office . . . [and] should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; announce his views on disputed legal or political issues; or misrepresent his identity, qualifications, present position, or other fact . . .

The principal parameters of campaign advertising are accuracy and dignity.

At the end of the Code of Judicial Conduct is a section entitled "Reliance on Advisory Opinions" which provides that although the advisory opinions of the Judicial Ethics Committee are not binding upon the [Judicial Conduct Board and the Court of Judicial Discipline] and the Supreme Court of Pennsylvania, the opinions shall be taken into account in determining whether discipline should be recommended or imposed. The "rule of reliance" applies to this Formal Opinion. However, before engaging in contemplated conduct, any judge who, out of an abundance of caution, desires a Committee opinion which will provide advice about the judge's particular set of facts and to which the "rule of reliance" will also apply,

¹One could, for instance, say of a sitting judge, "Judge X freed three accused murderers." Though such a statement might be accurate, it might also be misrepresentation by innuendo. If, for instance, Judge X freed the accused murderers because either the judge or the jury acquitted the accused, then the effect of the ad would be to vilify someone for doing what was totally proper. The clear implication of the ad is that the judge treated murderers leniently, which is misleading.

may submit an inquiry to a member of the Committee, ordinarily, a member serving in the judge's Conference zone.

FORMAL OPINION 99-2

Reporting Suspected Tax Evasion

What, if any, is the responsibility of a trial judge to report suspected tax evasion to the appropriate tax authority?

This question was asked of the Committee by the administrative judge of a large metropolitan family court on behalf of the judges of that court. Recognizing the statewide implications of the inquiry, the Committee has decided to issue a formal opinion in this matter.

The Code of Judicial Conduct does not mandate reports of suspected tax evasion to tax authorities. The only mandatory reporting provision in the Code provides that:

A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

Clearly, this provision of the Canons does not apply to suspected tax evasion or fraud. The court is not an agent of the tax authorities.

In cases of obvious and egregious fraud, a judge should consider the possibility that his or her failure to report the fraud may undermine confidence in the integrity of the judiciary.

Canon 2 provides that:

A judge should respect . . . the law and should conduct himself at all times in a manner that promotes public confidence in the integrity . . . of the judiciary.

The decision as to whether and when a case rises to such a level must be made by the judge on a case-by-case basis.

If a judge makes a decision to report such facts to the appropriate tax authority, it is the recommendation of the Committee that the judge do simply that—report the facts without judgment.

At the end of the Code of Judicial Conduct is a section entitled "Reliance on Advisory Opinions" which provides that although the advisory opinions of the Judicial Ethics Committee are not binding upon the [Judicial Conduct Board and the Court of Judicial Discipline] and the Supreme Court of Pennsylvania, the opinions shall be taken into account in determining whether discipline should be recommended or imposed. The "rule of reliance" applies to this Formal Opinion. However, before engaging in contemplated conduct, any judge who, out of an abundance of caution, desires a Committee opinion which will provide advice about the judge's particular set of facts and to which the "rule of reliance" will also apply, may submit an inquiry to a member of the Committee, ordinarily, a member serving in the judge's Conference zone.

FORMAL OPINION 99-3

Judges and the Media

A judge should not comment publicly about a proceeding pending before any court. Canon 3 provides, in pertinent part:

A judge should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to his direction and control. This subsection

does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

Commentary. "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by DR 7-107 of the Code of Professional Responsibility.

The Committee notes that Pennsylvania's prohibition against public comment about pending proceedings is more restrictive than the Model Code of Judicial Conduct adopted by the American Bar Association in 1990. The Model Code provides as follows:

A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing (emphasis added).

The Committee suggests that the impact/fairness test of the Model Code is a good guide for deciding when a judge may make public statements in the course of his or her duties or explain the procedures of the court as permitted by Pennsylvania's Code. If there is a danger that the statement may affect the outcome of a proceeding, the judge must refrain from public comment.

Canon 3 also provides very extensive and detailed regulations with regard to the relationship between the court and the electronic media.

A judge should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions . . .

The Canon then goes on to outline certain circumstances in which electronic broadcasting is permitted in "trial court non-jury civil proceedings." The Canon specifically excludes support, custody and divorce proceedings from his section.

A judge must be particularly circumspect with regard to criminal matters. Rule 326 of the Rules of Criminal Procedure provides specific guidelines to be followed in widely publicized or sensational cases. Rule 327 places specific limitations on court personnel. Finally, Rule 328 places very specific limitations on photography and broadcasting in the courtroom and its environs:

The taking of photographs in the courtroom or its environs or radio or television broadcasting from the courtroom or its environs during the progress of or in connection with any judicial proceedings, whether or not the court is actually in session, is prohibited. The environs of the courtroom is defined as the area immediately surrounding the entrances and exits to the courtroom.

This rule is not intended to prohibit the taking of photographs or radio or television broadcasting of proceedings such as naturalization ceremonies or the swearing in of public officials which may be conducted in the courtroom.

Once again, while the rules carefully circumscribe the coverage of matters pending before the court, they do not completely prohibit contact with the media. Canon 3 specifically permits public discussion of the work of the court. If, for instance, the court is establishing a new program, a judge may, in the course of his or her responsibilities, properly discuss the new program with

the media, as long as the judge is careful to refrain from comment on any pending matter.

At the end of the Code of Judicial Conduct is a section entitled "Reliance on Advisory Opinions" which provides that although the advisory opinions of the Judicial Ethics Committee are not binding upon the [Judicial Conduct Board and the Court of Judicial Discipline] and the Supreme Court of Pennsylvania, the opinions shall be taken into account in determining whether discipline should be recommended or imposed. The "rule of reliance" applies to this Formal Opinion. However, before engaging in contemplated conduct, any judge who, out of an abundance of caution, desires a Committee opinion which will provide advice about the judge's particular set of facts and to which the "rule of reliance" will also apply, may submit an inquiry to a member of the Committee, ordinarily, a member serving in the judge's Conference zone.

[Pa.B. Doc. No. 99-2082. Filed for public inspection December 10, 1999, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

President Judge General Court Regulation No. 99-03; Amendment of Phila.R.Civ.P.No. 2561

Order

And Now, this 24th day of November, 1999, the Board of Judges of Philadelphia County having voted at the Board of Judges' Meeting held November 18, 1999 to amend Phila.R.Civ.P.No. 1028(B), *It is Hereby Ordered and Decreed* that Phila.R.Civ.P.No.1028(B) is amended as follows.

This General Court Regulation is promulgated in accordance with Pa.Civ.P.No. 239 and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. 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, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Supreme Court's Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Library and the Law Library for the First Judicial District.

ALEX BONAVITACOLA,
President Judge

Amendment to Philadelphia Rule of Civil Procedure No.
1028 (B) :

Rule 1028. Preliminary Objections.

* * * * *

(B) In the event that the preliminary objections are not filed with Motion Court within thirty (30) days after filing with the Prothonotary, the party against whom the objections are asserted may file with the Motion Court a praecipe, [**accompanied by current docket entries**]

and a proposed order, requesting that the objections be overruled. . . .

* * * * *

[Pa.B. Doc. No. 99-2083. Filed for public inspection December 10, 1999, 9:00 a.m.]

Title 25—LOCAL COURT RULES

ERIE COUNTY

Revision and Restatement of Rules of Civil Procedure

Order

And Now, this 22nd day of November, 1999, the following revisions and additions to the Rules designated as the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania, are hereby approved, adopted and promulgated as the Rules of Court. These changes, revisions and deletions shall become effective thirty days after the publication of the same in the *Pennsylvania Bulletin*, and they shall apply to all actions pending at the time.

MICHAEL M. PALMISANO,
Acting President Judge

Rule 212.1. Pre-Trial Procedure.

(a) *Scope.* This Rule shall encompass all civil actions, except actions where jurisdiction lies in the Family/Orphans Court Division.

(b) *Case Management Orders (CMO)*

1. *Case Management Orders—General*

(a) At the time of judicial assignment, the Office of Court Administration shall issue a CMO designating dates for the close of discovery, the filing of pre-trial statements, and a proposed trial term.

(b) At any time prior to judicial assignment, the parties may agree to the entry of a CMO by filing a stipulation with the Office of Court Administration and the Prothonotary.

(c) Following the entry of the CMO, any request for modification shall be done by motion filed with the Prothonotary and mailing or delivering a copy to the assigned judge.

2. *Case Management Orders—Time Limitations*

(a) All CMO's, except those requested by stipulation, which are issued by the Office of Court Administration, shall provide the following time limitations:

(i) Close of discovery within two hundred forty (240) days of the issuance of the CMO.

(ii) Plaintiff's pre-trial statement filed within thirty (30) days of the close of discovery.

(iii) Defendant's pre-trial statement filed within sixty (60) days of the close of discovery.

(iv) Proposed trial term within one hundred twenty (120) days of the discovery, or as close thereto as the availability of trial terms may allow.

(b) If a case has been accepted by the Court as "complex," all CMO's shall designate dates consistent with the following time limitations:

(i) Close of discovery is five hundred forty (540) days from the issuance of the CMO.

(ii) Plaintiff's pre-trial statement filed within forty five (45) days of the close of discovery.

(iii) Defendant's pre-trial statement filed within ninety (90) days of the close of discovery.

(iv) The proposed trial term within one hundred eighty (180) days of close of discovery, or as close thereto as the availability of trial terms may allow.

(c) If a case has been accepted by the Court as "expedited," all CMO's shall designate dates consistent with the following time limitations:

(i) Close of discovery is ninety (90) days from the issuance of the CMO.

(ii) Plaintiff's pre-trial statement filed within fifteen (15) days of the close of discovery.

(iii) Defendant's pre-trial statement filed within thirty (30) days of the close of discovery.

(iv) The proposed trial term within ninety (90) days of close of discovery, or as close thereto as the availability of trial terms may allow.

(d) A party may request that a case be designated as complex or expedited by the filing of a stipulation or motion.

(e) All cases where the amount in controversy is within the limits for mandatory arbitration shall be designated as "expedited" cases and CMO's issued accordingly.

(c) *Settlement Conference.* A party may request that the assigned judge conduct a settlement conference at any time after the filing of the last responsive pleading.

(d) *Trial Depositions*

1. All depositions for use at Trial shall be completed no later than 10 days preceeding the beginning of the trial term for which the case is listed.

2. All objections to trial deposition testimony shall be provided to the court no later than 2 days prior to the day of trial.

(e) *Motions in Limine.* All motions in limine, including motions to resolve objections to depositions to be used at trial, must be presented to the Court no later than ten (10) days preceding the beginning of the trial term in which the case is listed.

(f) *Certification For Trial*

1. These certification procedures apply to all civil jury and non-jury cases.

2. In order to have a case assigned to a particular trial term, all counsel or parties must certify the case as ready for trial by filing with the Prothonotary and serving upon the Court Administrator a certification in substantially the form contained herein and designated "Certification I."

3. If a party has failed to comply with the timetables established in the CMO or has failed to sign a Certification I after being requested to do so in writing, a party wishing to place the case on the trial list must file a certification in substantially the same form contained herein and designated "Certification II."

4. A Certification I or II indicating readiness for trial shall be filed with the Office of Court Administration and the Prothonotary no later than sixty (60) days prior to the beginning of the proposed trial term.

5. All "Certification II's" shall be forwarded to the assigned judge for disposition.

Rule 212.2. Pre-Trial Statements.

(a) In addition to the requirements set forth at Pa.R.C.P. 212.2, all Pre-Trial Statements shall contain:

- 1. A list of any unusual legal issues.
- 2. Where appropriate, authorization to other parties to examine pertinent records unless earlier provided.
- 3. For any party asserting a claim for damages, the method of calculation and how damages will be proven.
- 4. For any party defending a claim for damages, any defenses to the damage claims.

5. *Filing Procedure.* The original Pre-Trial Statements are to be filed in the Prothonotary's Office. No copy shall be forwarded to the assigned judge.

Rule 212.3. Pre-Trial Conference.

(a) Upon the completion of the trial list, the assigned judge shall schedule a pre-trial conference. Attendance at the conference is mandatory for all counsel, and all persons needed to authorize or approve settlement shall be present or available by telephone.

(b) In cases proceeding to trial without a jury, a pre-trial conference shall be scheduled at the discretion of the assigned judge or upon request of a party.

(c) At pre-trial conference, in addition to the matters included in Pa.R.C.P. 212.3(b), the Judge:

- 1. Shall explore, with counsel and the parties, the possibility of settlement.
- 2. May decide all remaining motions and requests for relief.

Rule 212.4. Trial Lists and Continuances.

1. After the deadline for certification has passed, the Office of Court Administration, in coordination with the assigned judge, shall list all certified cases for trial.

2. When a case is listed for trial, it shall not be continued except for just cause. Except in the case of exigent circumstances, all motions for continuance must be made at least ten (10) days before the start of the trial in non-jury cases. All motions for continuance must include the reasons for the request and must be presented to the assigned judge.

3. Motions for continuance which are being made with the agreement of all counsel must be signed by all counsel or parties.

FORMS

CERTIFICATION I

We the undersigned, counsel for the parties in the above case, hereby certify that:

- 1. The above action is ready for trial;
- 2. All outstanding motions have been resolved;
- 3. All pre-trial statements are filed;
- 4. Counsel have met and discussed settlement of this matter.

Plaintiff's attorney (date)

Defendant's attorney (date)

Additional Defendant's attorney (date)

CERTIFICATION II

- 1. The undersigned requests that the case be placed on the Trial List for the _____ (month) term.
- 2. A case management order was entered providing for a proposed trial term of _____ (month) .
- 3. A request to file a Certification I has been made of all parties.
- 4. All parties have agreed to file a Certification I except:

5. The case is otherwise ready for trial.

Signature (Counsel or Party)

Date

[Pa.B. Doc. No. 99-2084. Filed for public inspection December 10, 1999, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION
[25 PA. CODE CH. 121]

Corrective Amendment to 25 Pa. Code § 121.1

The Department of Environmental Protection (Department) has discovered a discrepancy between the agency text of 25 Pa. Code § 121.1 (relating to definitions) as deposited with the Legislative Reference Bureau and as published at 29 Pa.B. 1879 (April 10, 1999) and in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 295) and as currently appearing in the *Pennsylvania Code*. The definition of "minor operating permit modification" was inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 121.1. The corrective amendment to 25 Pa. Code § 121.1 is effective as of April 10, 1999, the date the defective text was printed in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 121.1 appears in Annex A, with ellipses referring to the existing text of the regulation.

JAMES M. SEIF,
Secretary

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

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

Minor operating permit modification—A change to incorporate de minimis conditions and other insignificant physical changes to a source or applicable requirements into an existing permit or a change that does not require plan approval but which contravenes an express permit term. The term does not include the following:

(i) A change to permit terms or conditions that the source is violating.

(ii) A change to existing monitoring, reporting or recordkeeping requirements in the permit except as follows:

(A) A change in the enforceable operating level of the method that, prior to the source's submission of a minor permit revision application, the Department has affirmatively determined the source has demonstrated to be correlated to the source's existing or proposed compliance emissions rate. The changes may not involve a switch to a new or alternative monitoring or recordkeeping operating parameter.

(B) A change to a monitoring or recordkeeping method that affects the measurement sensitivity of the method and representativeness of the data (for example, precision, accuracy, measurement location or averaging time), so that there may be a measurable effect in relation to the relevant source compliance emissions rate; a change that affects the scope and intent of the existing monitoring method (for example, modified sample conditioning system, upgraded detector, upgraded data management system); or changes that may be generally applicable to similar monitoring methods in the same or other source categories (for example, equipment modification for interference avoidance). The changes may not involve a switch to new or alternative monitoring methods. Prior to the source's submission of a minor permit revision application, the Department must have affirmatively determined that the monitoring or recordkeeping change has been demonstrated by the source to have a known relationship and ability to determine compliance with the applicable source compliance emissions rate.

(iii) A change that is a modification under Title I of the Clean Air Act.

(iv) A change subject to Title IV of the Clean Air Act.

(v) A change that exceeds the emissions allowable under the permit, whether expressed as a rate of emissions or in terms of total emissions.

(vi) Any other change precluded by the Clean Air Act or the regulations adopted thereunder as being eligible for processing as a minor permit modification.

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

* * * * *

[Pa.B. Doc. No. 99-2085. Filed for public inspection December 10, 1999, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 3040]

Subsidized Child Day Care Eligibility

The Department of Public Welfare (Department) by this order adopts amendments to Chapter 3040 (relating to subsidized child care eligibility), under the authority of Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703), the act of December 16, 1997 (P. L. 549, No. 58) (Act 58) and Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193), known as the Child Care and Development Block Grant (CCDBG) (42 U.S.C.A. §§ 9858—9858q).

Purpose of Amendments

These amendments will change certain sections of Chapter 3040 relating both to income limits for low-income families who receive child care subsidy and to the weekly co-payment schedule. These amendments also apply to subsidized child care recipients who are receiving Temporary Assistance for Needy Families (TANF) benefits. The changes will provide increased access to subsidized child care for low-income working families and include refinements to the Department's subsidized child care program. Proposed rulemaking is omitted because the amendments relate to Commonwealth grants and benefits (45 P. S. § 1204 (1)(iv)). In addition, proposed rulemaking is omitted as unnecessary and contrary to public interest because these changes increase benefits to many families who are eligible for the subsidized child care program and make additional families eligible beginning February 1, 2000. By omitting proposed rulemaking, families will receive the benefits much sooner and families with income between 186% and 235% of the Federal Poverty Income Guidelines (FPIG) will not lose their child care subsidy beginning February 1, 2000. See (45 P. S. § 1204(3)).

Background

The current regulations for subsidized child care are codified in Chapters 165 and 168 (relating to employment and training program; and transitional child care) and Chapter 3040 and became effective February 1, 1999. Chapters 165 and 168 establish eligibility criteria for child care benefits for families who are receiving cash assistance benefits under the TANF program. Chapter 3040 establishes eligibility criteria for families who formerly received cash assistance and for other low-income working families.

When the current regulations were adopted, the Department made a commitment to monitor the impact of the regulations on TANF families, former TANF families and other low-income working families. The Department tracked, through monthly reports from the Child Care Information Services (CCIS) agencies, the number of children enrolled in subsidized care, the number of children on the waiting list, the length of time families were on the waiting list for subsidized child care, the number of families who left the subsidized child care program and the number of families on the waiting list who did not enroll in the subsidized child care program because of the co-payment amounts. The Department also received comments from parents, providers, advocates and legislators regarding the impact of the current regulations.

From the monitoring results, the Department determined that the enrollment of children into the subsidized

child care program greatly increased since February 1999; and the waiting list was substantially reduced both in terms of time families waited for subsidy and the number of families on the waiting list for any length of time. The results indicated that nearly 95% of the children on the waiting list prior to February 1999 were enrolled into service; the time families spent waiting for subsidized child care dropped from an average of 6 to 8 months to an average of a few weeks at most; less than 2% of families on the waiting list refused subsidized child care because of the co-payment amount; and the number of families leaving the subsidized child care program since February 1999 increased approximately 1% over the previous year.

However, the comments from parents and other individuals identified three major areas in the current regulations that created difficulties for some families: the income limit (185% of the FPIG) for receiving subsidized child care after February 1, 2000; the amount of the weekly co-payment generally; and the amount of the co-payment specifically for parents with only one child who is school-age and needs only part-time before- and after-school care.

There were suggestions that the Department return to the co-payment schedule and the income limit of 235% of the FPIG for initial eligibility for subsidized child care that were in place prior to February 1, 1999. While the Department did not see a large number of families leave the subsidized child care program, there was a concern that families whose income exceeded 185% of the FPIG as of February 1, 2000, who under the current regulation would lose subsidy, would be at risk of not being able to handle the full cost of child care. The Department determined that to return to the income limits for initial eligibility that were in place prior to February 1, 1999, without a comparable waiting list priority system would either mean an increase in the budget of \$110 million per year or would necessitate extensive cuts in availability of a child care subsidy for low-income families below 185% of the FPIG. The Department determined that it could continue eligibility for subsidy to families whose income did not exceed 235% of the FPIG to remain in the subsidized child care program and pay an increased co-payment without jeopardizing the pace of enrollment into the subsidized child care program, service for the families already receiving subsidy, or the length of time that families wait for subsidized child care.

Additionally, the Department determined that it should also revise the co-payment schedule to reflect the higher income limit. In doing that, the Department also made a decision to lower the maximum percentage of annual gross income that a family would be required to pay from 14.5% at 185% of the FPIG to 13.5% at 235% of the FPIG. As a result, the weekly co-payment for about one-third of those families with annual income below 200% of the FPIG will be reduced by \$5 to \$10 per week. These decreases take place in many of the income ranges below 200% of the FPIG, including some below 100% of the FPIG. The majority of the decreases are for families within the income ranges of 170% to 200% of the FPIG. The families in these income ranges had some of the largest co-payment increases when the current co-payment schedule became effective February 1, 1999.

On October 1, 1999, the Department administratively implemented the co-payment reduction for those families whose co-payments will be less under the new regulations than under the current regulations. The Department also administratively implemented the provision that families

with only one school-age child needing before- and after-school care pay one-half the weekly co-payment. That was effective March 1, 1999.

Purpose of the Amendments

The Department determined that there are adequate resources to increase the income limits for families to remain eligible for subsidized child care and adjust the co-payment schedule to reflect the higher income limits. The purpose of amending the regulations is to expand the eligibility limit for families continuing to receive subsidized child care from 185% to 235% of the FPIG; to revise the co-payment schedule to achieve more uniform increments in co-payments for families as income increases; to cap the co-payment for families whose income does not exceed 235% of the FPIG at 13.5% of their annual income; and to allow families who have only one child needing part-time before- and after-school care to pay one-half the weekly co-payment.

Summary of Changes

There are three changes in the new and revised regulations: 1) an increase in the income limit for families receiving subsidized child care; 2) a revised co-payment schedule that reflects the higher income limit and a reduction from 14.5% to 13.5% as the highest amount of a family's annual gross income to be used for the family's co-payment; and 3) a provision that a family with only one child receiving part-time before- and after-school care pay one-half of the weekly co-payment. Following is a discussion of the changes. The description of the one-half weekly co-payment for a child in school is included with the discussion on co-payment.

Changes to Income Limit

Current Regulations—A family whose annual income is at or below 185% of the FPIG can apply for and receive subsidized child care. Once enrolled in subsidized child care, families whose annual income is between 186% and 235% of the FPIG can continue to receive subsidized child care until February 1, 2000. Under the current regulations, these families will lose their child care subsidy effective February 1, 2000. The income limit for eligibility for entry into the subsidized child care program remains at 185% of the FPIG.

New Regulations—In § 3040.27, the Department is deleting the grandfathering provision which indicates that a family who is enrolled in the subsidized child care program prior to February 1, 1999, and whose income exceeds 185% of the FPIG and is not greater than 235% of the FPIG continues to receive subsidized child care until February 1, 2000. The Department is revising § 3040.32(f) to provide that a family that applies for subsidized child care is ineligible if the family's gross annual income exceeds 185% of the FPIG. The Department is adding a new subsection (g) to § 3040.32 to indicate that when a family is receiving subsidized child care and its gross annual income exceeds 235% of the FPIG, that family is ineligible for subsidized child care.

The Department has determined that after February 1, 2000, as a family's income increases beyond 185% of the FPIG and up to 235% of the FPIG, the family could benefit from a continuation of a child care subsidy. There are 4,000 children who currently would benefit from this change. If these regulations are not adopted, subsidy for these children will be terminated effective February 1, 2000. Continuing to receive subsidized child care eases a family's transition to paying for the full cost of child care once subsidy ends. Without a continued subsidy, many families may experience a financial difficulty in paying

the full cost of child care once their income is greater than 185% of the FPIG, and may risk losing their child care services.

Copayments

Current Regulations—The current regulations include a co-payment schedule in which a family's weekly co-payment is a family fee based on income and family size regardless of the number of children needing subsidized care. Under this co-payment schedule, the family's annual co-payment does not exceed 10% of the family's annual income when the family's income does not exceed 100% of the FPIG, and does not exceed 14.5% of the family's annual income when the family's income does not exceed 185% of the FPIG. Families whose income is more than 185% of the FPIG and not more than 235% of the FPIG and who were "grandfathered" until February 1, 2000, are paying the same co-payment as families whose income is 185% of the FPIG. Consequently, families with incomes from 185% to 235% of the FPIG pay a lower percentage of their income for child care than some families with incomes at 185% of the FPIG. Also, there is no provision in the current regulation for families with only one child who is enrolled in school to pay one-half of the weekly co-payment when that child is receiving only part-time, before- and after-school care.

New Regulations—In § 3040.63, the Department is revising the co-payment schedule to accommodate families enrolled in the subsidized child care program whose income increases up to 235% of the FPIG.

Under the revised co-payment schedule, the Department retains the principle that a family's weekly co-payment is based on income and family size, regardless of the number of children needing subsidized child care.

The revised co-payment schedule provides for increases in the weekly co-payment of \$5 as the family's annual income increases into a higher income range. Each co-payment amount of \$5 is applicable to income ranges set at intervals of \$1,650. By using an income range set at intervals of \$1,650 for each co-payment level, minor fluctuations in income will not result in a change of co-payment for a family, unless the change puts them in a new income range. The income ranges allow a family's income to fluctuate up or down without a resulting co-payment change.

In subsection (a)(3), the Department is revising this paragraph to provide that the family's annual co-payment may not exceed 13.5% of the family's annual income when the annual income does not exceed 235% of the FPIG.

In other changes to § 3040.63, the Department is:

- Adding a provision that the family's annual co-payment may not exceed 10% of the family's annual income when the annual income does not exceed 100% of the FPIG.
- Adding a provision that if the family's annual income exceeds 235% of the FPIG during any time the family is receiving subsidized child care, the family will no longer be eligible for subsidized child care.
- Adding a provision that if the family's annual income does not exceed 185% of the FPIG at the time of initial determination of eligibility and does not exceed 235% of the FPIG during the time the family is receiving subsidized child care, the family is income-eligible.
- Revising the co-payment schedule in Appendix B, which reflects family size, income limits and weekly co-payment amounts.

- Adding a provision to allow a family that has only one child who is enrolled in school, including kindergarten, and who receives a total of fewer than 5 hours daily of before- or after-school, or both, child care to pay one-half the weekly co-payment found in Appendix B.

The Department is revising the co-payment schedule at Appendix B to accommodate families whose income increases to 235% of the FPIG and reducing the percentage of a family's income that is required to meet the family's weekly co-payment responsibility.

Some families with income between 200% and 235% of the FPIG who otherwise would have become ineligible for subsidized child care on February 1, 2000, when the "grandfather" clause expires, will continue to receive a subsidy but will pay a higher co-payment than families with income at 185% of the FPIG. The amount of the increased weekly co-payment for these families is far less than the actual weekly cost of child care these families would have to pay if their subsidy were terminated effective February 1, 2000. This increased co-payment is proportional to increases in co-payments that other families receiving subsidy experience as their income increases. The revised co-payment schedule also includes the co-payment amounts for some families whose income is between 170% and 185% of the FPIG which are lower than reflected in the previously published co-payment schedule in Appendix B.

In addition, the Department is changing the co-payment schedule to reflect more equal, progressive increments in co-payments as a family's income increases. An additional revision is the method for determining the co-payment. The Department is deleting the formula used to determine the co-payment amount in current § 3040.63(d)(2). The complex formula resulted in anomalies when the annual FPIG changed in 1999. The revision to the regulations enables the Department to revise the co-payment schedule to reflect the annual FPIG changes and results in co-payments that are increased in \$5 intervals when a family's annual income increases by \$1,650. The Department will issue appropriate revisions to the co-payment schedule annually when the FPIG is revised.

Under the current regulation, a family with only one school-age child needing part-time before- and after-school care had to pay a full weekly co-payment that often was a greater amount than the weekly cost of child care, leaving the family ineligible for a subsidy. Many of these families expressed concern about the lack of alternatives for care of their children during these periods. The Department recognized that these families might leave their children unattended before and after school and could benefit from subsidized child care.

Fiscal Impact

Public Sector

Commonwealth—The Department will realize an increase in costs to the subsidized child care program of \$7 million on an annual basis because of the revisions to the current co-payment schedule. The Department will provide the additional funds to offset the increase in costs to assure there are adequate resources to continue services to children receiving subsidy and to assure that no children are terminated from subsidy because of lack of available funds.

Political Subdivisions—Local governments will not have increased costs due to these final-form regulations.

Private Sector

Approximately 4,000 children whose family income falls between 185% and 235% of the FPIG who were receiving subsidized child care and who otherwise would have lost subsidy effective February 1, 2000, will continue to remain in the subsidized child care program after February 1, 2000. All families whose income is below 185% of the FPIG can apply for subsidy and are eligible to continue to receive subsidy until their income reaches 235% of the FPIG, assuming they meet all other eligibility factors. It is estimated that there will be 2,500 to 3,000 families that will be affected by this change annually and that will remain eligible when their family income ranges from 186% to 235% of the FPIG. In addition, nearly 23,000 families will realize a decrease in their weekly co-payment amounts based on the new co-payment schedule.

General Public

There will be a benefit to the general public. Families are able to remain eligible for subsidized child care until their income reaches 235% of the FPIG. Remaining in subsidized child care will help families remain self-sufficient because they have adequate child care supports to continue employment. Some families with incomes below 185% of the FPIG will have lower weekly co-payment amounts than under the current regulations. Also, families with only one child attending school and needing part-time before- and after-school care will pay one-half the weekly co-payment.

Paperwork Requirements

The eligibility agents, the CCIS agencies in each county, will experience a time-limited increase in paperwork because they will need to complete eligibility redeterminations and determine a co-payment amount for families receiving subsidized child care whose income falls between 185% and 235% of the FPIG after February 1, 2000.

Effective Date

The final-omitted regulations are effective February 1, 2000.

Sunset Date

No sunset date applies to these final-omitted regulations.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 13, 1999, the Department submitted a copy of these final-omitted regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Health and Human Services and the House Committee on Aging and Youth. On the same date, the final-omitted regulations were submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5.1(d) and (e) of the Regulatory Review Act, these final-omitted regulations were deemed approved by the Committees on November 2, 1999. The final-form regulations were approved by IRRC on November 4, 1999.

Contact Person

The contact person for these final-omitted regulations is Kathryn J. Holod, Director, Bureau of Child Day Care Services, Bertolino Building, 4th Floor, Harrisburg, PA 17102, (717) 787-8691.

Findings

The Department finds that:

(1) Public notice of intention to adopt the administrative regulations by this order is omitted because the regulations relate to Commonwealth grants and benefits and is unnecessary and contrary to public interest under section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1204(1)(iv) and (3)) and the regulations thereunder, 1 Pa. Code § 7.4(1)(iv) and (3).

(2) The adoption of these final-omitted regulations in the manner provided in this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

Order

The Department, acting under the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 3040, are amended by amending §§ 3040.32, 3040.63 and Appendix B and deleting § 3040.27 to read as set forth in Annex A.

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

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

(d) This order shall take effect February 1, 2000.

FEATHER O. HOUSTON,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 5963 (November 20, 1999).)

Fiscal Note: 14-464; (1) General Fund;

<i>Day Care Program (State Funds)</i>	<i>Cash Grants Program (State Funds)</i>
(2) Implementing Year 1999-00 is \$2.992 million	\$2.258 million
(3) 1st Succeeding Year 2000-01 is \$4 million	\$3 million
2nd Succeeding Year 2001-02 is \$4 million	\$3 million
3rd Succeeding Year 2002-03 is \$4 million	\$3 million
4th Succeeding Year 2003-04 is \$4 million	\$3 million
5th Succeeding Year 2004-05 is \$4 million	\$3 million
(4) 1998-99 Program—\$57.545 million	\$259.688 million
1997-98 Program—\$47.717 million	\$323.388 million
1996-97 Program—\$48.309 million	\$523.236 million

(7) Day Care Program and Cash Grants Program; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

Subpart B. ELIGIBILITY FOR SUBSIDY

**CHAPTER 3040. SUBSIDIZED CHILD CARE
ELIGIBILITY**

§ 3040.27. (Reserved).

§ 3040.32. Financial eligibility.

(a) The parent/caretaker shall provide paystubs indicating gross earned income for any 4 consecutive weeks within the most recent 6-week period for employed family members.

(b) Family members unable to provide paystubs because of exceptional employment circumstances shall provide documentation of earned income as follows:

(1) If paystubs are not available at the time of application because the employed family member has not been employed for 4 weeks, written documentation of anticipated gross earned income from the employer is sufficient evidence of earnings. The documentation is satisfactory until, but not after, the family member is employed for 8 consecutive weeks, at which time the family member shall present the paystubs.

(2) If income is received in cash, written employer documentation of gross earned income for 4 consecutive weeks within the most recent 6-week period is sufficient documentation.

(c) The eligibility agent shall require, and the parent/caretaker shall provide, documentation of all unearned family income unless specifically excluded in Appendix A, Part III (relating to income exclusions). See Appendix A, Part I (relating to income inclusions) which lists the unearned income included when computing the adjusted monthly income.

(d) The parent/caretaker shall seek all available income listed in Appendix A, Part I, except cash assistance.

(e) The parent/caretaker shall document all income deductions listed in Appendix A, Part II (relating to income deductions).

(f) The family is ineligible for child care subsidy at initial determination of eligibility if the annual family income exceeds 185% of FPIG.

(g) The family is ineligible for child care subsidy at redetermination if the annual family income exceeds 235% of FPIG.

§ 3040.63. Calculating a co-payment.

(a) The determination of a family co-payment considers the following:

(1) The family size and income.

(2) The co-payment may not be less than \$5.

(3) The family's annual co-payment may not exceed 13.5% of the family's annual income.

(4) If the family's annual income is 100% of FPIG or less, the annual co-payment may not exceed 10% of the family's annual income.

(b) The eligibility agent shall determine a family's adjusted monthly income as follows:

(1) Determine the gross monthly income by using documentation of 4 consecutive weeks of income from employment within the most recent 6-week period. Include other sources of income in Appendix A, Part I (relating to sources of earned or unearned income to be included). Following is the conversion method to determine gross monthly income:

<i>Frequency of income</i>	<i>Conversion method</i>
Daily	Multiply the daily income by the number of work-days in a week, then multiply by 4.3

<i>Frequency of income</i>	<i>Conversion method</i>
Weekly	Multiply by 4.3
Biweekly (every 2 weeks)	Divide by 2, then multiply by 4.3
Semimonthly (twice a month)	Multiply by 2 for monthly gross income.
Monthly	Use the figure given.
Quarterly	Divide by 3.
Annually	Divide by 12.
Lump sum income	Divide by 12.

family exceeds 185% of the FPIG or if at redetermination the annual income for the family exceeds 235% of the FPIG, the family is not eligible for subsidized child care.

(d) If the annual income for the family does not exceed 185% of the FPIG at initial determination of eligibility or does not exceed 235% of the FPIG at redetermination and the family is otherwise eligible, the eligibility agent shall determine the co-payment by using the co-payment chart in Appendix B. The co-payment as set forth in Appendix B is calculated in \$5 increments for each \$1,650 of annual income.

(2) Determine the amount of the monthly income deductions listed in Appendix A, Part II.

(3) Determine the adjusted monthly income by subtracting the total monthly deductions from the total gross monthly income.

(4) Convert the adjusted monthly income to annual income by multiplying the adjusted monthly income by 12.

(e) If a family has only one child who is enrolled in school, including kindergarten, and who receives a total of fewer than 5 hours daily of before- or after-school child care, the family shall pay one-half the weekly amount derived from the chart in Appendix B.

(f) If the co-payment is equal to or exceeds the weekly reimbursement rate for care or if the Department's weekly payment to the provider would be less than \$5, the family is not eligible for child care subsidy with that provider.

(c) If at initial application, the annual income for the

**Appendix B
CO-PAYMENT CHART
FAMILY CO-PAYMENT SCALE
(BASED ON THE 1999 FEDERAL POVERTY INCOME GUIDELINES)**

Weekly Co-pay	Family Size: 1		Family Size: 2		Family Size: 3	
	Annual Income		Annual Income		Annual Income	
\$5	Less than:	\$6,590	Less than:	\$7,760.00	Less than:	\$8,930
\$10	\$6,590.01	\$8,240	\$7,760.01	\$9,410.00	\$8,930.01	\$10,580
\$15	\$8,240.01	\$9,890	\$9,410.01	\$11,060.00	\$10,580.01	\$12,230
\$20	\$9,890.01	\$11,540	\$11,060.01	\$12,710.00	\$12,230.01	\$13,880
\$25	\$11,540.01	\$13,190	\$12,710.01	\$14,360.00	\$13,880.01	\$15,530
\$30	\$13,190.01	\$14,840	\$14,360.01	\$16,010.00	\$15,530.01	\$17,180
\$35	\$14,840.01	\$16,490	\$16,010.01	\$17,660.00	\$17,180.01	\$18,830
\$40	\$16,490.01	\$18,140	\$17,660.01	\$19,310.00	\$18,830.01	\$20,480
\$45	\$18,140.01	\$19,364	\$19,310.01	\$20,960.00	\$20,480.01	\$22,130
\$50			\$20,960.01	\$22,610.00	\$22,130.01	\$23,780
\$55			\$22,610.01	\$24,260.00	\$23,780.01	\$25,430
\$60			\$24,260.01	\$25,910.00	\$25,430.01	\$27,080
\$65			\$25,910.01	\$25,991.00	\$27,080.01	\$28,730
\$70					\$28,730.01	\$30,380
\$75					\$30,380.01	\$32,030
\$75					\$32,030.01	\$32,618
	185% FPIG	\$15,244.00	185% FPIG	\$20,461.00	185% FPIG	\$25,678.00

Weekly Co-pay	Family Size: 4		Family Size: 5		Family Size: 6	
	Annual Income		Annual Income		Annual Income	
\$5	Less than:	\$10,100	Less than:	\$11,270	Less than:	\$12,440
\$10	\$10,100.01	\$11,750	\$11,270.01	\$12,920	\$12,440.01	\$14,090
\$15	\$11,750.01	\$13,400	\$12,920.01	\$14,570	\$14,090.01	\$15,740
\$20	\$13,400.01	\$15,050	\$14,570.01	\$16,220	\$15,740.01	\$17,390
\$25	\$15,050.01	\$16,700	\$16,220.01	\$17,870	\$17,390.01	\$19,040
\$30	\$16,700.01	\$18,350	\$17,870.01	\$19,520	\$19,040.01	\$20,690
\$35	\$18,350.01	\$20,000	\$19,520.01	\$21,170	\$20,690.01	\$22,340
\$40	\$20,000.01	\$21,650	\$21,170.01	\$22,820	\$22,340.01	\$23,990

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\$45	\$21,650.01	\$23,300	\$22,820.01	\$24,470	\$23,990.01	\$25,640
\$50	\$23,300.01	\$24,950	\$24,470.01	\$26,120	\$25,640.01	\$27,290
\$55	\$24,950.01	\$26,600	\$26,120.01	\$27,770	\$27,290.01	\$28,940
\$60	\$26,600.01	\$28,250	\$27,770.01	\$29,420	\$28,940.01	\$30,590
\$65	\$28,250.01	\$29,900	\$29,420.01	\$31,070	\$30,590.01	\$32,240
\$70	\$29,900.01	\$31,550	\$31,070.01	\$32,720	\$32,240.01	\$33,890
\$75	\$31,550.01	\$33,200	\$32,720.01	\$34,370	\$33,890.01	\$35,540
\$80	\$33,200.01	\$34,850	\$34,370.01	\$36,020	\$35,540.01	\$37,190
\$85	\$34,850.01	\$36,500	\$36,020.01	\$37,670	\$37,190.01	\$38,840
\$90	\$36,500.01	\$38,150	\$37,670.01	\$39,320	\$38,840.01	\$40,490
\$95	\$38,150.01	\$39,245	\$39,320.01	\$40,970	\$40,490.01	\$42,140
\$100			\$40,970.01	\$42,620	\$42,140.01	\$43,790
\$105			\$42,620.01	\$44,270	\$43,790.01	\$45,440
\$110			\$44,270.01	\$45,872	\$45,440.01	\$47,090
\$115					\$47,090.01	\$48,740
\$120					\$48,740.01	\$50,390
\$125					\$50,390.01	\$52,040
\$130					\$52,040.01	\$52,499
	185% FPIG	\$30,895.00	185% FPIG	\$36,112.00	185% FPIG	\$41,329.00

Weekly Co-pay	Family Size: 7		Family Size: 8		Family Size: 9	
	Annual Income		Annual Income		Annual Income	
\$5	Less than:	\$11,960	Less than:	\$13,130	Less than:	\$14,300
\$10	\$11,960.01	\$13,610	\$13,130.01	\$14,780	\$14,300.01	\$15,950
\$15	\$13,610.01	\$15,260	\$14,780.01	\$16,430	\$15,950.01	\$17,600
\$20	\$15,260.01	\$16,910	\$16,430.01	\$18,080	\$17,600.01	\$19,250
\$25	\$16,910.01	\$18,560	\$18,080.01	\$19,730	\$19,250.01	\$20,900
\$30	\$18,560.01	\$20,210	\$19,730.01	\$21,380	\$20,900.01	\$22,550
\$35	\$20,210.01	\$21,860	\$21,380.01	\$23,030	\$22,550.01	\$24,200
\$40	\$21,860.01	\$23,510	\$23,030.01	\$24,680	\$24,200.01	\$25,850
\$45	\$23,510.01	\$25,160	\$24,680.01	\$26,330	\$25,850.01	\$27,500
\$50	\$25,160.01	\$26,810	\$26,330.01	\$27,980	\$27,500.01	\$29,150
\$55	\$26,810.01	\$28,460	\$27,980.01	\$29,630	\$29,150.01	\$30,800
\$60	\$28,460.01	\$30,110	\$29,630.01	\$31,280	\$30,800.01	\$32,450
\$65	\$30,110.01	\$31,760	\$31,280.01	\$32,930	\$32,450.01	\$34,100
\$70	\$31,760.01	\$33,410	\$32,930.01	\$34,580	\$34,100.01	\$35,750
\$75	\$33,410.01	\$35,060	\$34,580.01	\$36,230	\$35,750.01	\$37,400
\$80	\$35,060.01	\$36,710	\$36,230.01	\$37,880	\$37,400.01	\$39,050
\$85	\$36,710.01	\$38,360	\$37,880.01	\$39,530	\$39,050.01	\$40,700
\$90	\$38,360.01	\$40,010	\$39,530.01	\$41,180	\$40,700.01	\$42,350
\$95	\$40,010.01	\$41,660	\$41,180.01	\$42,830	\$42,350.01	\$44,000
\$100	\$41,660.01	\$43,310	\$42,830.01	\$44,480	\$44,000.01	\$45,650
\$105	\$43,310.01	\$44,960	\$44,480.01	\$46,130	\$45,650.01	\$47,300
\$110	\$44,960.01	\$46,610	\$46,130.01	\$47,780	\$47,300.01	\$48,950
\$115	\$46,610.01	\$48,260	\$47,780.01	\$49,430	\$48,950.01	\$50,600
\$120	\$48,260.01	\$49,910	\$49,430.01	\$51,080	\$50,600.01	\$52,250
\$125	\$49,910.01	\$51,560	\$51,080.01	\$52,730	\$52,250.01	\$53,900
\$130	\$51,560.01	\$53,210	\$52,730.01	\$54,380	\$53,900.01	\$55,550
\$135	\$53,210.01	\$54,860	\$54,380.01	\$56,030	\$55,550.01	\$57,200
\$140	\$54,860.01	\$56,510	\$56,030.01	\$57,680	\$57,200.01	\$58,850

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\$145	\$56,510.01	\$58,160	\$57,680.01	\$59,330	\$58,850.01	\$60,500
\$150	\$58,160.01	\$59,126	\$59,330.01	\$60,980	\$60,500.01	\$62,150
\$155			\$60,980.01	\$62,630	\$62,150.01	\$63,800
\$160			\$62,630.01	\$64,280	\$63,800.01	\$65,450
\$165			\$64,280.01	\$65,753	\$65,450.01	\$67,100
\$170					\$67,100.01	\$68,750
\$175					\$68,750.01	\$70,400
\$180					\$70,400.01	\$72,050
\$185					\$72,050.01	\$72,380
	185% FPIG	\$46,546.00	185% FPIG	\$51,763.00	185% FPIG	\$56,980.00

Weekly Co-pay	Family Size: 10		Family Size: 11		Family Size: 12	
	Less than:	Annual Income	Less than:	Annual Income	Less than:	Annual Income
\$5	Less than:	\$15,470.00	Less than:	\$16,640	Less than:	\$17,810
\$10	\$15,470.01	\$17,120.00	\$16,640.01	\$18,290	\$17,810.01	\$19,460
\$15	\$17,120.01	\$18,770.00	\$18,290.01	\$19,940	\$19,460.01	\$21,110
\$20	\$18,770.01	\$20,420.00	\$19,940.01	\$21,590	\$21,110.01	\$22,760
\$25	\$20,420.01	\$22,070.00	\$21,590.01	\$23,240	\$22,760.01	\$24,410
\$30	\$22,070.01	\$23,720.00	\$23,240.01	\$24,890	\$24,410.01	\$26,060
\$35	\$23,720.01	\$25,370.00	\$24,890.01	\$26,540	\$26,060.01	\$27,710
\$40	\$25,370.01	\$27,020.00	\$26,540.01	\$28,190	\$27,710.01	\$29,360
\$45	\$27,020.01	\$28,670.00	\$28,190.01	\$29,840	\$29,360.01	\$31,010
\$50	\$28,670.01	\$30,320.00	\$29,840.01	\$31,490	\$31,010.01	\$32,660
\$55	\$30,320.01	\$31,970.00	\$31,490.01	\$33,140	\$32,660.01	\$34,310
\$60	\$31,970.01	\$33,620.00	\$33,140.01	\$34,790	\$34,310.01	\$35,960
\$65	\$33,620.01	\$35,270.00	\$34,790.01	\$36,440	\$35,960.01	\$37,610
\$70	\$35,270.01	\$36,920.00	\$36,440.01	\$38,090	\$37,610.01	\$39,260
\$75	\$36,920.01	\$38,570.00	\$38,090.01	\$39,740	\$39,260.01	\$40,910
\$80	\$38,570.01	\$40,220.00	\$39,740.01	\$41,390	\$40,910.01	\$42,560
\$85	\$40,220.01	\$41,870.00	\$41,390.01	\$43,040	\$42,560.01	\$44,210
\$90	\$41,870.01	\$43,520.00	\$43,040.01	\$44,690	\$44,210.01	\$45,860
\$95	\$43,520.01	\$45,170.00	\$44,690.01	\$46,340	\$45,860.01	\$47,510
\$100	\$45,170.01	\$46,820.00	\$46,340.01	\$47,990	\$47,510.01	\$49,160
\$105	\$46,820.01	\$48,470.00	\$47,990.01	\$49,640	\$49,160.01	\$50,810
\$110	\$48,470.01	\$50,120.00	\$49,640.01	\$51,290	\$50,810.01	\$52,460
\$115	\$50,120.01	\$51,770.00	\$51,290.01	\$52,940	\$52,460.01	\$54,110
\$120	\$51,770.01	\$53,420.00	\$52,940.01	\$54,590	\$54,110.01	\$55,760
\$125	\$53,420.01	\$55,070.00	\$54,590.01	\$56,240	\$55,760.01	\$57,410
\$130	\$55,070.01	\$56,720.00	\$56,240.01	\$57,890	\$57,410.01	\$59,060
\$135	\$56,720.01	\$58,370.00	\$57,890.01	\$59,540	\$59,060.01	\$60,710
\$140	\$58,370.01	\$60,020.00	\$59,540.01	\$61,190	\$60,710.01	\$62,360
\$145	\$60,020.01	\$61,670.00	\$61,190.01	\$62,840	\$62,360.01	\$64,010
\$150	\$61,670.01	\$63,320.00	\$62,840.01	\$64,490	\$64,010.01	\$65,660
\$155	\$63,320.01	\$64,970.00	\$64,490.01	\$66,140	\$65,660.01	\$67,310
\$160	\$64,970.01	\$66,620.00	\$66,140.01	\$67,790	\$67,310.01	\$68,960
\$165	\$66,620.01	\$68,270.00	\$67,790.01	\$69,440	\$68,960.01	\$70,610
\$170	\$68,270.01	\$69,920.00	\$69,440.01	\$71,090	\$70,610.01	\$72,260
\$175	\$69,920.01	\$71,570.00	\$71,090.01	\$72,740	\$72,260.01	\$73,910
\$180	\$71,570.01	\$73,220.00	\$72,740.01	\$74,390	\$73,910.01	\$75,560
\$185	\$73,220.01	\$74,870.00	\$74,390.01	\$76,040	\$75,560.01	\$77,210

\$190	\$74,870.01	\$76,520.00	\$76,040.01	\$77,690	\$77,210.01	\$78,860	
\$195	\$76,520.01	\$78,170.00	\$77,690.01	\$79,340	\$78,860.01	\$80,510	
\$200	\$78,170.01	\$79,007.00	\$79,340.01	\$80,990	\$80,510.01	\$82,160	
\$205			\$80,990.01	\$82,640	\$82,160.01	\$83,810	
\$210			\$82,640.01	\$84,290	\$83,810.01	\$85,460	
\$215			\$84,290.01	\$85,634	\$85,460.01	\$87,110	
\$220					\$87,110.01	\$88,760	
\$225					\$88,760.01	\$90,410	
\$230					\$90,410.01	\$92,060	
\$235					\$92,060.01	\$92,261	
185% FPIG		\$62,197.00	185% FPIG		\$67,414.00	185% FPIG	\$72,631.00

[Pa.B. Doc. No. 99-2086. Filed for public inspection December 10, 1999, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CHS. 101, 103, 109, 113, 117, 121 AND 155]

Personal Income Tax; Definitions; Net Profits and Regulated Investment Companies

The Department of Revenue (Department), under the authority contained in sections 354, 408 and 603 of the Tax Reform Code of 1971 (TRC) (72 P. S. §§ 7354, 7408 and 7603), by this order amends §§ 101.1, 101.6, 103.12, 109.3—109.5, 109.7, 109.8, 113.1, 117.15, 121.10, 121.11, 121.14 and 155.30.

Purpose of the Amendments

The amendments will bring existing regulatory provisions into conformity with the laws of this Commonwealth and make them consistent with current Federal requirements. It will also provide a concise and nontechnical definition of “income” and “net profits” that will help business owners, investors, tax practitioners and regulated investment companies properly classify and compute their income, losses and deductions.

Explanation of Regulatory Requirements

Section 101.1 (relating to definitions) is amended by replacing the existing definitions of “employee” and “employer” with new definitions consistent with section 301(g) and (h) of the TRC (72 P. S. § 7301(g) and (h)). In addition, definitions for “casual employee” and “casual employer” have been added. The addition of the definitions of “casual employee” and “casual employer” required amendments to §§ 101.6(a), (c)(7) and (d); 109.3; 109.4; 109.5(c)(2)(i); 109.7; 109.8; 117.15(h); 121.10(c)(6); 121.11(b) and the deletion of § 121.14.

The definition of “income” is expanded to implement section 602(f)(2)(A) of the TRC (72 P. S. § 7602(f)(2)(A)) and to reflect the holdings of the Commonwealth Court in *Morgan v. Commonwealth*, 400 A.2d 1384 (Pa. Cmwlth. 1979) and *Wettach v. Commonwealth*, 620 A.2d 730 (Pa. Cmwlth. 1993). The revisions provide that the term “income” includes income received by a taxpayer directly or through partnerships, associations, Pennsylvania S Corporations or estates or trusts. The revisions also specify that:

(1) The taxable income of a partnership or Pennsylvania S Corporation is to be computed in the same way and on the same basis as the taxable income of an individual.

(2) The taxable income of an individual is the total of the eight classes of income enumerated and classified in section 303 of the TRC (72 P. S. § 7303), each class computed without setoff between or among any other class and, unless a net taxable class, without deductions.

Section 103.12 (relating to net profits) is amended to reflect the holdings in *Morgan and Wettach*.

Section 113.1 (relating to employers required to withhold tax) is amended to bring it into conformity with section 301 of the TRC.

The definition of “Personal Income Tax income” in § 155.30(b)(4) (relating to regulated investment companies) is amended to provide that the term means income computed in the same manner and on the same basis as the income of an individual under Article V (relating to Personal Income Tax).

Affected Parties

Regulated investment companies that are subject to the Capital Stock/Foreign Franchise Tax and business owners, investors and tax practitioners may be affected by these amendments.

Comment and Response Summary

Notice of proposed rulemaking was published at 27 Pa.B. 4436 (August 30, 1997). This proposal is being adopted with changes as set forth in Annex A.

The Department received one comment from the public during the public comment period. The Department also received comments from the Independent Regulatory Review Commission (IRRC). No comments were received from the House and Senate Finance Committees.

Amendments to the proposed rulemaking in response to comments are as follows:

(1) In its comments, IRRC stated that it believed the proposed definitions for “employee” and “employer” were more expansive than the statutory definitions and could include instances when an employer is not required to withhold Federal Income Tax. IRRC recommended that the Department delete the proposed definitions and adopt the statutory definitions. The Department recognizes IRRC’s concern with the proposed definitions and has adopted the statutory definitions of “employee” and “employer” in § 101.1.

However, it must also be recognized that not every individual who performs services for another individual or an entity and earns taxable compensation therefor does so as an “individual from whose wages an employer is

required under the Internal Revenue code to withhold Federal income tax." For example, remuneration paid for domestic service in a private home is excluded from the definition of "wages" in section 3401(a)(3) of the Internal Revenue Code (IRC) (26 U.S.C.A. § 3401(a)(3)); and, as a consequence, no individual who only earns compensation for these services can be such an individual. Also, for example, certain sales persons are excluded from the definition of "employee" in section 3508 of the IRC (26 U.S.C.A. § 3508) and, as a consequence, also cannot be such an individual.

It is the Department's position that an item of remuneration received for services is taxable as compensation whether or not the services were rendered as, or the item is received by, an "employee." That is why "compensation" has always been defined so it "includes" (and is thus not limited to) "items of remuneration received by an employee." See 61 Pa. Code §§ 101.6(a) and 101.8(e) (relating to compensation; and income from sources within this Commonwealth).

To resolve this issue, the Department has added a definition of "casual employe" and "casual employer" to § 101.1 and has inserted the terms in the following sections: 101.6(a), (c)(7) and (d); 109.3; 109.4; 109.5(c)(2)(i); 109.7; 109.8; 117.15(h); 121.10(c)(6); 121.11(b). Section 121.14 was deleted because the section is obsolete.

(2) In response to IRRC's request that the Department consider amending § 113.1 (relating to employers required to withhold tax) because it contains a definition of "employer," the Department has amended the section to make it consistent with the current statutory definition of "employer."

(3) In the proposed definition of "income," the Department used the phrases "allowable unreimbursed business expense," "allowable costs of goods sold" and "allowable costs of acquisition, expenses of sale and collection expenses;" however, the regulation did not establish what would be considered "allowable." Although the Department explained to IRRC that a future regulation would address what would be considered allowable, IRRC suggested in its comments that the Department either proceed with the other rulemaking expeditiously so that it would tract with the subject regulation or the phrases should be deleted to avoid confusion. The Department agrees with IRRC's suggestion, and has deleted the term "allowable" from these phrases.

An amendment to the proposed rulemaking in response to a public comment received outside the public comment period is as follows:

Proposed § 103.12(b)(1) described that net profits are different from other classes of personal income in that the profits are derived from the marketing of a product or service to customers on a commercial basis; from securities employed as working capital in the business operations; from accounts and notes receivable from sales of products or services sold in the ordinary course of the business operations; or from assets which serve an operational function in the ordinary course of business operations. The comment requested that the Department add the phrase "from the active conduct of a securities trade or business," to paragraph (1).

In response to the comment, the Department has added a new subsection (e) to § 103.12. This new subsection details "marketing of a product or service to customers" for participants in the securities or commodities market. The standards in paragraphs (1)—(5) come from *Morgan*.

The Department has also added a new subsection (f) to § 103.12 to clarify that a taxpayer may operate as an investor or trader with respect to a portion of the taxpayer's securities transactions and as a business person with respect to the rest of the taxpayer's securities transactions. Only the latter count toward the taxpayer's net profits. The former count toward the taxpayer's interest, dividends, and gains or losses from disposition of property.

A comment that did not result in an amendment to the proposed rulemaking is as follows:

IRRC and the public comment objected to the provisions of § 103.12 that require a regulated investment company (RIC) to classify its Personal Income Tax income within the eight classes of income subject to tax under section 303 of the TRC. IRRC and the public comment indicated that the nature of a RIC is as a commercial enterprise conducted for profit. Therefore, IRRC and the public comment concluded that regulated investment companies should be allowed to classify their undistributed Personal Income Tax income only as net profits.

The objection overlooks the special nature of RICs as investment agents for their shareholders, and the resulting special Federal tax treatment afforded RICs. RICs invest in securities and distribute the income earned as dividends to their shareholder investors. The Federal government recognizes the regulated investment company as the alter ego of the shareholders by allowing the RIC a deduction for dividends paid to their shareholders. See 26 U.S.C.A. § 852. Consequently, a RIC may completely escape Federal corporate income taxation by distributing all of its income.

RICs are highly regulated by the IRC. At least 90% of the income of a RIC must consist of dividends, interest and gain or other income from stocks or securities (including foreign currencies). See 26 U.S.C.A. § 851. A RIC's income retains its character when distributed to its shareholders. If the income was earned by the RIC as interest, it is classified as interest for the shareholder.

RICs organized as corporations automatically receive the benefit of this special Federal tax treatment for Commonwealth Corporate Net Income Tax purposes. This results from the fact that the Commonwealth taxable income of a corporation is its Federal taxable income. However, the Capital Stock Franchise Tax is not based upon Federal taxable income. Therefore, the General Assembly enacted special Capital Stock Franchise Tax rules for RICs that recognize their special character as the alter ego of their shareholders.

Accordingly, the Capital Stock Franchise Tax uses Personal Income Tax income as one component of a formula for determining the Capital Stock Franchise Tax liability of a RIC. Section 602(f)(2)(A) of the TRC (72 P. S. § 7602(f)(2)(A)) specifically provides:

(A) Personal Income Tax income means income to the extent enumerated and classified in section 303 of the TRC.

Section 303 of the TRC defines eight classes of income that are subject to tax. Those classes include: compensation; net profits; net gains from the disposition of property; net gains from rents, royalties patents and copyrights; dividends; interest; gambling and lottery winnings; and net gains or income from estates or trusts. The comments suggest the definition of Personal Income Tax income results in all income earned by a RIC being reclassified only as net profits, including the dividends and interest earned by the RIC.

The reclassification of the RICs interest and dividends as net profits is contrary to the special Federal tax treatment of RICs and their shareholders. It is also contrary to the rules of statutory construction.

The rules of statutory construction provide that "[e]very statute shall be construed, if possible, to give meaning and effect to all of its provisions." See 1 Pa.C.S. § 1921(a) (relating to legislative intent controls). If the General Assembly had meant for all Personal Income Tax income of a RIC to be classified as net profits, section 602(f)(2)(A) of the TRC would simply state that Personal Income Tax income is net profits as enumerated in section 303(a)(2) of the TRC. However, Personal Income Tax income is defined as "income to the extent enumerated and classified in section 303." See 72 P. S. § 7602(f)(2)(A). The plain reading of the statute does not limit Personal Income Tax income to only one of the eight classes of income enumerated in section 303 of the TRC.

The objection also ignores the fact that other business entities that are subject to Article III of the TRC (72 P. S. §§ 7301—7361) do not classify their interest and dividends as net profits. Section 307.9(a) of the TRC (72 P. S. § 7307.9(a)) provides that "[e]ach shareholder of a Pennsylvania S Corporation shall take into income such shareholder's pro rata share of the income or loss in each applicable class of income received by the corporation . . ." See 72 P. S. § 7307.9(a).

For over 25 years, the Department's regulations have also provided that every partner's share of the income of the partnership shall be reported within the eight classes of Personal Income Tax income "depending upon which class it shall fall within." See 61 Pa. Code § 107.1 (relating to general taxability of partners and members). Accordingly, the Personal Income Tax income of Pennsylvania S Corporations, partnerships and other business entities is classified in the same manner and on the same basis as the income of a natural individual.

In addition, it is a presumption that "the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable." See 1 Pa.C.S. § 1922(1) (relating to presumptions in ascertaining legislative intent). RICs are required to distribute at least 90% of their income. In practice, their expenses are ordinarily greater than their undistributed income. Under the interpretation as proposed by IRRC and the public comment, the regulated investment companies would not have Personal Income Tax income to report. Accordingly, an interpretation that classifies a RIC's income as only net profits may produce a result where it would be exceptional for a RIC to have Personal Income Tax income.

For all of the previously stated reasons, Personal Income Tax income must be interpreted as "income to the extent enumerated and classified under section 303." See 72 P. S. § 7602(f)(2)(A). The amendments as drafted interprets the statute exactly in that manner.

Fiscal Impact

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

Paperwork

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

Effectiveness/Sunset Date

The amendments will become effective upon final publication in the *Pennsylvania Bulletin*. The amendments are

scheduled for review within 5 years of final publication. No sunset date has been assigned.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 20, 1997, the Department submitted a copy of the notice of proposed rulemaking, published at 27 Pa.B. 4436, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(c) of the Regulatory Review Act the Department also provided IRRC and the Committees with copies of 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 Committees on October 18, 1999, and were approved by IRRC on October 21, 1999, in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

Findings

The Department finds that:

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

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Department, 61 Pa. Code Chapters 103, 109, 113, 117, 121 and 155, are amended by amending §§ 101.1, 101.6, 103.12, 109.3—109.5, 109.7, 109.8, 113.1, 117.15, 121.10, 121.11 and 155.30 and by deleting § 121.14 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

ROBERT A. JUDGE, SR.,
Secretary

(Editor's Note: The amendment of §§ 101.6, 103.12, 109.3—109.5, 109.7, 109.8, 113.1, 117.15, 121.10, 121.11 and the deletion of § 121.14 were not included in the proposal at 27 Pa.B. 4436 (August 30, 1977). For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 5777 (November 6, 1999).)

Fiscal Note: Fiscal Note 15-381 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 101. GENERAL PROVISIONS

§ 101.1. Definitions.

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

* * * * *

Casual employe—An individual who performs, or by agreement, refrains from performing, a service of whatever nature and is not an employe.

Casual employer—A person for whom a casual employe performs, or refrains from performing, any service, provided that, if the person does not make the payment of remuneration, the term also includes the person making payment.

* * * * *

Employe—An individual from whose wages an employer is required under the IRC to withhold Federal Income Tax. For the purpose of this definition, the terms “employe,” “employer” and “wages” have the same meanings as in Chapter 24 of the IRC (26 U.S.C.A. §§ 3401—3406), relating to collection of Income Tax at source on wages.

Employer—An individual, partnership, association, corporation, governmental body or unit or agency, or any other entity who or that is required under the IRC to withhold Federal Income Tax from wages paid to an employe. For the purpose of this definition, the terms “employe,” “employer” and “wages” have the same meanings as in Chapter 24 of the IRC.

* * * * *

Income—The total of the classes enumerated under Chapter 103, Subchapter B (relating to the determination of tax) received by a taxpayer directly, or through partnerships, associations or Pennsylvania S corporations and the amount of each class derived by the taxpayer through estates or trusts determined and computed in accordance with the requirements of this article relating to the taxation of a natural individual's personal income, including the requirements that:

(i) There is no setoff between, or among, any different classes of Personal Income Tax income. For example, an individual's net profit from manufacturing toys is \$100, his net loss from the business of selling garden supplies is \$20 and his net loss from passive ownership of investment rental properties is \$10. His total net business profits are \$80 which is his income, against which he may not set off his losses on rentals.

(ii) A deduction is not allowed for expenses, whether paid or incurred for the production or collection of income or for the management, conservation or maintenance of property, except:

(A) Unreimbursed employe business expenses.

(B) Costs of goods sold and expense incurred in the operation of a business.

(C) Costs of acquisition, expenses of sale and collection expenses.

(D) Expenses necessary to the production or collection of rents and royalties or for the management, conservation or maintenance of rents, royalties, patents or copyrights.

(iii) The distributive income of a Pennsylvania S corporation, partnership or other association, trust or estate is classified, determined and computed in the same way and on the same basis as the taxable income of a natural individual; and, in the case of a Pennsylvania S corporation, partnership or other association, each shareholder, partner or member shall take into income the shareholder's, partner's or member's pro rata share of the income or loss in each applicable class of income received by the Pennsylvania S corporation, partnership or other association.

(iv) Married persons may not compute their tax as if they were one person; and no setoff between married persons is permitted. For example, an individual's net profit from manufacturing toys is \$100, his net loss from the business of selling garden supplies is \$20, his wife's loss from a business she operates is \$20 and his net loss from passive ownership of investment rental properties is \$10. His total net business profits are \$80 which is his income, against which he may not set off his wife's business losses.

* * * * *

§ 101.6. Compensation.

(a) Compensation includes items of remuneration received by an employe or casual employe, directly or through an agent, in cash or in property, based on payroll periods or piecework, for services rendered as an employe or casual employe, agent or officer of an individual, partnership, but not guaranteed payments to a partner for services rendered to the partnership, business or nonprofit corporation, or government agency. These items include salaries, wages, commissions, bonuses, stock options, incentive payments, fees, tips, termination or severance payments, rewards, vacation and holiday pay, tax assumed by the employer or casual employer and other remuneration received for services rendered.

* * * * *

(c) Compensation does not mean or include any of the following:

* * * * *

(7) The value of meals and lodging furnished for the convenience of an employer or casual employer does not constitute compensation. Payments made to an Individual Retirement Account, as provided by the Employee Retirement Income Security Act of 1974 (ERISA), the act of September 2, 1974 (Pub. L. No. 93-406, 88 Stat. 829), are not excludable in computing income which is subject to tax under this article.

* * * * *

(d) The Department may require the submission of a statement from an employer or casual employer with respect to its employes or casual employes regarding the verification or substantiation of unreimbursed and reimbursed business expenses. The statement of the employer or casual employer should verify that the expenses were required by the employer or casual employer. The statement shall set forth the types of expenses such as travel, meals, hotel and so forth that the employer or casual employer specifically requires the employe or casual

employe to incur and to what extent, if any, the expenses are reimbursed. If the employer or casual employer requires the employe or casual employe to maintain an office, or office-in-home, a statement by the employer or casual employer to this effect should also be included. The Department does not require the employer or casual employer to specifically list the amount expended or to verify each expense incurred by the employe or casual employe.

CHAPTER 103. IMPOSITION AND DETERMINATION OF TAX

Subchapter B. DETERMINATION OF TAX

§ 103.12. Net profits.

(a) Net profits shall be the net income from the operation of a business, profession or other activity after provision for all costs and expenses incurred in the conduct thereof. They shall be determined either on a cash or accrual basis in accordance with accepted accounting principles and practices.

(b) To constitute net profits, all of the following must apply:

(1) The gross profits shall be derived from one of the following:

(i) The marketing of a product or service to customers on a commercial basis or from securities employed as working capital in the business operations.

(ii) Accounts and notes receivable from sales of products or services sold in the ordinary course of the business operations.

(iii) Assets which serve an operational function in the ordinary course of business operations.

(2) The marketing activity shall be conducted with the manifest objective of achieving profitable operations.

(3) The marketing activity shall be conducted with regularity and continuity and may not be limited or exclusive.

(c) In computing net profits, a deduction will not be allowed for any item of cost, expense or liability derived or incurred in connection with, or attributable to any of the following:

(1) The ownership or disposition of assets that are held for investment purposes or otherwise serve an investment function.

(2) The trading in securities for personal purposes and not for the accounts of customers.

(3) The sale, discontinuation or abandonment of a business or segment thereof.

(4) Any tax imposed on, or measured by, gross or net earned or unearned income.

(5) An isolated or nonrecurring transaction which is not a normal or routine business activity.

(d) Choosing to form a partnership or other entity or to associate with others, receiving and reporting income or gain as the income of the partnership, entity or associates or dividing the same among its partners, beneficial owners or associates or the trading in securities for the benefit of shareholders, partners, members or associates does not of itself make the income of the partnership, entity or associates' net profits.

(e) For purposes of this section, only the following participants in the stock, securities, options, derivatives,

futures or commodities market are engaged in marketing of a product or service to customers:

(1) Those who maintain or provide a market place or facilities for bringing together purchasers and sellers of these financial investment products.

(2) Those who are licensed to act as their customer's agents and charge a negotiated commission for executing transactions and do not take title to the particular positions they buy or sell.

(3) Those who devote managerial attention to the financial investment products holdings of others, or who employ other persons to assist them in that management, in the capacity of a licensed investment advisor.

(4) Licensed dealers, including financial investment product specialists and market makers, if the conditions in subparagraphs (i)—(iv) are met:

(i) The dealer maintains an inventory of financial investment products with the objective of reselling his inventories at a profit to customers or operates as a specialist or market maker.

(ii) The dealer makes market by quoting the bid and asked prices at which he is willing to buy and sell the financial investment products and by buying directly from or selling directly to customers.

(iii) The dealer's profit is determined in whole or in part by a markup based on cost.

(iv) The dealer elects to inventory securities held for resale to customers or uses the mark-to-market system of accounting.

(5) Underwriters who facilitate initial sales of financial investment products by acting either as licensed dealers in a principal capacity or as brokers in an agency capacity.

(f) When a person operates as an investor or trader with respect to a portion of that person's activities and as a market establishment, broker, investment counselor or dealer with respect to the rest, this section applies only to the operations as a market establishment, broker, investment counselor or dealer.

CHAPTER 109. NONRESIDENT INDIVIDUALS

§ 109.3. Business carried on wholly within this Commonwealth.

A business, trade, profession or occupation, as distinguished from personal services as an employe or casual employe, is carried on by a nonresident wholly within this Commonwealth, if the activities described in § 101.8 (relating to income from sources within this Commonwealth) are carried on solely within this Commonwealth and none of the activities are carried on outside of this Commonwealth though the nonresident or his representative travels outside of this Commonwealth for purpose of buying, selling, financing or performing duties in connection with the business, and even though sales may be made to, or services performed for, or on behalf of, persons or corporations located outside of this Commonwealth. If a nonresident individual carries on a business, trade, profession or occupation wholly within this Commonwealth, all his items of income, gain, loss and deduction attributable to the business shall be deemed from sources within this Commonwealth.

§ 109.4. Business carried on partly within and partly without this Commonwealth.

A business, trade, profession or occupation, as distinguished from personal services as an employe or casual

employe, is carried on partly within and partly without this Commonwealth if one or more of the activities described in § 101.8 (relating to income from sources within this Commonwealth), is systematically and regularly carried on within this Commonwealth and one or more of the activities is systematically and regularly carried on outside of this Commonwealth or if one or more of the activities is systematically and regularly carried on both within and without this Commonwealth.

§ 109.5. Apportionment and allocation of income from a business carried on partly within and partly without this Commonwealth.

* * * * *

(c) If the books and records of the business do not disclose to the satisfaction of the Department the proportion of the net amount of the items of income, gain, loss and deduction attributable to the activities of the business carried on in this Commonwealth, the proportion shall, except as provided in § 109.6 (relating to rentals and gains from sale or exchange of real property), be determined by multiplying the net amount of the items of income, gain, loss and deduction of the business by the average of the following percentages:

* * * * *

(2) *Payroll percentage.* The payroll percentage shall be determined as follows:

(i) The percentage computed by dividing the total wages, salaries and other personal service compensation paid or incurred during the taxable year to employes or casual employes in connection with the business carried on within this Commonwealth, by the total of all wages, salaries and other personal service compensation paid or incurred during the taxable year to employes or casual employes in connection with the business carried on both within and without this Commonwealth.

* * * * *

§ 109.7. Earnings of salesmen.

If the commission for sales made or other compensation for services performed by a nonresident traveling salesman, agent or other employe or casual employe depends directly upon the volume of business transacted by him, his items of income derived from or connected with Commonwealth sources include that proportion of the amount of the items attributable to the business which the volume of business transacted by him within this Commonwealth bears to the total volume of business transacted by him within and without this Commonwealth.

§ 109.8. Earnings of nonresident employes or casual employes and officers.

If a nonresident employe or casual employe, including corporate officers but excluding employes or casual employes provided for in § 109.7 (relating to earnings of salesmen) performs services for an employer or casual employer both within and without this Commonwealth, his income derived from Commonwealth sources includes that proportion of the employe's total compensation for services rendered as an employe or casual employe which the total number of working days employed within this Commonwealth bears to the total number of working days employed both within and without this Commonwealth. However, any allowance claimed for days worked outside of this Commonwealth shall be based upon the performance of services which, of necessity, obligate the employe or casual employe to perform out-of-State duties in

the service of his employer or casual employer. In making the allocation provided for in this section, no account may be taken of nonworking days, including Saturdays, Sundays, holidays, days of absence because of illness or personal injury, vacation or leave with or without pay.

CHAPTER 113. WITHHOLDING OF TAX

§ 113.1. Employers required to withhold tax.

An individual, partnership, association, corporation, organization, fiduciary, governmental body, unit, agency or other entity who is an employer, makes payment of compensation and maintains an office or transacts business within this Commonwealth is subject to this chapter, whether or not a paying agency is maintained within this Commonwealth.

(1) The phrase "transacting business within this Commonwealth" includes having or maintaining within this State, directly or indirectly, an office, distribution house, sales house, warehouse or other place of business, or operating within this Commonwealth by any agent or other representative under the authority of the employer or its subsidiary, irrespective of whether the place of business or agent or other representative is located in this Commonwealth permanently or temporarily, or whether the employer is licensed to do business in this Commonwealth.

(2) The term "agent" is broader than the term employe and includes anyone acting under the authority of the principal in an agency capacity. It does not matter that an agent may engage in business on his own account, for other persons or as an independent contractor acting as an agent.

CHAPTER 117. RETURN AND PAYMENT OF TAX

§ 117.15. Records.

(a) *In general.* Except as provided in subsection (b), a person subject to tax under this article, or a person required to file a return of information with respect to income, shall keep permanent books of account or records, including inventories, sufficient to establish the amount of gross income, deductions allowable, credits or other matters required to be shown by the person and any return of the tax or information.

(b) *Wage earners.* Individuals whose gross income include salaries, wages or similar compensation for personal services rendered shall be required, with respect to the income, to keep the records to enable the Department to determine the correct amount of income subject to tax. It is not necessary, with respect to the income, that an individual keep the books of account or records required by subsection (a).

(c) *Notice of Department requiring returns, statements or the keeping of records.* The Department may require a person, by notice served upon him, to make returns, render a statement or keep specific records as will enable the Department to determine whether or not the person is liable to tax under this article.

(d) *Retention of records.* The books of records required by this section shall be kept at all times available for inspection by authorized personnel of the Department, and shall be retained so long as the contents thereof may become material in the administration of the tax imposed under this article.

(e) *Form of records.* The records required by this section shall be kept accurately, but no particular form is required for keeping the records. The forms and systems of accounting shall be used as will enable the Department

to ascertain whether liability for taxes incurred exists and, if so, the amount thereof.

(f) *Copies of returns, schedules and statements.* A person who is required, by this section or by instructions applicable to any form prescribed, to keep any copy of any return, schedule, statement or other document shall keep the copy as part of his records.

(g) *Records of claimants.* A person (including an employe) who, under this chapter, claims a refund, credit or abatement shall keep a complete and detailed record with respect to the tax, interest, addition to the tax, additional amount or assessable penalty to which the claim relates.

(h) *Records of employes or casual employes.* While not mandatory, except in the case of claims, it is advisable for each employe or casual employe to keep permanent, accurate records showing the name and address of each employer or casual employer for whom he performs services as an employe or casual employe, the dates of beginning and termination of the services, the information with respect to himself which is required by this chapter to be kept by employers or casual employers and the receipts furnished him by an employer or casual employer.

(i) *Place and period for keeping records.* The records required by this article shall be kept, by the person required to keep them, at one or more convenient safe locations accessible to authorized personnel of the Department, and shall at all times be available for inspection by the personnel. Every person required by this article to keep records in respect of a tax, whether or not the person incurs liability for the tax, shall maintain the records for at least 4 years after the due date of the tax for the return period to which the records relate, or the date the tax is paid, whichever is later. The records of claimants shall be maintained for at least 3 years after the date the claim is filed.

CHAPTER 121. FINAL RETURNS

§ 121.10. Reporting income.

(a) Under the law, only certain classes of income are subject to tax. Therefore, that income not included in any of the eight categories is exempt from the tax.

(b) Examples of income subject to the tax which shall be reported are the following:

- (1) Wages, salaries, commissions, bonuses, incentive payments and tips.
- (2) Net profits from business or profession.
- (3) Profits from a partnership or association.
- (4) Net gains from sales or exchanges of real estate, autos, securities and other property.
- (5) Rents and royalties from property, patents and copyrights.
- (6) Gambling and lottery winnings.
- (7) Interest on bank deposits, bonds and notes.
- (8) Interest on net gain on bonds or obligations of other states or countries.
- (9) The taxpayer's share of income from estates or trusts.
- (10) Dividends except dividends paid in the form of stock distributed by a corporation to its stockholders if the distribution is not treated as personal income for Federal Income Tax purposes.

(c) Examples of income not subject to the tax which should not be reported are the following:

- (1) Pensions and annuities.
- (2) Government payments made to veterans and their families.
- (3) Benefits paid by public retirement systems.
- (4) Interest on obligations of this Commonwealth or its political subdivisions and authorities and interest on certain obligations of the United States government, its agencies or instrumentalities are not taxable if they are statutorily free from taxation. Interest on obligations of other states and countries, however, shall be subject to the Commonwealth Income Tax.
- (5) Payments to reimburse actual expenses.
- (6) The value of meals and lodging furnished for the convenience of the employer or casual employer.
- (7) Social Security benefits.
- (8) Military pay received by a United States serviceman on active duty outside of this Commonwealth.
- (9) Life insurance proceeds.
- (10) Workers' Compensation benefits.
- (11) Payments for occupational diseases under section 108 of the Workers' Compensation Act (77 P. S. § 27.1) and section 108 of the Pennsylvania Occupational Disease Act (77 P. S. § 1208).
- (12) Public assistance payments.
- (13) Unemployment compensation payments.
- (14) Income received for child support.
- (15) Educational stipends for which no services are rendered, such as scholarships.
- (16) Dividends paid in the form of stock by the distributing corporation if not treated as personal income for Federal Income Tax purposes.

§ 121.11. Partnership or similar enterprise.

(a) If a person is a member of a partnership, joint venture or similar enterprise, the person shall report his share of taxable income whether he received it or not.

(b) A taxpayer should enter his share of net profits on line two.

§ 121.14. (Reserved).

CHAPTER 155. CAPITAL STOCK TAX AND FOREIGN FRANCHISE TAX

§ 155.30. Regulated investment companies.

(a) *General.* Commencing with the calendar year 1985 and each year thereafter, the Capital Stock or Foreign Franchise Tax of a regulated investment company is the sum of the following products:

- (1) Seventy five dollars multiplied by the quotient, rounded to the nearest whole number, produced by dividing the net asset value of the regulated investment company by 1 million.
- (2) The apportioned undistributed Personal Income Tax income of the regulated investment company multiplied by the Personal Income Tax rate for the same tax year.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Apportioned undistributed Personal Income Tax income—Undistributed Personal Income Tax income multi-

plied by a fraction, the numerator of which is income distributed during the taxable period to shareholders who are Commonwealth resident individuals, estates or trusts and the denominator of which is income distributed during the taxable period.

Monthly net asset value—The actual market value of assets owned by the regulated investment company without exemptions or exclusions, less liabilities, debts and other obligations as of the last day of the month.

Net asset value—Determined by adding the monthly net asset values for each month during the taxable period and dividing the sum by the number of months involved.

Personal Income Tax income—Income computed in the same manner and on the same basis as the income of an individual under Article V of the TRC (relating to personal income tax).

Regulated investment company—A domestic corporation and a foreign corporation which is registered to do business in this Commonwealth, maintains an office in this Commonwealth, has filed a timely election to be taxed as a regulated investment company with the Federal government and qualified to be taxed as a regulated investment company under the IRC.

Undistributed Personal Income Tax income—Personal Income Tax income, other than Personal Income Tax

income undistributed on account of the Capital Stock or Foreign Franchise Tax liability of the regulated investment company, less Personal Income Tax income distributed to shareholders.

(c) *Determination of income considered to be distributed.*

(1) Personal Income Tax income is deemed to be either distributed to shareholders or undistributed in the same proportion that the total income received by the regulated investment company during the taxable year is distributed to shareholders or undistributed.

(2) At the election of the regulated investment company, income distributed after the close of a taxable year, but deemed distributed during the taxable year for Federal income tax purposes, is deemed distributed during the year.

(3) If a regulated investment company in a taxable year has both current income and income accumulated from a period year, distributions made during the year shall be deemed to have been made first from current income.

[Pa.B. Doc. No. 99-2087. Filed for public inspection December 10, 1999, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 53]

[L-00940095]

Updating and Revising Existing Filing Requirement

The Pennsylvania Public Utility Commission (Commission) on September 30, 1999, adopted a proposed rulemaking order amending existing regulations to lessen the regulatory burdens on all jurisdictional telecommunications providers thereby promoting competition. The contact persons are Carl Hisiro, Law Bureau, (717) 783-2812, and Gary Wagner, Bureau of Fixed Utility Services, (717) 783-6175.

Executive Summary

In 1994, the Commission entered an order that initiated a rulemaking proceeding to revise and streamline existing filing requirements for all telecommunications providers so as to lessen their regulatory burden and promote competition. Since then, many significant events have occurred to effectuate the deregulation of the telecommunications industry and the promotion of competition in its stead, including the enactment of the Federal Telecommunications Act of 1996 (47 U.S.C.A. §§ 251—276 TA-96) (TA-96).

The rulemaking went through three advance notices published in the *Pennsylvania Bulletin*, and the Commission received comments from a number of parties. This rulemaking was then subsequently included in the proceeding to consider global resolution of telecommunications issues at P-00991648 and P-00991649. In the global proceeding, all participating incumbent and competitive local exchange carriers and interexchange carriers supported the same set of proposed regulations that are now being proposed in this rulemaking.

The proposed regulations streamline filing requirements by reducing the review period from 60 days to either 30, 10, or 1 day, depending generally on whether the filing is made by an incumbent or competitive local exchange carrier and on whether the proposed rates represent increases or decreases from existing rates. The proposed regulations also streamline filing requirements for intraLATA toll rates, bundled service packages, and promotional offerings.

Public Meeting held
September 30, 1999

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; David W. Rolka; Nora Mead Brownell; and Aaron Wilson, Jr.

Proposed Rulemaking Order and Final Interim Guidelines

By the Commission:

This docket was created in 1994 to review existing Commission regulations and to amend the regulations so as to lessen the regulatory burdens on all jurisdictional telecommunications providers, thereby promoting competition, to the extent consistent with the public interest and the doctrine of regulatory parity. Since then, many

significant events have occurred to effectuate the deregulation of the telecommunications industry and the promotion of competition in its stead. The most significant of these events was the enactment of the TA-96.

A. PROCEDURAL HISTORY

1. Advance Notice of Proposed Rulemaking Order

On October 18, 1994, this Commission entered an Order at Docket No. L-00940095 to initiate a rulemaking proceeding for the telecommunications industry to revise and streamline existing filing requirements in § 53.53 (relating to information to be furnished with proposed general rate increase filings in excess of \$1 million) for general rate increases in excess of \$1 million. Comments from interested parties were solicited and staff convened two technical conferences.

Since the time of this earlier order, the telecommunications industry has been undergoing dramatic change throughout the country and within this Commonwealth. The TA-96 was enacted into law on February 8, 1996. The TA-96's primary goal is to promote competition in virtually all segments of the broadly defined communications industry, including local and long-distance telephone services.

This Commission has proceeded to implement various directives of the TA-96, including the adoption of more flexible "market entry" procedures for telecommunications carriers under our jurisdiction. We have also adjudicated various proceedings related to numerous issues of competition and interconnection in the local exchange services markets. In addition, we have issued orders in other proceedings that address the implementation of the TA-96. *See, e.g., In re Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996; Order on Reconsideration entered September 9, 1996).

Even prior to enactment of the TA-96, this Commission was taking concrete steps to introduce local exchange competition in this Commonwealth. For example, on October 4, 1995, we certified the first four competitive local exchange carriers (CLECs) in *Application of MFS Intelenet of Pennsylvania, Inc., et al.*, Docket Nos. A-310203F0002, et al. (Order entered October 4, 1995).

With the passage of the TA-96 and the entry of the CLECs in this Commonwealth's market for CLECs, it became clear that other portions of the Commission's regulatory oversight mechanisms beyond rate increases in excess of \$1 million needed to be revisited as well. For instance, while CLEC tariff filings are typically addressed by this Commission in a routine fashion, certain problems periodically arise in evaluating the filings. In addition, CLEC tariff filings have often become the subject of formal complaints by incumbent local exchange carriers (ILECs). *See, e.g., Pa. P.U.C. v. Eastern TeleLogic Corp.*, Docket No. R-00973881 (Order entered March 27, 1997); *Bell Atlantic-Pennsylvania, Inc. v. TCG Pennsylvania*, Docket No. C-00967719 (Order entered February 28, 1997). Notwithstanding our use of the alternative dispute resolution process in §§ 69.391—69.395, these cases are time and resource consuming, suggesting the need for revised and streamlined regulations.

2. Second Advance Notice of Proposed Rulemaking Order

By motion at the June 12, 1997, public meeting, the rulemaking in the above-captioned docket at L-00940095

was expanded to include the filing requirements in § 53.52 (relating to applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies) for all other tariff changes that are proposed by local exchange telecommunications service providers. Thereafter, this Commission entered an Order on August 1, 1997, issuing the second advance notice of proposed rulemaking. The purpose of this notice was to provide the CLECs, ILECs and all other interested parties an opportunity to provide comments, including proposed language, on the issue of what filing requirements should govern tariff changes under section 1308(a) and (b) of the Public Utility Code, 66 Pa. Code § 1308(a) and (b), and to assist the Commission in designing requirements that appropriately address the issue of "regulatory parity."¹

In particular, this Commission requested comments on the following issues: tariff filing support documentation, cost support documentation, CLEC services and rates, local exchange carrier intraLATA toll rates, tariff filings for service "packages" and supporting documentation, and promotional offering tariff filings. We also ordered that, upon receipt of comments by interested parties, one or more informal technical conferences be convened by Staff to discuss further the issues raised by the rulemaking.

On or about September 30, 1997, the Commission received initial comments from Bell Atlantic-Pennsylvania, Inc. (BA-PA); AT&T Communications of Pennsylvania, Inc. (AT&T); MCI Metro Access Transmission Services, Inc. (MCI Metro); Sprint Communications Company L.P. (Sprint) and the United Telephone Company of Pennsylvania (United); the Pennsylvania Telephone Association (PTA); and the Telecommunications Resellers Association (TRA). In addition, informal technical conferences were held on October 6, and November 5, 1997, between interested parties and the Commission's Staff.

The October 6, 1997, Informal Technical Conference was attended by BA-PA, AT&T, MCI Metro and MCI Telecommunications Corporation (MCI), Teleport Communications Group (TCG), Sprint, United, the Office of Consumer Advocate (OCA), and the Office of Trial Staff (OTS). During the October 6 conference, a number of issues were discussed relating to the potential revision of Commission regulations governing the tariff filings of CLECs and ILECs under §§ 53.52 and 53.53, and the interested parties made summary presentations of their written comments.

The purpose of the November 5, 1997, Informal Technical Conference was to follow up certain issues raised at the earlier conference. This second conference was attended by BA-PA, AT&T, MCI, Sprint, TCG, PTA, GTE North Incorporated and OTS. To help focus the discussion at this second conference, Commission staff sent a letter on November 3, 1997, setting forth a number of issues to be addressed revolving around the concept of "market power," as well as its connection with the principle of "regulatory parity" as applied to CLECs and ILECs. This second technical conference generated significant debate on these issues among the parties in attendance and resulted in the Commission staff asking for additional written comments by November 18, 1997, which date was subsequently extended to December 8, 1997. Written comments were thereafter filed on these market power

issues on or about December 8, 1997, by BA-PA, MCI, Sprint, PTA, and OTS, and on December 15, 1997, by TCG.

The major commenting parties in December 1997 to the current proposed rulemaking were BA-PA and MCI/MCI Metro. Their comments, as well as the comments of other interested parties, are discussed in the "Comments and Responses Document" attached to this Order as Appendix A. In summary, all of the parties filing comments at that time, except BA-PA and PTA, recommended that the Commission recognize the current market dominance of the ILECs by not applying the concept of "regulatory parity." Instead, they argued for asymmetrical regulation (that is, regulating dominant and nondominant carriers differently) so as to facilitate the transition to a competitive local exchange market where ILECs no longer possess market power. BA-PA and PTA, on the other hand, urged the Commission to apply the "regulatory parity" principle in deciding what filing requirements should continue to be imposed.

3. Third Advance Notice of Proposed Rulemaking Order and Proposed Interim Guidelines

Following this initial comment period, the Commission considered staff recommendations for certain substantive changes in the existing tariff regulations for telecommunication utilities and the adoption of proposed interim guidelines that would incorporate the proposed regulatory changes and remain in effect until a final rulemaking order was approved through the formal regulatory process.

By motion adopted at the April 9, 1998, public meeting, a separate docket folder was opened so that the proposed interim guidelines could be reviewed and an opportunity to be heard provided to all interested parties. Specifically, we directed that one or more technical conferences should be conducted on-the-record, affording the parties the opportunity to discuss all aspects of the filing standards incorporated in the proposed interim guidelines. Further, the motion provided that any comment period must provide for reply comments. The motion also required the process to be expedited, with a final Staff recommendation on the interim guidelines to be presented to the Commission for consideration within 6 months of the motion. In addition, at this same public meeting, we issued the third advance notice of proposed rulemaking order in Docket No. L-00940095.²

Subsequently, on or about May 27, 1998, the Commission received comments on the proposed Interim Guidelines from BA-PA, AT&T, MCI, TCG, Sprint and United, PTA, GTE North Incorporated and GTE Communications Corporation (collectively, GTE), and joint comments from Commonwealth Telecommunications Services, Inc.; Focal Communications Corporation of Pennsylvania; Hyperion Telecommunications of Pennsylvania, Inc.; RCN Telecommunications Services of Pennsylvania, Inc.; and ATX Telecommunications Services, Ltd. (collectively, the "Joint Commentators"). In addition, reply comments were filed on or about June 11, 1998, by BA-PA, PTA, MCI, TCG, GTE, TRA, Sprint and United, the Joint Commentators and the OTS. An on-the-record technical conference was held on June 26, 1998, with Chief Administrative Law Judge Robert Christianson presiding and six parties offering witnesses.³ Following the technical conference,

² The Third Advance Notice of Proposed Rulemaking Order was entered on May 12, 1998, with a corrected version being entered one day later on May 13, 1998.

³ The following parties and their witnesses who offered testimony at the technical conference were: (1) BA-PA: Catherine Eichenlaub, Director—Line of Business Regulatory Support for Bell Atlantic—Network Services, Inc.; (2) TCG: Chris Nurse, Manager of Regulatory and External Affairs of the Eastern Region; (3) MCI: Don Laub, Senior

¹ The principle of "regulatory parity" simply means that all regulations applicable to a particular industry such as the local exchange telecommunications industry are applied equally regardless of the market power that may exist with any individual company within that industry.

final comments to the Interim Guidelines were submitted on or about July 15, 1998, by BA-PA, MCI, TCG, Sprint and United and PTA. Finally, on or about July 21, 1998, separate comments were provided to the same interim guideline proposals that were also being offered as a proposed rulemaking pursuant to the corrected third advance Notice of Proposed Rulemaking Order by BA-PA, GTE, MCI, TCG, Sprint/United and PTA.⁴

In the May 27, 1998 and July 15, 1998 comments, AT&T, MCI, Sprint and United, TCG, GTE, the Joint Commentators and OTS supported the adoption of interim guidelines to remove some of the regulatory burdens currently faced by CLECs as a good first step to making the telecommunications market in this Commonwealth more competitive. Most of these parties argued, however, that the Commission did not go far enough in its streamlining efforts and offered suggestions for further streamlining.

Both BA-PA and PTA, however, continued to assert that the Commission should be guided by the doctrine of "regulatory parity" in developing its tariff filing streamlining rules. BA-PA Comments of May 27, 1998, at 9-11; PTA Comments of May 27, 1998, at 1-2. The PTA urged against the adoption of "blanket" solutions" in determining which carriers have market power. PTA Comments of May 27, 1998, at 2. The PTA's concern was that the originally proposed Interim Guidelines created "a bias which assumes only ILECs can . . . possess market power." PTA Reply Comments of June 11, 1998, at 1.

4. *Proceeding To Consider Global Resolution of Telecommunications Issues*

Following receipt of the filed comments to the proposed interim guidelines but before we were ready to enter an order, the two instant dockets were incorporated into the Commission's *Global Telecommunications Settlement Conference*, Docket No. M-00981185, and stayed. This latter docket was opened at the Commission's public meeting of September 3, 1998, for the purpose of trying to forge a global settlement which would amicably resolve various significant and complicated telecommunications proceedings, including the instant dockets, then pending before us.

Unfortunately, the sought-after global settlement could not be reached by all the parties by the Commission-imposed deadline of March 29, 1999, and we thereafter closed the *Global Telecommunications Settlement Conference* proceeding. In the same order closing this proceeding, we agreed to consider two competing petitions that seek to resolve virtually the same telecommunications issues that were attempted to be addressed at Docket No. M-00981185. *Joint Petition of Nextlink Pennsylvania, Inc., et al. for Adoption of Partial Settlement Resolving Pending Telecommunications Issues*, Docket No. P-00991648; and *Joint Petition of Bell Atlantic-Pennsylvania, Inc., et al. for Global Resolution of Telecommunications Proceedings*, Docket No. P-00991649 (Order entered April 2, 1999)(hereinafter jointly referred to as "*Joint Petitions for Global Resolution*"). The two joint petitions were both filed on March 18, 1999. The Joint Petition at Docket No. P-00991648 was filed by Nextlink Pennsylvania, Inc. (Nextlink); State Senators Vincent J. Fumo, Roger A. Madigan, and Mary Jo White; the Pennsylvania Cable and Telecommunications Association; and six other

CLECs.⁵ The Joint Petition at Docket No. P-00991649 was filed by BA-PA; Conectiv Communications, Inc.; Network Access Solutions; and the Rural Telephone Company Coalition.

Both proposed settlements contain virtually identical language for streamlining and revising the existing tariff filing requirements for telecommunication utilities, and both are closely modeled after the proposed interim guidelines that the Commission released at its April 9, 1998 Public Meeting for public comment. The only difference between the two proposals is that the Nextlink proposal does not include the requirements contained in § 53.59(c) and (d) (relating to cost support requirements and effective filing dates for tariff filings on noncompetitive services) of the BA-PA proposal that all consumers subject to rate increases shall receive individual notice of these rate increases, and that the company must serve these rate filings on the OCA, OTS and the Office of Small Business Advocate (OSBA) in person. Written testimony supporting these two proposals was submitted by BA-PA, Sprint and United and AT&T. In addition, in their Prehearing Statement of Position submitted in the *Joint Petitions for Global Resolution*, the Consumer Parties, which includes the OCA, OSBA and OTS, stated that they have no objection to the proposed filing requirements contained in the two proposals, including the additional above-referenced requirements offered by BA-PA.

By motion adopted at the August 26, 1999, public meeting, the Interim Guidelines contained in the BA-PA proposal were adopted by this Commission.

B. DISCUSSION

We find significant the fact that in this proceeding, initially opened in 1994, ILECs, CLECs and IXC's are now supporting virtually the same set of proposed regulations that are modeled closely after the Interim Guidelines we submitted for comment last year. These proposed regulations will help promote the competition that is now expected in the telecommunications industry. Given this apparent unanimity of support from the telecommunications industry, we have incorporated in the instant proposed regulations the changes reflected in the Nextlink and BA-PA proposals, including the additional BA-PA notice and in-person service requirements noted above. Our proposed regulations, as so amended, are contained in Annex A attached to this Order.

The proposed regulations in § 53.58(a) and (c) (relating to offering of competitive services) provide that whenever a telecommunications service is determined to be "competitive" under Chapter 30 of the Public Utility Code, whether by a filing by an ILEC or a CLEC, all competing providers in the relevant market offering this same service will receive the deregulated status contemplated in 66 Pa.C.S. § 3005, and, in effect, be treated the same. Also, cognizant of the PTA's concern that any rulemaking should avoid creating a bias that only ILECs can possess market power, we propose in § 53.58(e) (relating to offering of competitive services) that a reclassification of a "competitive service" to a "noncompetitive service" can be made as to an ILEC or a CLEC under section 3005(d) of the Public Utility Code. The proposed regulations also contain a list of factors that the Commission will consider when reviewing whether a specific service should be reclassified as noncompetitive.⁶

Policy Analyst for State Regulatory and Government Affairs, Mid-Atlantic Region; (4) GTE: John Dudley, Assistant Vice President-Regulatory & Governmental Affairs; (5) Sprint and United: John Short, Director Regulatory Affairs; and (6) PTA: James Kail, Chief Financial Officer with the Bentleyville Telephone Company.

⁴ The July 21, 1998 comments of MCI, TCG, Sprint/United and PTA simply incorporated by reference their earlier comments in this proceeding.

⁵ The six CLECs are RCN Telecommunications Services of Pennsylvania, Inc.; Hyperion Telecommunications, Inc.; ATX Telecommunications Services, Ltd.; CTSI, Inc.; MCI WorldCom, the newly merged parent of MCI Metro and MCI; and AT&T.

⁶ This list of factors is similar to the list of factors contained in § 63.106 that the Commission uses to determine whether to reclassify interexchange services defined as either a competitive or noncompetitive service.

Moreover, until there is a formal finding by this Commission that a particular service is "competitive," the tariff filing regulations should be streamlined so that a CLEC will be relieved from any obligation to provide cost support documentation whenever the rate is at or below the rate charged by the ILEC for the same service.⁷ As proposed in § 53.59(a) (relating to cost requirements and effective filing dates for tariff filings of noncompetitive services), cost support documentation will not be necessary from a CLEC and its tariff filing will be effective on 1-day's notice where its rates are the same as or lower than previously-approved ILEC rates, because it can be presumed that, without market power, the CLEC's rates are "just and reasonable."

Where the CLEC's rates are higher than the ILEC's rates or where the CLEC's rates are for new services, the proposed regulations in § 53.59(c) oblige the CLEC to provide certain additional summary documentation for the affected services. Moreover, the Commission in § 53.59(d) retains the ability to request relevant documentary support, including cost support documentation, from CLECs for their tariff filings relating to new services and for proposed rate changes where their rates are higher than the ILEC's and there is a concern consumers may be harmed by the higher rates. Consistent with the BA-PA proposal, CLEC tariff filings for new services or higher rates will become effective 30 days from the date when all consumers subject to the rate increase shall have received individual notice of the increase, and will be required to be served in person upon the OCA, OSBA and OTS. The 30-day period may be extended for an additional 30 days by the Commission upon notice to the OCA, OSBA, OTS and the CLEC.⁸

We recognize that the proposed regulations, if finally adopted, provide a certain degree of regulatory flexibility that had been previously denied through one of our past decisions in this area.⁹ This change, however, reflects a re-interpretation of Chapter 30 in conjunction with our mandate to implement the TA-96. Both Chapter 30 and TA-96 are intended to promote the provision of telecommunications services in a competitive environment. Indeed, in Chapter 30 the General Assembly made the legislative finding and declared that it is the Commonwealth's policy to:

(7) Promote and encourage the provision of competitive services by a variety of service providers on equal terms throughout all geographic areas of this Commonwealth.

(8) Encourage the competitive supply of any service in any region where there is market demand.

⁷ In adopting this asymmetrical approach to streamlining our tariff filing requirements, the Commission accepts the recommendation of most of the parties in this proceeding that "regulatory parity" with respect to rate regulation between ILECs and CLECs is not appropriate until the playing field for specific services or business activities becomes more competitive/level. In determining when regulatory parity should apply in the future wherever the proposed regulations contain asymmetrical terms, the Commission will utilize the same criteria contained in section 3005(a)(1) of the Public Utility Code for determining whether or not a telecommunications service should be declared "competitive." In reaching this determination, however, the Commission does not agree with the view espoused by some of the commentators that we must define "market power" and hold separate evidentiary hearings to determine which carriers have market power if we adopt an asymmetrical regulatory approach. We believe the "competitive classification" procedures contained in Chapter 30 of the Public Utility Code are sufficient for this purpose.

⁸ The proposed regulations in § 53.59(e) also contain parallel provisions for rate changes by an ILEC, except that rate reductions will become effective on a 10-day notice (instead of a 1-day's notice) if the Commission fails to take any action. We also note at this point that in order to keep the tariff filing provisions relating to CLECs together, we have moved and renumbered § 53.59(c)-(e) of the BA-PA proposal as § 53.59(e), (c) and (d), respectively, in our proposed regulations.

⁹ In *re Petition of TCG Pittsburgh for a Determination of Whether Certain Services are Competitive Under Chapter 30 of the Public Utility Code*, Docket No. P-00950998 (Order entered March 29, 1996) (in denying TCG's petition seeking competitive designation for its Centrex service and High Capacity private line services, Commission stated that Chapter 30 requirements applied equally to new entrants as well as ILECs).

66 Pa.C.S. § 3001(7) and (8).

In the instant Order, we are advocating the adoption of the principle that the services which have been classified as competitive for an ILEC or CLEC under Chapter 30 can also be offered by other CLECs or an ILEC, as the case may be, as competitive services without a prior competitive determination and classification by this Commission for each CLEC or ILEC on a case-by-case basis. The offering of such services by a CLEC or ILEC on a competitive basis will be limited to the areas the CLEC or ILEC has been certified to serve and to the service territory of the respective ILEC or CLEC that has obtained the competitive classification for these services under a Chapter 30 proceeding.

We believe that the adoption of the above principle through the proposed regulations is consistent with the policies espoused by Chapter 30 and the TA-96. The proposed regulations formulate a flexible approach for the regulation of ILEC and CLEC operations within this Commonwealth to promote competition within the telecommunications industry.

Moreover, we do not believe that the proposed regulations contradict the statutory requirements of Chapter 30. Indeed, notwithstanding our prior holding in *In re Petition of TCG Pittsburgh*, the absence of an alternative or streamlined regulation plan for a new entrant CLEC does not in any way damage the public interest. In reality, CLEC operations are not currently regulated on the basis of a rate base/rate-of-return method. More often than not, the upper bounds of CLEC service prices are defined by the prices for the corresponding ILEC services. The lower bounds of CLEC service prices are largely defined by the interconnection rates and/or wholesale resale rates that exist in the relevant agreements between CLECs and ILECs.¹⁰ Thus, the filing of a Chapter 30 alternative or streamlined regulation plan by a CLEC would simply formalize existing regulatory parameters, albeit at a rather high administrative cost for the CLEC concerned and for this Commission.

We believe that the proposed regulations are competitively neutral between potentially competing carriers. If an ILEC (or a specific CLEC) has attained competitive service classification for its services under its respective Chapter 30 plan and associated subsequent Chapter 30 petitions, then CLECs (or the applicable ILEC) should be free to compete in the relevant services markets. A competitive inequity would ensue if CLECs would have to file their own Chapter 30 plans to classify as competitive the same services that have already been classified as competitive for ILECs with Chapter 30 plans in place. This competitive inequity would manifest itself not only in the 9-month statutory period that is usually required for the disposition of a Chapter 30 petition and plan, but also because a CLEC would be attempting at the same time to establish itself as a viable competitive supplier of services in the local exchange markets that are the traditional domain of ILECs.

Further, the proposed regulations do not modify our prior directives regarding the interconnection obligations of certain ILECs under TA-96. *See generally Petition of Rural and Small Incumbent Local Exchange Carriers for Commission Action Pursuant to Section 251(f)(2) and 253(b) of the Telecommunications Act of 1996*, Docket Nos. P-00971177, et al. (Orders entered July 10, 1997, and

¹⁰ There are CLECs which offer services in certain niche markets and charge rates that are higher than the corresponding ILEC services. The tariff filing regulations for these CLECs are addressed in a separate part of this Order and in § 53.59(c) and (d) of Annex A.

November 24, 1997). In addition, we believe that our approach contains substantial benefits in terms of administrative efficiency both for this Commission and for the regulated telecommunications industry. Through the directives that we are proposing here, we will avoid the adjudication of numerous Chapter 30 proceedings that are not likely to result in any substantial benefits for the broader public interest. This approach will result in immediate benefits for end-user consumers since it will facilitate the development of competition in the local exchange telecommunications services markets.

As stated above, the proposed regulations will no longer require the filing of cost support information for CLEC tariff filings where the CLEC proposes to offer noncompetitive services at or below the rates and charges of the corresponding services offered by the ILEC. Further, in these cases, the CLEC's tariff filings will become effective on 1-day's notice.

The proposed regulations will still require, however, the filing of certain information by CLECs that propose tariff changes with rates that exceed those for the corresponding ILEC services, and in certain cases would allow us to require cost support documentation. Our interest in requiring this information is centered on protecting end-user consumers. It has come to our attention that certain CLECs certified to operate in this Commonwealth are offering their services to targeted end-user customers with poor credit histories at rates that are higher than those charged by ILECs and other CLECs for the same services. See generally *Application of Blue Ribbon Rentals II, Inc., d/b/a Talk One America*, Docket No. A-310442 (Corrected Order entered August 4, 1997). However, such "high-risk" residential end-user customers who may be unable to ordinarily obtain basic telephone service because of their past credit histories may also be economically disadvantaged. Thus, although we have permitted this type of CLEC to enter freely this Commonwealth's markets, we believe that its tariff charges should be subjected to an additional degree of scrutiny in order to afford the necessary protection for its "high-risk" end-user customers. We believe that the additional documentation requirements that we hereby impose will serve this purpose.

Turning to the concern expressed originally by two commentators that CLEC services and rates should cover the costs of providing the tariffed service so as to prevent cross-subsidization, we find that this argument is not legally supportable. Below-cost pricing of services and cross-subsidization are only anticompetitive problems when engaged in by an entity that has market power.¹¹ See, e.g., *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 224 (1993) ("[t]hat below-cost pricing may impose painful losses on its target is of no moment to the antitrust laws if competition is not injured"). In fact, the antitrust laws view price cutting, even "below-cost" selling for a short period of time, by a new entrant or other competitor as a procompetitive act designed to make the consuming public aware of the entity and increase its market share. See, e.g., *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 594 (1986) ("cutting prices in order to increase business often is the very essence of competition"). In short, price cutting

¹¹ This concept is at least implicitly recognized in Chapter 30's section 3005(g)(2), where it declares that local exchange carriers "may not use revenues earned or expenses incurred in conjunction with noncompetitive services to subsidize or support any competitive services." By its very terms, the statute does not prohibit the use of revenues earned in conjunction with competitive services to subsidize or support other competitive services. The clear intent of this provision is to prohibit cross-subsidization only where a LEC has market power in the noncompetitive services market. Any other construction would run counter to clear antitrust precedent and may be interpreted as a barrier to entry under section 253 of the TA-96.

allows the new entrant the opportunity to get a "foothold" in a market that it may not otherwise be able to penetrate because of the entrenched players already in that market.¹²

Both the BA-PA and Nextlink proposals adopt the suggestion offered by most of the commentators that the notice requirement for noncompetitive service offerings should be reduced to 30 days or less so as to decrease the regulatory burdens placed on all local exchange carriers. These reduced notice requirements are incorporated in the proposed regulations.

As already discussed above, for filings by ILECs for noncompetitive service offerings when their rates are lower than the corresponding rates of the CLECs, a 10-day notice period is proposed.¹³ For filings by ILECs and CLECs for noncompetitive services when their rates are higher than the corresponding rates of the CLECs or ILECs, respectively, a 30-day notice period is proposed. Both the 10-day and 30-day notice periods are subject to an automatic extension of up to an additional 30 days if requested by the Commission and notice is provided to all appropriate parties. To help implement this reduced notice period, we will develop internal procedures that will streamline our own internal review and approval process of these tariff filings.¹⁴ CLEC rate filings at or below those of the corresponding ILEC will become effective on a 1-day's notice. However, adoption of these reduced notice requirements does not affect in any way this Commission's ability to investigate a given tariff after it becomes effective if we discover, through our own review or a complaint filed by a third party, a legitimate reason to open an investigation.

In regard to the last three rulemaking issues raised in our August 1, 1997, second advance notice of proposed rulemaking order—local exchange carrier intraLATA toll rates, tariff filings for service packages, and promotional offering tariff filings—the proposed regulations adopt the identical language offered in the BA-PA and Nextlink proposals.

With respect to the intraLATA toll markets, this Commission's April 29, 1997, order at Docket Nos. L-00940099 and M-00930496 affirmed our willingness to provide flexibility to ILEC tariff filings in this market once intraLATA toll "1+" dialing parity is implemented (which occurred on July 31, 1997).¹⁵ The proposed regulations adopt the same type of flexibility for ILECs that the Commission's April 29, 1997, order provides

¹² In order for price cutting to be found to be predatory, and therefore unlawful under the antitrust laws, one must show that below-cost selling occurred and that the price cutter has the ability to recoup its investment in below-cost prices after its competitors are driven from the market. *Brooke Group*, 509 U.S. at 222-24. As a matter of law, those entities with little or no market share, even if they have substantial financial resources, have been found by the courts to be too small to confer market power, thus making recoupment impossible. *Id.* at 232-43 (12% market share was found, as a matter of law, to be too small to confer market power; recoupment therefore was impossible).

We also take administrative notice that Bell Atlantic itself made a similar argument last year in relation to its petition to the FCC for TA-96 section 276 relief. *Petition of Bell Atlantic Corporation for Relief from Barriers to Deployment of Advance Telecommunications Services*, CCB Docket No. 98-11. In its petition, BA-PA's parent company argued for deregulatory treatment over its provision of advanced high-speed broadband services as a "new entrant" to encourage "the rapid development of," and to promote competition in, this new technology. Bell Atlantic's Petition at 4 and 17.

¹³ While below-cost pricing and cross-subsidization concerns may arise when an ILEC has the ability to lower prices in response to competitive pressures from a new-entrant CLEC, we do not believe the proposed regulations will result in any increase in this type of activity by ILECs because the regulations allow us to take additional time to review a proposed tariff if we receive a complaint that the tariff will create an anticompetitive problem. In addition, existing Commission complaint procedures, including use of applicable dispute resolution procedures, are available to address these types of concerns as well.

¹⁴ To successfully effectuate these reduced notice periods and otherwise ensure full compliance with the proposed regulations, we anticipate and expect that the industry will engage in self-policing efforts.

¹⁵ In re: *Interexchange Carrier Regulation Under Chapter 30 of the Public Utility Code*, Docket Nos. L-00940099 and M-00930496, at 10 (Final Rulemaking Order entered April 29, 1997).

interexchange carriers operating in the intra and interLATA toll markets. Specifically, the regulations propose, consistent with §§ 63.103 and 63.104 (relating to existing competitive services; and new competitive services), that both ILECs and CLECs would be permitted to file tariffs with changes in their rates and charges for existing noncompetitive toll services alone that would become effective with a 1-day notice period and a 16-day notice period for new services.

In relation to both joint/bundled service packages and promotional offerings, the proposed regulations will relieve ILECs and CLECs from any automatic obligation to provide cost support documentation for tariff filings. The Commission, however, retains authority to request relevant documentary support for tariff filings involving bundled or promotional offerings. Additionally, no filing requirements will exist for either bundled or promotional offerings consisting entirely of competitive services.¹⁶ Finally, consistent with prior Commission action and policy in approving promotional offerings, the proposed regulations prohibit the use of negative option provisions; requiring instead that a customer affirmatively respond to the company if he or she wants to continue the service beyond the original promotional period.

In conclusion, we believe that the tariff filing changes proposed in this order are critically important in promoting competition in the telecommunications industry consistent with Chapter 30 of the Public Utility Code and the TA-96. As all interested parties have already had an opportunity to provide public comment on the proposed interim guidelines incorporating these regulatory changes, we hereby adopt the proposed guidelines and offer them on an optional basis to jurisdictional utilities to provide guidance on appropriate tariff filing requirements until the proposed regulations receive final approval. We note that this approach of adopting interim guidelines until final regulations have been promulgated has previously been used by this Commission in a number of other instances to implement telephone and electric reform legislation. *See, e.g., Interim Guidelines for Standardizing Local Exchange Company Responses to Customer Contacts Alleging Unauthorized Changes to the Customer's Telecommunications Service Provider and Unauthorized Charges Added to the Customer's Bill*, Docket No. M-00981063 (Tentative Order entered June 5, 1998); *Chapter 28 Electric Generation Customer Choice and Competition Act—Customer Information—Interim Requirements*, Docket No. M-00960890F0008 (Order entered July 11, 1997); *Re: Licensing Requirements for Electric Generation Suppliers—Interim Licensing Procedures*, M-00960890F0004 (Order entered February 13, 1997).

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; 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, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.251—7.235, we find that the regulations governing tariff filing requirements for

¹⁶ Recognizing that telecommunications providers are expanding the types of service offerings they provide their customers, the Commission seeks comment on whether "joint or bundled service packages" for purposes of the proposed regulations should be defined to include "nonregulated services," including but not limited to Internet, cable, cellular, and electric generation services, as well as "noncompetitive and competitive services."

the telecommunications industry in §§ 53.52 and 53.53 should be modified as set forth in Annex A, attached hereto; *Therefore,*

It is Ordered that:

1. The proposed rulemaking at Docket No. L-00940095 will consider the regulations set forth in Annex A.
2. The Secretary shall submit this order, Annex A and Appendix A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this Order, Annex A and Appendix A for review and comment to IRRC and the Legislative Standing Committees.
4. The Secretary shall certify this order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original and 15 copies of any comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. The Secretary shall specify publication of the order in accordance with 45 Pa.C.S. § 727.
6. The proposed regulations attached as Annex A are hereby adopted as final interim guidelines at Docket No. L-00940095F0002 and can be used by jurisdictional utilities to provide guidance as to appropriate tariff filing requirements until final regulations are approved at Docket No. L-00940095.
7. A copy of this Order, Annex A and Appendix A shall be filed in the *Joint Petitions for Global Resolution* proceeding at Docket Nos. P-00991648 and P-00991649.
8. The contact persons for this rulemaking are Gary Wagner, Bureau of Fixed Utility Services, (717) 783-6175 (technical), and Carl S. Hisiro, Assistant Counsel, Law Bureau (717) 783-2812 (legal).
9. A copy of this order, Annex A and Appendix A shall be served upon the Pennsylvania Telephone Association, all jurisdictional telecommunication utilities, the OTS, OCA and SBA.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-209. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

TARIFF FILING REQUIREMENTS FOR INCUMBENT LOCAL EXCHANGE CARRIERS AND COMPETITIVE LOCAL EXCHANGE CARRIERS

§ 53.57. Definitions.

The following words and terms, when used in this section and §§ 53.58—53.60, have the following meanings, unless the context clearly indicates otherwise:

CLEC—Competitive local exchange carrier—A telecommunications company that has been certificated by the Commission as a CLEC under the Commission's procedures implementing the Telecommunications Act of 1996,

the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56) or under the relevant provisions of 66 Pa.C.S. § 3009(a) (relating to additional powers and duties).

Competitive service—A service or business activity offered by an incumbent or CLEC that has been classified as competitive by the Commission under the relevant provisions of 66 Pa.C.S. § 3005 (relating to competitive services).

ILEC—Incumbent local exchange carrier—A telecommunications company deemed to be an ILEC under section 101(a)(h) of the Telecommunications Act of 1996 (47 U.S.C.A. § 251(h)).

Joint or bundled service packages—

(i) Service packages that may be composed by one or more distinct categories of noncompetitive and competitive services and service options or features, inclusive of toll services, when the service packages are offered by CLECs and ILECs under a single rate or charge and a unified set of terms and conditions for service as defined in a tariff approved by the Commission.

(ii) The term does not include ILEC or CLEC tariff filings that involve simultaneous changes in rates and charges for noncompetitive services in a revenue neutral manner.

Lifeline Plan—A tariffed service offering, approved by the Commission, which provides telecommunications services to qualified low-income end-user consumers at reduced rates and charges in accordance with applicable directives and guidelines of the Commission and of the Federal Communications Commission.

New service—A service that is not substantially the same or functionally equivalent with existing competitive or noncompetitive services.

Noncompetitive service—A protected telephone service as defined in 66 Pa.C.S. § 3002 (relating to definitions) or a service that has been determined by the Commission as not a competitive service.

Promotional service offerings—

(i) Noncompetitive services offered by CLECs and ILECs, under rates, charges, applicable discounts, terms, conditions and duration governed by an appropriate tariff approved by the Commission.

(ii) Promotional service offerings may not have a duration of longer than 6 months in any rolling 12-month period which commences as of the effective date of the filed promotion.

§ 53.58. Offering of competitive services.

(a) ILEC services that have been classified as competitive under the relevant provisions of 66 Pa.C.S. § 3005 (relating to competitive services), may also be offered by CLECs as competitive services without prior competitive determination and classification by the Commission subject to §§ 53.57, 53.59, 53.60 and this section.

(b) Under § 53.59 (relating to cost support requirements and effective filing dates for tariff filings of noncompetitive services), a CLEC is not prohibited from offering services classified as noncompetitive in an ILEC service territory when the CLEC has been certificated to offer service.

(c) When the Commission approves a CLEC petition under the relevant provisions of 66 Pa.C.S. § 3005 for classification of a noncompetitive service to a competitive service, the ILEC serving that petitioning CLEC's service territory and other certificated CLECs within the peti-

tioning CLEC's service territory may offer the service approved by the Commission as a competitive service subject to §§ 53.57, 53.59, 53.60 and this section.

(d) CLECs and ILECs offering services classified by the Commission as competitive shall file with the Commission appropriate informational tariffs and price lists.

(e) The Commission may initiate a proceeding for the potential reclassification from competitive to noncompetitive a service that is offered by either or both an ILEC and CLECs in a specific service territory under the relevant provisions of 66 Pa.C.S. § 3005(d).

(1) The Commission will decide which ILEC or CLEC has demonstrated that level of dominant market power to warrant reclassification of a competitive service to noncompetitive status.

(2) The Commission will provide an opportunity to participate in the proceeding to the ILEC and to those CLECs that offer substantially the same or functionally equivalent competitive service within the service territory of the ILEC or specific CLEC demonstrating dominant market power.

(3) The Commission will separately determine whether the substantially same or functionally equivalent service that is offered by the ILEC or by CLECs not demonstrating dominant market power in the relevant service territory will continue to be classified as a competitive service.

(4) When reviewing whether a service should be reclassified, the Commission will consider the following factors:

(i) The ease of entry by potential competitors into the market for the specific service at issue.

(ii) The presence of other existing telecommunications carriers in the market for the specific services at issue.

(iii) The ability of other telecommunications carriers to offer the service at competitive prices, terms and conditions.

(iv) The availability of like or substitute service alternatives in the relevant geographic area for the service at issue.

(v) Whether the service is provided under conditions that do not constitute unfair competition.

(vi) Whether the service, including its availability for resale under the relevant provisions of the Telecommunications Act of 1996, the act of February 8, 1996 (Pub.L. No. 104-104, 110 Stat. 56), is provided on a nondiscriminatory basis.

(vii) Other factors deemed relevant by the Commission.

§ 53.59. Cost support requirements and effective filing dates for tariff filings of noncompetitive services.

(a) *CLEC services priced below ILEC rates.* A CLEC that offers services that are substantially the same or functionally equivalent with noncompetitive services by an ILEC in the service territory of the ILEC, at rates and charges that are at or below the level of the corresponding rates and charges of the ILEC for these services, is relieved from any obligation to provide cost support for tariff filings and rate changes involving these services. These tariff filings will be effective on 1-day's notice if the following apply:

(1) The CLEC offers these services in the same service territory as the ILEC.

(2) The CLEC tariff filing does not contain any material changes in the CLEC's tariff rules, terms or conditions.

(3) The CLEC specifically states in its accompanying cover letter that the filing is being made on 1-day's notice in accordance with this subsection, and that the tariff filing does not contain material changes in the CLEC tariff rules, terms or conditions.

(4) The CLEC provides copies of the ILEC's effective tariffs designating the corresponding rates and charges of the same or functionally equivalent noncompetitive services.

(b) *CLECs operating in multiple ILEC territories.* When a CLEC offers services in the service territories of more than one ILEC, and the rates and charges for these services satisfy the criteria of subsection (a), the CLEC may file separate tariff schedules when the rates and charges for these services correspond to the rates and charges of the different ILECs in their respective service territories.

(c) *CLEC services priced above ILEC rates.*

(1) CLEC tariff filings for services that are substantially the same or functionally equivalent with noncompetitive services offered by an ILEC in the same service territory of the ILEC, at rates and charges that are higher than the corresponding rates and charges of the ILEC, or for new services, will become effective as filed if the Commission does not take any action within 30 days from the date when all consumers subject to the rate increase shall have received notice to each individual customer. These rate filings shall be served in person on the date of filing upon the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Office of Trial Staff.

(2) The Commission may extend the review period by up to an additional 30 days upon notice to the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's Office of Trial Staff and the CLEC. The CLEC shall include the following summary documentation for tariff filings involving the services:

(i) A brief statement indicating whether the CLEC offers these services solely on the basis of resale of an ILEC's retail services, through its own facilities, or a combination of both.

(ii) A brief statement indicating whether the tariff filing represents an increase or decrease in existing rates and charges.

(iii) A summary justification of the tariff filing, including an explanation of whether the proposed changes have been caused by a corresponding change in rates and charges of the resold services of the underlying ILEC.

(d) *Cost support for CLEC filings.* When new or revised CLEC rates for service are higher than those of the ILEC in that ILEC's service territory, the Commission may request relevant documentary support, including cost support and a statement of compliance with applicable guidelines. The requests can be made either before or after the rates become effective, and will only occur when it is necessary to protect consumers such as, without limitation, when the service is targeted to the economically disadvantaged or customers with poor credit histories.

(e) *ILEC rate changes.*

(1) *Rate reductions and increases.* ILEC tariff filings for noncompetitive services that represent rate reductions

from current rates and charges of that ILEC, will become effective as filed if the Commission does not take any action within a 10-day notice and review period. To obtain the 10-day notice and review period, the ILEC shall provide copies of its current tariff for the noncompetitive service for which it seeks a rate reduction. ILEC tariff filings for noncompetitive services that represent rate increases from current rates and charges of that ILEC, will become effective as filed if the Commission does not take any action within 30 days from the date when all consumers subject to the rate increase shall have received notice to each individual customer. The rate filings shall be served in person on the date of filing upon the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission's Office of Trial Staff.

(2) *Extension of review period.* The Commission may extend the review period for either type of tariff filing by up to an additional 30 days upon notice to the Office of Consumer Advocate, the Office of Small Business Advocate, the Commission's Office of Trial Staff and the ILEC.

(3) *Documentary support.* Nothing in this subsection affects the type of documentary support, including cost support and a statement of compliance with all applicable guidelines, that will be necessary for an ILEC to file with the Commission for approval of tariff filings involving noncompetitive service offerings.

(f) *Executive overview.* ILECs and CLECs that file tariff filings in accordance with subsection (c) or (e) shall file an executive overview summarizing the reason for the filing. The executive overview shall include relevant information regarding the safety, adequacy, reliability and privacy considerations related to the proposed or revised service.

(g) *Lifetime Plan statement.* When a CLEC proposes increases in rates and charges for any of its basic local exchange services, the CLEC shall also state whether it has implemented a Lifeline Plan that has been approved by the Commission.

§ 53.60. Supporting documentation for promotional offerings, joint or bundled service packages, and toll services.

(a) *Promotional offerings.* CLECs and ILECs do not have an automatic obligation to provide cost support for tariff filings involving a promotional service offering so long as the promotional offering does not result in any type of price increase to customers.

(1) ILEC and CLEC tariff filings involving a promotional service offering will become effective with a 1-day's notice. ILECs and CLECs shall provide a 10-day advance notice to any resellers that purchase the promotional service offering from the ILEC or CLEC making the tariff filing.

(2) The Commission may request relevant documentary support, including cost support and a statement of compliance with applicable guidelines, for tariff filings involving promotional service offerings.

(3) No filing requirements exist for promotional offerings involving competitive services.

(4) CLECs and ILECs that file promotional offerings under this subsection shall confirm in their filing that subscribers to the promotional offerings will be required to respond affirmatively at any time the promotional service is being offered if they wish to continue the service beyond the promotional period.

(b) *Joint or bundled service packages.* CLECs and ILECs are relieved from an automatic obligation to

provide cost support for tariff filings involving the offering of joint or bundled service packages.

(1) When ILEC joint or bundled service packages include both competitive and noncompetitive services, these service packages shall meet the applicable guidelines that have been issued by the Commission in the form of regulations, orders or other directives regarding cost justification, discrimination and unfair pricing in joint or bundled service package offerings, and their component competitive and noncompetitive services.

(2) The Commission may request relevant documentary support, including cost support and a statement of compliance with applicable guidelines, for tariff filings involving joint or bundled services.

(3) No filing requirements exist for the offering of joint or bundled service packages composed entirely of competitive services.

(c) *Toll services.* CLECs and ILECs may file tariffs with changes in their rates and charges for existing noncompetitive toll services alone that can become effective with a 1-day's notice. A 16-day notice period is required for the filing of a new toll service or the specific noncompetitive services defined in 66 Pa.C.S. § 3008(a) (relating to interexchange telecommunications carrier). For tariff filings and rate changes involving noncompetitive toll services, the Commission may request relevant documentary support, including cost support and a statement of compliance with applicable guidelines.

[Pa.B. Doc. No. 99-2088. Filed for public inspection December 10, 1999, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending November 30, 1999.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-24-99	Aligned Partners Trust Company Pittsburgh Allegheny County	Gulf Towers, 30th Flr. 707 Grant Street Pittsburgh Allegheny County	Approved
11-30-99	Harleysville Interim Savings Bank Harleysville Montgomery County	Harleysville	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-22-99	East Penn Bank Emmaus Lehigh County	861 North Route 100 Upper Macungie Twp. Lehigh County	Opened
11-23-99	Somerset Trust Company Somerset Somerset County	801 Barn Street Hooversville Somerset County	Opened
11-23-99	Harris Savings Bank Harrisburg Dauphin County	3328 Plaza Drive Reading Berks County	Filed
11-23-99	Harris Savings Bank Harrisburg Dauphin County	200 S. Spring Garden St. Carlisle Cumberland County	Filed
11-24-99	The Madison Bank Blue Bell Montgomery County	#43 Summit Square Shopping Center Rte. 413 & Doublewoods Rd. Langhorne Bucks County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-29-99	Mercer County State Bank Sandy Lake Mercer County	<i>To:</i> 110-112 N. Franklin St. Cochranton Crawford County <i>From:</i> 115 West Adams St. Cochranton Crawford County	Filed

SAVINGS ASSOCIATIONS

No activity.

CREDIT UNIONS

Branch Applications

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-25-99	Belco Community Credit Union Harrisburg Dauphin County	5785 Allentown Blvd. Harrisburg Dauphin County	Opened

DAVID E. ZUERN,
Secretary

[Pa.B. Doc. No. 99-2089. Filed for public inspection December 10, 1999, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Emergency Shelter Grant Program

The Department of Community and Economic Development (DCED) has been invited to apply for funding through the United States Department of Housing and Urban Development.

The Emergency Shelter Grant Program is established within subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C.A. §§ 11371—11378). The program authorizes grants for the rehabilitation or conversion of buildings for use as emergency shelters for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness.

One copy of the application may be submitted to the Department by local governments on behalf of homeless service providers to the Customer Service Center, DCED, 4th Floor, Forum Building, Harrisburg, PA 17120 in accordance with DCED's Single Application requirements. A copy of the application must also be sent to the appropriate regional office. The application window will open on January 1, 2000, and close at 5 p.m. on February 29, 2000. Applications received after this date may not be considered for funding.

Applications forms and instructions may be obtained by contacting the Department's regional offices or the main office in Harrisburg. Persons with a disability who wish to submit an application in accordance with the provisions stated herein and who require assistance with that application and persons who require copies of this notice in an alternate format (large type, braille, and the like) should contact Edward Geiger, Room 502 Forum Building, Harrisburg, PA 17120, (717) 787-5327 to discuss how the Department may best accommodate their needs. Text telephone calls can be placed through the Pennsylvania Relay System at (800) 654-5984. The following is the listing of DCED Regional Offices and the counties they serve:

Department of Community and Economic Development Regional Offices

Southeast

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties
Department of Community and Economic Development
908 State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130
(215) 560-2256

Northeast

Berks, Bradford, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Sullivan, Susquehanna, Tioga, Wayne and Wyoming Counties
Department of Community and Economic Development
Suite 201 Samters Building
101 Penn Avenue
Scranton, PA 18503-2025
(717) 963-4571

Central

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York, Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset and Union Counties.
Department of Community and Economic Development
576 Forum Building
Harrisburg, PA 17120
(717) 787-7347

Southwest

Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland counties
Department of Community and Economic Development
413 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
(412) 565-5002

Northwest

Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren Counties
Department of Community and Economic Development
212 Lovell Place Apartments
Erie, PA 16503
(814) 871-4241

Main Office

502 Forum Building
Harrisburg, PA 17120
(717) 787-5327

SAMUEL A. MCCULLOUGH,
Secretary

[Pa.B. Doc. No. 99-2090. Filed for public inspection December 10, 1999, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

APPLICATIONS RECEIVED UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated the EPA, Region III, 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 comment 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 (800) 654-5984.

Applications received for National Pollutant Discharge Elimination System (NPDES) permit to discharge to State waters.

Northwest Regional Office: Regional Manager, Water Management, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6942.

PA 0025542. Sewage. **US Department of Agriculture—Kinzua Beach Recreation Area**, 222 Liberty Street, P. O. Box 847, Warren, PA 16365.

This application is for renewal of an NPDES permit to discharge treated sewage to the Allegheny Reservoir in Mead Township, **Warren County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 105 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .034 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31) (11-1 to 4-30)	10 20	20 40
TSS (5-1 to 10-31) (11-1 to 4-30)	10 20	20 40
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0210218. Industrial waste, SIC n/a. **Beazer East, Inc.**, One Oxford Centre, Suite 3000, Pittsburgh, PA 15219-1822.

This application is for a renewal of an NPDES permit, to discharge treated industrial waste to South Branch Bear Creek in Petrolia Borough, **Lawrence County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is PA American Water Company on the South Branch of Bear Creek located at East Brady, approximately 18 miles below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.144 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitoring only		
CBOD ₅	17		43
Total Suspended Solids	40		100
Oil and Grease	15		30
Ammonia-Nitrogen			
(5-1 to 10-31)	3.1		7.8
(11-1 to 4-30)	9.3		23.3
Aluminum	0.54		1.4
Copper	0.04		0.1
Un-ionized Hydrogen Sulfide**	0.0035		0.009
Resorcinol	1.2		3.0
Phenol	0.04		0.08
pH		6.0 to 9.0 at all times	

** See Special Condition 2 in Part C.

The EPA waiver is in effect.

PA 0025534. Sewage. **US Department of Agriculture—Kiasutha Recreation Area**, P. O. Box 847, Warren, PA 16365.

This application is for renewal of an NPDES permit to discharge treated sewage to the Allegheny Reservoir in Hamilton Township, **McKean County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 105 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.011 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
TSS		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0025551. Sewage. **US Department of Agriculture—Dewdrop Recreation Area**, P. O. Box 847, Warren, PA 16365.

This application is for renewal of an NPDES permit to discharge treated sewage to the Allegheny Reservoir in Mead Township, **Warren County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 105 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of 0.010 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
TSS (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0221848. Sewage. **USDA—Forest Service**, Willow Bay Recreation Area, P. O. Box 847, 222 Liberty Street, Warren, PA 16365.

This application is for renewal of an NPDES permit to discharge treated sewage to the Allegheny Reservoir in Corydon Township, **McKean County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 130 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .015 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
TSS (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	.5	1.2
Dissolved Oxygen	XX	XX
pH	6.0—9.0 at all times	

XX = Monitor and Report on Monthly DMR's.

The EPA waiver is in effect.

PA 0221147. Sewage. **County Line Cafe**, 3808 Perry Highway, Hadley, PA 16130.

This application is for a renewal of an NPDES permit, to discharge treated waste to Unnamed Tributary to Sandy Creek in Sandy Creek Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on Allegheny River located at river mile 90.0 and is located 42.0 miles, below point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.0008 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
TSS	20	40
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.4	3.3
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PA 0026972, SIC: 4952, Sewage, **Exeter Township Berks County Authority**, 400 Hanover Street, Birdsboro, PA 19508-9181.

This application is for Amendment No. 3 of an NPDES permit for an existing discharge of treated sewage to the Schuylkill River, in Exeter Township, **Berks County**.

The receiving stream is classified for warm water fishes, recreation and water supply. The existing downstream potable water supply intake considered during the evaluation was Pottstown Borough Water Supply located on the Schuylkill River. The discharge is not expected to impact any potable water supply.

The amendment is necessary to implement final TRC limits.

The EPA waiver is not in effect.

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

PA 0098272. Sewage, **May Day, Inc.**, R. D. 1, Box 54, Vanderbilt, PA 15486.

This application is for renewal of an NPDES permit to discharge treated sewage from May Day II Personal Care Home STP in German Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as North Branch Browns 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 Carmichaels Municipal Water Authority on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.0125 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	5.8			11.6
(11-1 to 4-30)	17.4			34.8
Fecal Coliform				
(5-1 to 9-30)		200/100 ml as a geometric mean		
(10-1 to 4-30)		4,000/100 ml as a geometric mean		
Total Residual Chlorine	0.7			1.7
pH		not less than 6.0 nor greater than 9.0		

The EPA waiver is in effect.

PA 0098558. Sewage, **Wilson Fox—Fox Den Acres Campground, Inc.**, R. D. 1, New Stanton, PA 15672.

This application is for renewal of an NPDES permit to discharge treated sewage from the Fox Den Acres Campground Sewage Treatment Lagoons in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Sewickley 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 McKeesport Municipal Water Authority.

Outfalls 001 and 002: existing discharges, total design flow of .064 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen	7.0			14.0
Fecal Coliform		2,000/100 ml as a geometric mean		
Total Residual Chlorine	1.4			3.3
pH		not less than 6.0 nor greater than 9.0		

Other Conditions: The applicant is only permitted to discharge from January 1 to April 30 on an annual basis.

The EPA waiver is in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewaters into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal

sewage sludge management and total residual chlorine control (TRC). Major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

The EPA, Region III, Regional Administrator has waived the right to review or object to these proposed permit actions under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permits are invited to submit a statement to the Field Office indicated as the office responsible, within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding these applications and proposed permit actions. Comments should include the name, address and telephone number of the writer and a brief statement to inform the Field Office of the basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the Field Office considers the public response significant.

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

The permit renewal application and related documents, proposed effluent limitations and special conditions, comments received and other information are on the Department's file. The documents may be inspected at, or a copy requested from, the Field Office that has been indicated above the application notice.

Southcentral Regional Office: Water Management Program, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0036790	Paradise MHP 315 High Street Duncannon, PA 17020	Perry County Wheatfield Township	Tributary of Dark Run	TRC
PA 0036269	Stewartstown Borough Authority c/o Borough Office 6 N. Main Street Stewartstown, PA 17363	York County Hopewell Township	Ebaugh's Creek	TRC
PA 0084026	Northwestern Lancaster County Authority 97 North Penryn Road Manheim, PA 17545	Lancaster County Penn Township	Chickies Creek	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

Applications received for industrial waste and sewage applications under The Clean Stream Law (35 P. S. §§ 691.1—691.1001).

Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review any of these applications should contact Mary DiSanto at (717) 705-4732.

A. 3199402. Sewage, submitted by **Mount Union Municipal Authority**, P. O. Box 90, Mt. Union, PA 17066 in Mt. Union Township, **Huntingdon County** to expand their existing wastewater treatment plant was received in the Southcentral Region on November 19, 1999.

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

A. 6399408. Sewerage, **Stanley Beck Jr.**, 902 Main Street, Bentleyville, PA 15314. Application for the construction and operation of a small flow sewage treatment plant to serve the Beck Residence located in West Pike Run Township, **Washington County**.

INDIVIDUAL PERMITS

(PAS)

Stormwater Individual

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address, and telephone number of the writer and a

concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above the application.

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

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

NPDES Permit PAS10Q062-R. Stormwater. **Ira Lehigh Construction, Inc.**, Ira Lehigh, P. O. Box 223, Emmaus, PA 18049-0223, has applied to discharge stormwater from a construction activity located in Lower Macungie Township, **Lehigh County**, to Little Lehigh Creek.

Monroe County Conservation District, District Manager, 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.

NPDES Permit PAS10S085. Stormwater. **Lake Swiftwater Club, Inc.**, R. R. 1, Box 62, Henryville, PA 18332, has applied to discharge stormwater from a construction activity located in Paradise Township, **Monroe County**, to Swiftwater Creek.

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

NPDES Permit PAS10A111. Stormwater. **William R. Hofer, Inc.**, 100 O'Hara Woods Drive, Pittsburgh, PA 15238 has applied to discharge stormwater from a construction activity located in the Fox Chapel Borough and Indiana Township, **Allegheny County** to Squaw Run.

SEWAGE FACILITIES ACT

PLAN APPROVAL

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

Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. 2199504. Public water supply, **Lindenwood—Pressure Booster Station**, Upper Allen Township, **Cumberland County**. *Responsible Official:* Mike Gephart, Sr. Project Engineer, 4211 East Park Circle, P. O. Box 4151, Harrisburg, PA 17111-0151. *Type of Facility:* Booster pump station to serve the Lindenwood

development. *Consulting Engineer:* Bony R. Dawood, PE, Dawood Engineering Inc., P. O. Box 246, Enola, PA 17025. *Application received:* November 9, 1999.

SAFE DRINKING WATER

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

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

0299505. Pittsburgh Water and Sewer Authority, 441 Smithfield Street, Pittsburgh, PA 15222. Interconnection between the Pittsburgh Water and Sewer Authority and the Pennsylvania American Water Company to serve the Warrior Hill area, **Allegheny County**.

Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.

A. 2399501. Public water supply. **Chester Water Authority**, P. O. Box 467, Chester, PA 19016. This proposal involves the construction of Broadmeadows booster station in Thornbury Township, **Delaware County**. The proposed booster station will contain two 1000 gpm pumps and one 250 gpm pump.

SOLID AND HAZARDOUS WASTE

HAZARDOUS SITES CLEAN-UP

Under the Act of October 18, 1988

Submission Deadline for Certified Host Municipality Inspector Reimbursement Applications under Section 1102 of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and Section 304 of the Hazardous Sites Cleanup Act (Act 108).

The Department of Environmental Protection (Department) hereby announces the submission deadline for 1999 Host Municipality Inspector Program Reimbursement Applications as March 31, 2000. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and the Hazardous Sites Cleanup Act (Act 108). Municipalities include cities, boroughs, incorporated towns, townships and home rule municipalities.

All reimbursements are allocated from the Recycling Fund authorized under Act 101 for municipal waste facilities or from the Hazardous Sites Cleanup Fund under Act 108 for hazardous waste facilities. Reimbursements are available to any municipality which has a municipal waste landfill, resource recovery, or commercial hazardous waste storage, treatment and disposal facilities located within its geographic borders. Upon application from any host municipality, the Department shall award reimbursements for authorized costs incurred for the salary and expenses of up to two certified Host Municipality Inspectors. The reimbursement shall not exceed 50% of the approved costs of salaries and expenses. Reimbursement is available only for Host Municipality Inspectors trained and certified by the Department.

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If a municipality does not

receive but requires an application, or for questions about this program, please contact the Program Development Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870.

The deadline for submitting applications is 4 p.m. on March 31, 2000. Applications received by the Department after the deadline will not be considered.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (53 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 (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

For further information concerning the content of a Notice of Intent to Remediate, please contact the Environ-

mental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.

CDR Pigments, 75 Front St., Ridgway, PA, **County of Elk**, Ridgway Borough, has submitted a Notice of Intent to Remediate soil, groundwater and surface water. The site has been found to be contaminated with lead, heavy metals, solvents and BTEX. The applicant proposes to remediate the site to meet the Site Specific Standard. The Notice of Intent to Remediate was published in the *Ridgway Record* on November 8, 1999.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 100148. Waste Management Disposal Services of Pennsylvania, Inc., 1121 Bordentown Road, Morrisville, PA 19067. A permit modification was issued for an extension of the GROWS Landfill Eastern Expansion side slope liner system, located in Falls Township, **Bucks County**. This modification allows for the use of a soil wedge and extension of the previously approved side slope liner extension to account for settlement and to re-establish final permitted contours without increasing air space. Permit Modification was issued by the Southeast Regional Office on November 22, 1999.

Permit No. 400627. Southern Chester County Medical Center, 1015 West Baltimore Pike, West Grove, PA 19390. A permit for the continued operation of a solid waste incinerator was renewed for a 10 year term. Also included as part of this action was the reissuance of the permit to Southern Chester County Medical Center from Southern Chester County Health Services, as a result of a change in ownership structure. The permit was issued by the Southeast Regional Office on November 19, 1999.

Permits revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.

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

Permit No. 603343(15). Bio Gro, P. O. Box 266, Somerset, PA 15501. A permit for the land application of sewage sludge on the Balderston Family Trust Property

located in West Caln Township, **Chester County**, was revoked by the Southeast Regional Office on November 22, 1999.

Permit No. 101582. Nutrecon, Inc., 336 Chestnut Lane, Ambler, PA 19002. This permit, for the septage processing facility located in Upper Dublin Township, **Montgomery County**, has been revoked at the permittee's request based upon cessation of operations and final closure of the facility. This shall also serve as notice regarding a bond release request associated with the closure of the facility that will be initiated upon the permit revocation becoming final. This permit was revoked by the Southeast Regional Office on November 22, 1999.

AIR QUALITY

OPERATING PERMITS

Notice of Plan Approval and Operating Permit Applications

Nonmajor Sources and Modifications

The Pennsylvania Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

Notice is hereby given that DEP has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

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

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with DEP Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If DEP schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act and regulations adopted under the act.

Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015).

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

39-312-031A: Mobil Oil Corp. (8 South Malin Road, Frazer, PA 19355) for operation of a bulk gasoline loading rack in Allentown, **Lehigh County**.

54-313-016B: Air Products and Chemicals, Inc. (P. O. Box 351, Tamaqua, PA 18252) for operation of a Fluorine Plant in Rush Township, **Schuylkill County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

06-310-003A: Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034) for a non-metallic mineral crushing plant controlled by wet suppression in Maxatawny Township, **Berks County**. The source is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for New Stationary Sources.

38-03010A: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105) for operation of a stone crushing plant controlled by a wet suppression system at the Prescott Quarry in South Lebanon Township, **Lebanon County**. The source is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for New Stationary Sources.

PLAN APPROVALS

Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001-4015).

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

PA-09-0090: Messer Griesheim Industries, Inc. (One Steel Road East, Morrisville, PA 19067) for modification of a residual cylinder gases in Bristol Township, **Bucks County**.

PA-46-0015A: Occidental Chemical Corp. (375 Armand Hammer Boulevard, Pottstown, PA 19464) for modification of a Process Line No. 6 in Lower Pottsgrove Township, **Montgomery County**.

PA-15-0099: Heckett MultiServ (South First Avenue, Coatesville, PA 19320) for installation of a scrap cutting torch with baghouses in South Coatesville Borough, **Chester County**.

PA-46-0037C: Cabot Performance Materials (County Line Road, Boyertown, PA 19512) for modification of a tantalum scrap digestion in Douglass Township, **Montgomery County**.

PA-46-0197A: Hershey Foods Corp. (2452 Quakertown Road, Pennsburg, PA 18073) for installation of a starch dryer in Upper Hanover Township, **Montgomery County**.

PA-15-0101: Kendal-Crosslands Communities (4109 East Baltimore Pike, Kennett Square, PA 19348) for construction of a Diesel Generator in Kennett Township, **Chester County**.

PA-15-0100: Kendal-Crosslands Communities (1660 East Street Road, Kennett Square, PA 19348) for construction of a diesel generator in Pennsburg Township, **Chester County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

01-05025A: Valley Quarries, Inc. (P. O. Box J, Chambersburg, PA 17201) for construction of a new asphalt drum mix plant in Cumberland Township, **Adams County**. The new drum mix plant replaces an existing batch asphalt plant. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

07-05033: Grannas Bros. Stone & Asphalt Co., Inc. (P. O. Box 488, Hollidaysburg, PA 16648) for the construction of a new drum mix asphalt plant in Catherine Township, **Blair County**. A fabric collector will control particulate emissions. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

PA-25-028C: International Paper Co.—Erie Mill (1540 East Lake Road, Erie, PA 16533) for minor modification of Air Quality Permit PA 25-028B Lime Silo Bag House. The minor modification will be changing the particulate matter emission limit from 0.02 grains/dry standard cubic feet to 0.04 grains/dry standard cubic feet in Erie, **Erie County**. International Paper Company is a Title V Facility.

25-306-010B: International Paper Co.—Erie Mill (1540 East Lake Road, Erie, PA 16533) for minor modification of Air Quality Permit 25-306-010A coal and wood waste fired No. 21 in Erie, **Erie County**. Boiler Modification will be changing of CO emission limits based on altered EPA AP-42 Factors. International Paper is a Title V Facility.

PA-25-952B: Bush Industries of Pennsylvania, Inc. (2455 Robison Road West, Erie, PA 16509-4675) for installation of a baghouse (59,758 acfm) to control particulate matter emissions from particleboard processing in Summit Township, **Erie County**.

PA-25-971C: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for operation of existing nitric acid/ammonium bifluoride pickle solution plating tanks with scrubber control in Erie, **Erie County**.

PA-25-971B: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for operation of an existing decorative chrome plating operation with scrubber control in Erie, **Erie County**. This source is subject to Federal NESHAP Standard 40 CFR 63, Subpart N.

PA-25-971A: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for operation of an existing chrome anodizing operation with meshpad mist eliminator control in Erie, **Erie County**. This source is subject to Federal NESHAP Standard 40 CFR 63, Subpart N.

PA-37-270A: International Specialty Alloys, Inc. (P. O. Box 428, Route 551, Edinburg, PA 16116) for operation of an existing aluminum-thermite process with baghouse control in Edinburg, **Lawrence County**.

Philadelphia Department of Public Health, Air Management Services, 321 University Ave., Philadelphia, PA 19104, (215) 685-7584.

99128, 99093: Sun Co. (3144 Passyunk Avenue, Philadelphia, PA 19145) for addition of equipment to the alkylolation unit in the City of Philadelphia, **Philadelphia County**.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor de-

sires to have the conference conducted in the locality of the proposed mining activities.

*Knox District Office, P. O. Box 669, Knox, PA 16232.
Coal Applications Received*

Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Commencement, operation and restoration of a bituminous surface strip operation in Slippery Rock Borough, **Butler County**, affecting 5.7 acres. Receiving streams: Unnamed tributary to Wolf Creek to Slippery Rock Creek to Connoquenessing Creek to Beaver River. Application to include a landuse change from "Unmanaged Natural Habitat" to "Commercial" on the lands of Howard E. and Florence C. Meyer. Application received November 18, 1999.

Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

11890201. Permit Renewal for reclamation only, **Greenley Energy Holdings of PA, Inc.** (505 Point Drive, Greensburg, PA 15601) for continued restoration of a bituminous-coal refuse reprocessing-ash disposal strip mine in Scalp Level Borough, **Cambria County**, affecting 9.7 acres, receiving stream Little Paint Creek. Application received November 10, 1999.

56940107. Permit Renewal for reclamation only, **Godin Brothers, Inc.** (136 Godin Drive, Boswell, PA 15531), for continued restoration of bituminous strip mine in Jenner Township, **Somerset County**, affecting 63.4 acres, receiving stream Quemahoning Creek. Application received November 15, 1999.

32950104. Permit Renewal for reclamation only, **Big Mack Leasing Company, Inc.** (R. D. 6, Box 231, Kittanning, PA 16201), for continued restoration of bituminous strip mine in Young Township, **Indiana County**, affecting 62.6 acres, receiving stream unnamed tributary to Whiskey Run to Whiskey Run to Blacklegs Creek. Application received November 10, 1999.

32980110. Permit Revision, **Opal Industries, Inc.** (P. O. Box 980, Latrobe, PA 15650), to add 4.0 acres to the existing 293.0 acre permit for a haul road access, only, with surface drainage to an additional watershed area; this 297.0 acre bituminous surface mine is in Conemaugh Township, **Indiana County**, and the receiving streams are unnamed tributaries to/and Sulphur Run, unnamed tributaries to/and Blackleg's Creek, and unnamed tributaries to/and Kiskiminetas River. Application received November 5, 1999.

Greensburg District Office, R. R. 2, Box 603-C, Greensburg, PA 15601.

26950102R. **Bridgeview Coal Company** (P. O. Box 257, 3735 National Pike, Farmington, PA 15437). Renewal application received for continued reclamation of a bituminous surface mine located in Wharton Township, **Fayette County**, affecting 221.0 acres. Receiving streams: unnamed tributaries 2, 3, 6 and 10, Stony Fork and unnamed tributary 1 Little Sandy Creek. Renewal application received: November 29, 1999.

65950101R. **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Renewal application received for continued reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 60.0 acres. Receiving streams: unnamed tributary to Miller Run to Loyalhanna Creek to Kiskiminetas River. Renewal application received: November 29, 1999.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

17990122. **Johnson Bros. Coal Company** (R. D. 1, Box 580, Mahaffey, PA 15757), commencement, operation and restoration of a bituminous surface mine permit in Brady and Bloom Townships, **Clearfield County** affecting 91 acres. Receiving streams: unnamed tributary to Little Anderson Creek to Anderson Creek, unnamed tributary to Bell Run to the West Branch of the Susquehanna River. Application received November 17, 1999.

17900108. **Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing Bituminous Surface Mine permit in Penn and Brady Townships, **Clearfield County** affecting 798 acres. Receiving streams: Daily Run and unnamed tributaries of Daily Run to Daily Run, Daily Run to Curry Run, Curry Run to West Branch Susquehanna River. Application received November 15, 1999.

17850143. **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), revision to an existing Bituminous Surface Mine permit for a Change in Permit Acreage from 148.7 to 150.7 acres, located in Lawrence Township, **Clearfield County**. Receiving streams: unnamed streams and Wolf Run, tributaries to West Branch Susquehanna River. Application received November 17, 1999.

Knox District Office, P. O. Box 669, Knox, PA 16232.

Noncoal Applications Received

37990304. **G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Commencement, operation and restoration of a gravel operation in Plain Grove Township, **Lawrence County** affecting 45.0 acres. Receiving streams: Jamison Run and unnamed tributaries to Jamison Run. Application to include a landuse change from pastureland to water impoundments with discharge to an unnamed tributary to Jamison Run on a portion of lands of George W. and Nancy J. Rodgers. Application received November 19, 1999.

302608-37990304-E-1. **G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Application for a stream encroachment to install and maintain a temporary haul road crossing on unnamed tributary to Jamison Run in Plain Grove Township, **Lawrence County** affecting 45.0 acres. Receiving streams: Jamison Run and unnamed tributaries to Jamison Run. Application received November 19, 1999.

302608-37990304-E-2. **G. L. McKnight, Inc.** (P. O. Box 773, Slippery Rock, PA 16057-8316). Application for a stream encroachment for a temporary haul road crossing on Jamison Run in Plain Grove Township, **Lawrence County** affecting 45.0 acres. Receiving streams: Jamison Run and unnamed tributaries to Jamison Run. Application received November 19, 1999.

Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.

Large Noncoal (Industrial Mineral) Applications Received

14990301. **Glenn O. Hawbaker, Inc.** (P. O. Box 135, 325 West Aaron Drive, State College, PA 16804), commencement, operation and restoration to a Large Industrial Mineral (Sandstone) permit in Rush Township, **Centre County** affecting 114.67 acres. Receiving streams: unnamed tributary Moshannon Creek. Application received November 15, 1999.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval, and requests for water quality certification have been received by the Department of Environmental Protection. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

Applications received under the Dam Safety and Encroachment Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the Federal Water Pollution Control Act.

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1294. Encroachment. **The Public Auditorium Authority of Pittsburgh and Allegheny County**, Regional Resource Center, Suite 1410, 425 Sixth Avenue, Pittsburgh, PA 15219. To construct and maintain the North Shore Infrastructure Project located within the flood plain of the Allegheny and Ohio Rivers (WWF). The project consists of roadway improvements associated with access to PNC Park and the Steeler Stadium, along with the demolition of the existing Three River Stadium and access to the redevelopment. The project area is bounded by the Allegheny and Ohio Rivers to the south and west, and elevated S.R. 0065 expressway to the north and Federal Street to the east (Pittsburgh West, PA Quadrangle N: 13.0 inches; W: 1.5 inches) in the City of Pittsburgh, **Allegheny County**.

E11-280. Encroachment. **Cambria County Planning Commission**, 401 Candlelight Drive, Suite 213, Ebensburg, PA 15931. To rehabilitate, operate and maintain the following Cambria County Bridges:

1. County Bridge No. 1, a single span bridge having a span of 85.6 feet and an underclearance of 9.0 feet across North Branch Blacklick Creek (CWF) located on T-459 (Strongstown, PA Quadrangle N: 2.8 inches; W: 4.0 inches) in Blacklick Township.

2. County Bridge No. 2, a single span bridge having a span of 79.8 feet and an underclearance of 9.0 feet across Blacklick Creek (CWF) located on T-498 (Clover, PA Quadrangle N: 11.1 inches; W: 15.1 inches) in Blacklick Township.

3. County Bridge No. 4, a single span bridge having a span of 18.5 feet and an underclearance of 12.8 feet across West Branch Susquehanna River located on T-548 (Barnesboro, PA Quadrangle N: 5.9 inches; W: 4.9 inches) in Barr Township.

4. County Bridge No. 7, a single span bridge having a span of 35.8 feet and an underclearance of 6.3 feet across Chest Creek (HQ-CWF) located on T-517 (Carrolltown, PA Quadrangle N: 19.4 inches; W: 3.2 inches) in East Carrol and Clearfield Townships.

5. County Bridge No. 10, a dual span bridge having two spans of 54.0 feet and an underclearance of 3.5 feet across Clearfield Creek (WWF) located on T-561 (Blandburg, PA Quadrangle N: 8.8 inches; W: 16.8 inches) in Reade and White Townships.

6. County Bridge No. 11, a single span bridge having a span of 100.0 feet and an underclearance of 12.0 feet across Clearfield Creek (WWF) located on T-521 (Ashville, PA Quadrangle N: 22.3 inches; W: 0.5 inch) in Clearfield and Dean Townships.

7. County Bridge No. 13, a single span bridge having a span of 24.0 feet and an underclearance of 6.1 feet across Beaver Dam Run (WWF) located on T-488 (Ashville, PA Quadrangle N: 9.8 inches; W: 8.3 inches) in Allegheny and Gallitzin Townships.

8. County Bridge No. 15, a single span bridge having a span of 31.8 feet and an underclearance of 3.6 feet across Clearfield Creek (WWF) located on T-452 (Ashville, PA Quadrangle N: 0.6 inch; W: 13.2 inches) in Allegheny Township.

9. County Bridge No. 17, a single span bridge having a span of 25.0 feet and an underclearance of 7.0 feet across Little Conemaugh River (CWF) located on T-436 (Cresson, PA Quadrangle N: 11.4 inches; W: 16.7 inches) in Washington Township.

10. County Bridge No. 20, a single span bridge having a span of 34.5 feet and an underclearance of 2.3 feet across Noels Creek (HQ-CWF) located on T-418 (Ebensburg, PA Quadrangle N: 7.1 inches; W: 4.8 inches) in Portage Township.

Environmental Assessment No. EA56-001SW. **Department of the Army**, Pittsburgh District—Corps of Engineers, William S. Moorhead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186. To remove two existing boat ramps from the eastern shore, near the dam, of the Youghiogheny River Lake, and dredge approximately 24,000 cubic yards of material from the lake to construct and maintain a new boat ramp and to rehabilitate the existing beach and parking areas (Confluence, PA Quadrangle N: 8.5 inches; W: 15.3 inches) in Addison Township, **Somerset County**.

Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E35-319. Encroachment. **Clarks Summit Borough**, 304 South State Street, Clarks Summit, PA 18411-1543. To construct and maintain 914 feet of precast concrete u-channel, having a width of 6-feet and a depth of 3 feet in Tributary A1, locally known as Lansdowne Creek (CWF); to construct and maintain 1,006 feet of precast concrete u-channel, having a width of 10 feet and a depth of 3 feet in Tributary A, locally known as Lackawanna Trail Tributary (CWF); to construct and maintain a 6-foot by 3-foot concrete box culvert to be used as a pedestrian crossing of Tributary A1; to construct and maintain a concrete plunge pool at the confluence of Tributary A1

and Tributary A; to construct and maintain concrete headwalls at the Lansdowne Avenue culvert and Tributary A and the Fairview Avenue culvert and Tributary A; to construct and maintain various stormwater outfall structures associated with the construction of the concrete u-channels of both tributaries. The project purpose is to prevent further erosion and flooding damages in both tributaries. The project is located at a beginning point at the confluence of Tributaries A and A1, both extending upstream approximately 1,000 feet (Scranton, PA Quadrangle N: 20.7 inches; W: 9.5 inches), Clarks Summit Borough, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

E35-320. Encroachment. **Spring Spectrum Crossroads Corporate Center**, 1 International Boulevard, Suite 800, Mahwah, NJ 07495-0025. To construct and maintain a 50-foot by 50-foot fenced compound containing a 100-foot high cellular monopole along with seven equipment cabinets on an elevated platform within the 100-year floodplain along the Lackawanna River. The project is located south of the intersection of Nay Aug Avenue and Electric Street (Scranton, PA Quadrangle N: 10.9 inches; W: 4.3 inches), City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

E40-534. Encroachment. **Pittston City Redevelopment Authority**, 35 Broad Street, Pittston, PA 18640. To excavate, place and maintain fill along 800 linear feet of the left bank of the Susquehanna River (WWF) with work consisting of the extension of a 42-inch diameter CMP stormwater outfall, construction of concrete sidewalks, an open amphitheater area and various landscaping. The project, known as the Pittston Riverfront Park Project, is located immediately downstream of the Water Street Bridge over the Susquehanna River (Pittston, PA Quadrangle N: 13.2 inches; W: 5.9 inches), City of Pittston, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers).

E45-379. Encroachment. **Bestway Enterprises, Inc.**, 3877 Luken Road, Cortland, NY 13047. To construct and maintain a road-crossing through 0.23 acre of wetlands and across Cranberry Creek (HQ-CWF), to provide access to the proposed Bestway Lumber Treatment Center. The project is located southeast of S. R. 0191 and S. R. 1008, approximately 1 mile north of the intersection of S. R. 0390 and S. R. 0191 (Buckhill Falls, PA Quadrangle N: 5.0 inches; W: 4.4 inches), Barrett Township, **Monroe County** (Philadelphia District, U. S. Army Corps of Engineers).

E48-288. Encroachment. **Dr. George and Jeanne Joseph**, 1510 Bangor Road, Bangor, PA 18013-9434. To place fill in and along the 100-year floodway, to construct and maintain a concrete retaining wall, having a maximum height of approximately 12 feet and length of approximately 430 feet and to construct a channel change in a tributary to Shoeneck Creek. This work is associated with future commercial development of a site located on the north side of S. R. 0248, approximately 0.5 mile southeast of its intersection with S. R. 0033 (Nazareth, PA Quadrangle N: 15.8 inches; W: 4.5 inches), Lower Nazareth Township, **Northampton County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E15-630. Encroachment. **Susan W. and Roger L. Groves**, 505 Coventry Pointe Lane, Pottstown, PA 19465.

To construct and maintain a driveway crossing for a single-family dwelling which crosses a small unnamed tributary to Rock Run and adjacent wetlands (EV). Project will impact a total of 0.03 acre of wetland (EV). The site is located at about 4,000 feet southwest of an intersection of Harmonyville Road and Chestnut Road (Pottstown, USGS Quadrangle N: 12.44 inches; W: 11.46 inches) in South Coventry Township, **Chester County**.

E15-632. Encroachment. **PA DOT**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To construct, improve, modify and maintain U. S. Route 202 (S. R. 0202), Section 400, (Phase 5 and 6, Section 404). The limit of this work will begin east of West Valley Road, (Valley Forge, PA USGS Quadrangle N: 13.65 inches; W: 6.1 inches) and will end at the Montgomery/Chester County border (Valley Forge, PA USGS Quadrangle N: 14.4 inches; W: 4.5 inches) in Tredyffrin Township, **Chester County**.

Work will consist of widening Ramp E which connects U. S. Route 422 eastbound with U. S. Route 202 southbound, (Valley Forge, PA USGS Quadrangle N: 14.6 inches; W: 4.7 inches). The proposed work will include the following:

1. Extend 175 linear feet of existing 12-foot by 6-foot box stream enclosure by adding approximately 50 linear feet of 12-foot by 6-foot concrete box conduit at the downstream end at station 33+80 of the Ramp E, in and along an unnamed tributary to Trout Creek.

2. Regrade and reconstruct approximately 400 linear feet of an existing concrete swale and associated retaining wall located along Ramp E situated westward from station 125+50 of eastbound Route 422 and located immediately downstream from aforementioned culvert.

E23-392. Encroachment. **Brinton Land Development Assoc.**, 33 Rock Hill Road, Suite 200, Bala Cynwyd, PA 19004-2054. To place fill within 0.17 acre of wetlands (PFO) for the proposed Brinton Lake Corporate Center and the Shoppes at Brinton Lake located on the northeast corner of the intersection of Brinton Lake Road and Baltimore Pike (S. R. 0001) (West Chester, PA USGS Quadrangle N: 1.8 inches; W: 4.9 inches) in Concord Township, **Delaware County**.

E46-856. Encroachment. **PA DOT**, 200 Radnor-Chester Road, St. Davids, PA 19087-5178. To construct, improve, modify and maintain U. S. Route 202, (S. R. 0202), Section 400, (Phase 5 and 6, Section 404). The limit of this work will begin at the Montgomery/Chester County boundary (Valley Forge, PA USGS Quadrangle N: 14.4 inches; W: 4.5 inches) and will end just east of Gulph Road (Valley Forge, PA USGS Quadrangle N: 15.6 inches; W: 1.8 inches) in Upper Merion Township, **Montgomery County**. Work will consist of improvements to the U. S. Route 202 and the North Gulph Road Intersection (Valley Forge, PA USGS Quadrangle N: 15.6 inches; W: 2.0 inches). The proposed work will include the following: To remove a series of existing structures under U. S. Route 202 and North Gulph Road including two concrete bridges with a 25-foot clear span and one 25-foot by 8-foot box culvert in and along Crow Creek (a.k.a. Abrams Run). All these structures will be replaced with a 196 linear-foot stream enclosure consisting of a span of 25 feet and a rise of 8 feet. This structure will consist of both cast-in-place and pre-cast segments.

ENVIRONMENTAL ASSESSMENT

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Pro-

tection. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313, 1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

Requests for Environmental Assessment approval under section 105.15 of Title 25 Pa. Code and requests for certification under section 401 of the Federal Water Pollution Control Act.

Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

EA59-011CO. Environmental Assessment. **Pennsylvania Dept. of Transportation, District 3-0** (715 Jordan Avenue, P. O. Box 218, Montoursville, PA 17754). To construct 13 nonjurisdictional and one jurisdictional dams adjacent to and across a tributary to Crooked Creek (WWF) for the proposed Pennsylvania Department of Transportation, Engineering District 3-0, advanced wetland compensation site. Construction activities at the site will directly and indirectly impact 3.25 acres of wetland (PEM, PSS) resulting in the creation of approximately 25.35 acres of wetland. The site is located immediately north of the intersection of Ferris Cor Road (T456) and Bates Hill Road (T611) (Knoxville, PA Quadrangle N: 1.8 inches; W: 2.9 inches) in Chatham Township, **Tioga County**.

ACTIONS

FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483.

TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Permits Issued

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Permit No. 1399406. Mahoning Township Municipal Authority, 2685 Mahoning Drive East, Lehighon, PA 18235. Permit to construct and operate a sanitary sewer collection system, located in Mahoning Township, **Carbon County**.

Permit No. 4099404. Sewerage. **Hanover Township**, 1267 Sans Souci Parkway, Wilkes-Barre, PA 18702. Permit for sewer line relocation project in Hanover Township, **Luzerne County**.

Permit No. 4899403. Sewerage. **Bethlehem Township Municipal Authority**, 4225 Easton Avenue, Bethlehem, PA 18020. Permit to construction and operation of two pumping stations in Bethlehem Township, **Northampton County**.

NPDES Permit No. PA-0055255. Sewerage. **Charles F. Beck**, c/o Linda B. Craft, 224 Rose Valley Road, Pottsville, PA 19464 is authorized to discharge from a facility located in Upper Milford Township, **Lehigh County**.

NPDES Permit No. PA-0011134. Industrial waste. **Lucent Technologies, Inc.**, 555 Union Boulevard, Allentown, PA 18103 is authorized to discharge from a facility located in the City of Allentown, **Lehigh County**.

NPDES Permit No. PA-0063916. Sewerage. **John Betz**, 805 South Front Street, Allentown, PA is authorized to discharge from a facility located in Upper Milford Township, **Lehigh County**.

NPDES Permit No. PA-0042170. Sewerage. **Deer Lake Municipal Authority**, P. O. Box 30, Auburn, PA 17922 is authorized to discharge from a facility located in West Brunswick Township, **Schuylkill County**.

NPDES Permit No. PA-0063304. Industrial waste. **Municipal Authority of the Township of Blythe**, 375 Valley Street, New Philadelphia, PA 17959 is authorized to discharge from a facility located in Cass Township, **Schuylkill County**.

NPDES Permit No. PA0001988. Industrial waste. **INDSPEC Chemical Corporation**, 133 Main Street, P. O. Box 307, Petrolia, PA 16050 is authorized to discharge from a facility located in Petrolia Borough, **Butler County** to the South Branch Bear Creek.

NPDES Permit No. PA0029378. Sewage. **Redbank Valley School District**, 920 Broad Street, New Bethlehem, PA 16242-1117 is authorized to discharge from a facility located in Hawthorn Borough, **Clarion County** to an unnamed tributary to Redbank Creek.

WQM Permit No. 3399402. Sewage. **Albert R. Shouey**, R. R. 1, Box 113B, Worthington, PA 16262. This project is for the construction and operation for a wastewater treatment facility in Barnett Township, **Jefferson County**.

WQM Permit No. 4399422. Sewage. **West Salem Township Municipal Sewage Authority**, 610 Vernon Road, Greenville, PA 16125. This project is for the construction of a sanitary sewer collection system in West Salem Township, **Mercer County**.

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

NPDES Permit No. PA0032263. Sewage. **Bureau of State Parks, Yellow Creek State Park**, 170 Route 259 Highway, Penn Run, PA 15765 is authorized to discharge from a facility located at Yellow Creek State Park Sewage Treatment Plant and Yellow Creek State Park Water Treatment Plant, Cherryhill Township, **Indiana County** to receiving waters named Yellow Creek Lake.

NPDES Permit No. PA0039489, Amendment No. 1. Sewage. **Garrett Borough Municipal Authority**, P. O. Box 218, 307 Municipal Road, Garrett, PA 15542 is authorized to discharge from a facility located at Garrett Borough STP, Garrett Borough, **Somerset County** to receiving waters named the Casselman River.

NPDES Permit No. PA0094617. Sewage. **Robbie Rose**, R. D. 2, University Drive, Dunbar, PA 15431 is authorized to discharge from a facility located at Robbie Mobile Home Park Wastewater Treatment Plant, Georges Township, **Fayette County** to receiving waters named Tributary of York Run.

Permit No. 2699402. Sewerage. **Dunbar Borough/Dunbar Township Sanitary Authority**, 47 Connellsville Street, Dunbar, PA 15431. Construction of Sanitary Collection System, Pump Station, Grinder Pumps, Force Main, and Sewage Treatment Plant located in Dunbar Borough/Dunbar Township, **Fayette County** to serve Dunbar Sewage Treatment Plant and Dunaway Field Pump Station.

Permit No. 6599411. Sewage. **Donald Gathers**, 405 Spiering Road, Lower Burrell, PA 15068. Construction of Single Residence Sewage Treatment Plant located in Lower Burrell, **Westmoreland County** to serve Gathers Single Family Dwelling.

INDIVIDUAL PERMITS

(PAR)

ACTIONS

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted (1) Notices of Intent (NOIs) for coverage under General NPDES Permits to discharge wastewater into the surface waters of this Commonwealth; (2) NOIs for coverage under General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; or (3) Notifications for First Land Application of Sewage Sludge.

The approval of coverage under these General Permits may be subject to one or more of the following: pollutant or effluent discharge limitations, monitoring and reporting, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices, and other conditions set forth in the respective general permit. The Department of Environmental Protection has reviewed the NOIs and determined that they comply with administrative requirements of the respective permit application. Also, the Department has evaluated the First Land Application of Sewage Sludge for the sites applying for coverage under PAG-7, PAG-8 and PAG-9 and determined that the sites are suitable for land application of sewage sludge.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of General Permit Type

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge By Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-10	General Permit for Discharges Resulting From Hydrostatic Testing of Tanks and Pipelines

General Permit Type—PAG-2

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Butler County Venango Township	PAR10E121	DE Sale Restoration Area Amerikohl Mining Inc. 202 Sunset Drive Butler, PA 16001	Slippery Rock Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 (724) 284-5270
Butler County Brady Township	PAR10E122	DEP File Number BF 441-101.1 Bureau of Abandoned Mine Reclamation Rachel Carson State Office Bldg. P. O. Box 8476 Harrisburg, PA 17105-8476	Slippery Rock Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-65001 (724) 284-5270
Jefferson County Rose Township	PAR103331	Miller Welding & Machine Co. P. O. Box G Railroad and 2nd St. Brookville, PA 15825	Clement Run	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
Lehigh County N. Whitehall Township	PAR10Q130	Jerry Mekolichick, et al. 10th and Linden St. Allentown, PA 18102	Coplay Creek	Lehigh CD (610) 391-9583

General Permit Type—PAG-3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Lancaster County East Lampeter Township	PAR233537	Johnson & Johnson Merck 1838 Colonial Village Lane Lancaster, PA 17601	Stauffer Run	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Muhlenberg Township	PAR703501	Koch Materials Company 3847 Pottsville Pike Reading, PA 19605-1723	Laurel Run Creek to Schuylkill River	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-4

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Bedford County Broad Top Township	PAG043627	Broad Top Township 187 Municipal Road P. O. Box 87 Defiance, PA 16633-0057	Sandy Run	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Westmoreland County City of Lower Burrell	PAG046193	Donald Gathers 405 Spiering Road Lower Burrell, PA 15068	UNT to Chartiers Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-9**Facility Location**County and Municipality*Greene County
Washington Township*Permit No.*

PAG096103

*Applicant Name and Address*Robert L. Shipman
Shipman Sanitary Service
Inc.
R. R. 2, Box 92
Prosperity, PA 15329*Receiving Stream,
Body of Water
or Site Name
and Address**Contact Office and
Telephone No.*Southwest Regional
Office: Water
Management Program
Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000**SEWAGE FACILITIES ACT****PLAN APPROVAL****Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

Regional Office: Water Management Program Manager, Southcentral Region, 909 Elmerton Ave., Harrisburg, PA 17110.

Location: Logan Township, Blair County, 800 39th St., Altoona, PA 16602-1799. The approved plan examines and updates flow figures and alternatives from the approved 1994 Township plan that proposed to expand and upgrade the Greenwood sewage treatment plant, taking into consideration the results of I/I investigations completed since 1994. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Location: West Manheim Township, York County, 31 Fairview Dr., Hanover, PA 17331. The plan was disapproved because the proposal failed to address the plan deficiencies originally identified in our letter dated August 10, 1999. The Plan deficiencies are (1) The sewage disposal needs identification is inadequate, (2) The sewage disposal alternatives identification is inadequate, (3) The sewage disposal alternatives analysis is inadequate as it applies to sewage collection technologies, onlot disposal problems and nitrate-nitrogen groundwater contamination, (4) The 7-year-old well test results, completed for a previous plan have not been adequately re-validated, (6) Maps provided with this plan are unusable due to improper scale, content selection, and inadequate documentation and (7) The concerns expressed by the York County Planning Commission in their April 9, 1999 comment letter have not been addressed.

Location: Londonderry Township, Bedford County, P. O. Box 215, Hyndman, PA 15545. The approved plan provides for enforcement of an OLDS Maintenance District Ordinance in the 12 subsections previously identified in the Phase I Plan. In situations where OLDS repairs are not possible, holding tanks will be used as a last resort. In such cases, the Municipal Authority will install, own and maintain holding tanks. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

SAFE DRINKING WATER**Action taken under the Pennsylvania Safe Drinking Water Act (34 P. S. §§ 721.1—721.17).***Permits Issued*

Northwest Regional Office: Regional Manager, 230 Chestnut Street, Meadville, PA, (814) 332-6899.

Permit No. 6299502. Public water supply. **North Warren Municipal Authority**, 4 Hasbrough Drive, North Warren, PA 16365 has been issued a Public Water Supply Permit for the modification of existing well No. 1A, construction of an ion exchange water softening plant with corrosion control and disinfection and to include extension of existing water lines in North Warren, **Warren County**. *Type of Facility:* Community Water Supply. *Consulting Engineer:* Rusty VanEpps, Northwest Engineering, P. O. Box Q, Tidioute, PA 16351. *Permit to Construct Issued:* November 22, 1999.

HAZARDOUS SITES CLEAN-UP**Under the Act of October 18, 1988****Settlement under the Hazardous Sites Cleanup Act**

The Department of Environmental Protection (Department), under the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA) and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.A. § 9601 et seq. (CERCLA), has entered into a settlement with Park Ten, Inc. for reimbursement of certain response costs incurred to remediate hazardous substances disposed at the Sellersville Inactive Landfill (site). This site is located at the corner of Main and Twelfth Streets, in the Borough of Sellersville, Bucks County, PA.

Between the 1940's and the 1970's, the site was used as an unpermitted dump for municipal, residual and hazardous wastes. Radioactive and non-radioactive hazardous substances were released on a 2-acre portion of the site. Under its authority under, among other things, section 501(a) of HSCA (35 P. S. § 6020.501(a)), the Department conducted a response action to remediate hazardous substances disposed on the site. The Department incurred \$6,106,720.50 in response costs to abate the release and threat of release of hazardous substances at the site. The Department has determined that it is in the public interest to resolve its claim against Park Ten, Inc. Therefore, Park Ten, Inc. shall reimburse the Department for certain response costs in the amount of \$62,000.

This notice is provided under section 1113 of HSCA, (35 P. S. § 6020.1113), which provides that "settlement shall become final upon the filing of the Department's response

to the significant written comments." The Consent Order and Agreement, which contains the specific terms of the settlement is available for public review and comment. The agreement can be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, located in Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428, by contacting either Timothy Cherry, at (610) 832-6204 or Gina M. Thomas, at (610) 832-6300, who may also be contacted electronically at cherry.timothy@dep.state.pa.us and thomas.gina@dep.state.pa.us, respectively. A public comment period on the Consent Order and Agreement will extend for 60 days from today's date. Persons may submit written comments regarding the agreement within 60 days from today's date, by submitting them to Timothy Cherry at the above address.

AIR QUALITY

OPERATING PERMITS

Administrative Amendment of Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

OP-46-0035: SmithKline Beecham Pharmaceuticals, Inc. (709 Swedeland Road, King of Prussia, PA 19406) on November 10, 1999, for Facility VOCs/Nox RACT in Upper Merion Township, **Montgomery County**.

OP-09-0022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on November 17, 1999, for Facility VOCs RACT and Press No. 1 in Quakertown Borough, **Bucks County**.

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

46-303-021: Glasgow, Inc. (550 East Church Road, King of Prussia, PA 19406) on November 22, 1999, for operation of a Batch Asphalt Plant in Upper Merion Township, **Montgomery County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

67-03055: Vulcan Materials Co. (322 North Baker Road, York, PA 17404) on November 22, 1999, for operation of a stone crushing plant in West Manchester Township, **York County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

TVOP-53-00001: Tennessee Gas Pipeline Co., Station 313 Coudersport (P. O. Box 2511, 1001 Louisiana Street, Houston, TX 77252-2511) on November 17, 1999, for a natural gas compressor station that includes 12 natural gas fired engines, small combustion sources, backup generator and several storage tanks in Hebron Township, **Potter County**.

PLAN APPROVALS

Minor Modification of Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

59-304-008D: ACP Mfg., LLC (P. O. Box 9, Blossburg, PA 16912-0068) on November 18, 1999, to lower a packed bed scrubber differential pressure requirement from 2 inches w.g. to 1 inch w.g. for a foundry core making machine in Lawrence Township, **Tioga County**.

Plan Approval extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

09-320-047: FiberMark, Inc. (45 North Fourth Street, Quakertown, PA 18951) on November 18, 1999, for operation of a Graphic Art Line No. 2 in Quakertown Borough, **Bucks County**.

09-320-046: FiberMark, Inc. (45 North Fourth Street, Quakertown, PA 18951) on November 18, 1999, for operation of a Graphic Art Line No. 1 in Quakertown Borough, **Bucks County**.

46-399-104: MM SKB Energy LLC (709 Swedeland Road, Upper Merion, PA 19406) on November 18, 1999, for operation of a five I. C. Diesel Engines in Upper Merion Township, **Montgomery County**.

23-313-024C: Degussa Corp. (1200 West Front Street, Chester, PA 19013) on November 22, 1999, for operation of a Silica Manufacturing Process in City of Chester, **Delaware County**.

23-313-024D: Degussa Corp. (1200 West Front Street, Chester, PA 19013) on November 24, 1999, for operation of a fabric collector in City of Chester, **Delaware County**.

23-313-046: Norquay Technology, Inc. (800 West Front Street, Chester, PA 19016) on November 24, 1999, for operation of a specialty chemical process in City of Chester, **Delaware County**.

PA-09-0046A: RJM Mfg., Inc. (250 Canal Road, Fairless Hills, PA 19030) on November 24, 1999, for operation of a Surface Coater, Line No. 3 in Falls Township, **Bucks County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

36-05093: Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506-0550) on November 16, 1999, to authorize temporary operation of a drum mix asphalt plant controlled by an Astec fabric collector, covered under this Plan Approval until March 15, 2000, in East Cocalico Township, **Lancaster County**. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

36-310-023D: Compass Quarries, Inc. (46 McIlvaine Road, Paradise, PA 17562) on November 12, 1999, to authorize temporary operation of two Link Belt screens

and a Griffin fabric filter, covered under this Plan Approval until March 10, 2000, in Paradise Township, **Lancaster County**. These sources are subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

36-317-070F: Tyson Foods, Inc. (P. O. Box 1156, New Holland, PA 17557-0901) on September 24, 1999, to authorize temporary operation of a deep fat food fryer, covered under this Plan Approval until January 21, 2000, at 403 South Custer Avenue in New Holland Borough, **Lancaster County**.

67-02004: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362) on November 18, 1999, to authorize temporary operation of three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a venturi scrubber and a softwood fiber line and causticizing area, covered under this Plan Approval until March 17, 2000, in Spring Grove Borough, **York County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

PA-37-234B: Praxair Surface Technologies (3225 Honeybee Lane, New Castle, PA 16105) on October 31, 1999, for a coating deposition cubicle in Wilmington Township, **Lawrence County**.

Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.

PA-46-0194: Freedom Alloys, Inc. (155 Railroad Plaza, Royersford, PA 19468) on November 22, 1999, for operation of an inductotherm furnace in Royersford Borough, **Montgomery County**.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

39-313-043: GEO Specialty Chemicals, Inc. (2409 North Cedar Crest Blvd., Allentown, PA 18104-9733) on November 15, 1999, for operation of a DMPA Process at South Whitehall Township, **Lehigh County**.

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

67-03075: Central PA Veterinary Emergency Group PC (3256 Susquehanna Trail North, York, PA 17403) on November 22, 1999, for installation of an IE and E cremator controlled by an afterburner in Manchester Township, **York County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act

(52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Greensburg District Office, R. R. 2, Box 603-C, Greensburg, PA 15601.

Coal Permits Issued

65940104R. M. B. Energy, Inc. (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal issued for continued reclamation only of a bituminous surface mining site located in Donegal and Mt. Pleasant Townships, **Westmoreland County**, affecting 98.0 acres. Receiving streams: unnamed tributaries to Four Mile Run. Application received: July 29, 1999. Renewal issued: November 29, 1999.

Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.

56930114. Permit Renewal. Fieg Brothers (3070 Stoystown Road, Stoystown, PA 15563-8164), for continued operation and restoration of bituminous strip mine in Brothersvalley Township, **Somerset County**, affecting 28.8 acres, receiving stream unnamed tributaries to Buffalo Creek and Buffalo Creek, application received September 24, 1999, issued November 22, 1999.

56940106. Permit Renewal. Fieg Brothers (3070 Stoystown Road, Stoystown, PA 15563-8164), for continued operation and restoration of bituminous strip mine in Brothersvalley Township, **Somerset County**, affecting 77.4 acres, receiving stream unnamed tributaries to/and Buffalo Creek, application received September 24, 1999, issued November 22, 1999.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of 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 Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permits Issued

E02-1257. Encroachment. **Frey/Schweiger Partnership**, 4399 Gibsonia Road, Gibsonia, PA 15044. To construct and maintain an aerial sanitary sewer line crossing across the channel of an unnamed tributary to Little Deer Creek (TSF), to construct and maintain four outfall structures in unnamed tributaries to Little Deer Creek and associated wetlands, and to place and maintain fill in approximately 0.21 acre of wetlands (PEM) for the purpose of constructing the Stone Crest Plan of Lots located just southwest from the intersection of Saxonburg Boulevard and McKrell Road (Curtisville, PA Quadrangle N: 0.9 inch; W: 15.0 inches) in West Deer Township, **Allegheny County**. The permittee has met wetland replacement obligations by contributing to the "Wetland Replacement Fund."

E02-1276. Encroachment. **Bill Gleason**, 4572 Lakewood Road, Gibsonia, PA 15044. To remove the existing structure, to place and maintain fill in 0.06 acre of wetlands (PEM) and to construct and maintain a 72" CMP culvert depressed 1' and 2-48" plastic culverts across Breakneck Creek (WWF) to provide access to undeveloped lots. The project is located on the north side of Valencia Road approximately 1 mile west of its intersection with Bakerstown Road (Valencia, PA Quadrangle N: 8.1 inches; W: 15.0 inches) in Richland Township, **Allegheny County**. The applicant has met the wetland replacement requirements by contributing to the Wetland Replacement Fund.

E02-1277. Encroachment. **Port Authority of Allegheny County**, 2235 Beaver Avenue, Pittsburgh, PA 15233-1080. To construct and maintain a new Oak Viaduct Bridge having three spans of approximately 22.0 m, 29.0 m and 53.0 m with a minimum underclearance of approximately 6.3 m across the channel of Saw Mill Run, to repair and maintain the existing gabion wall and to construct and maintain a new gabion wall in the channel of and along the banks of said stream from STA 107 + 390 to STA 108 + 210, to construct and maintain the South Bank Station on the left bank of said stream at STA 107 + 61, to relocate the existing 36-inch diameter ALCOSAN sanitary sewer line under the bed and across the channel of said stream, to regrade and maintain the banks of said stream from STA 108 + 210 to STA 206 + 800, and to construct and maintain 11 outfall structures along the banks of said stream for the purpose of reconstructing the Overbrook Trolley Line from Denise Street to Glenbury Street (Pittsburgh East, PA Quadrangle N: 2.7 inches; W: 17.1 inches) in the City of Pittsburgh, **Allegheny County**.

E02-1278. Encroachment. **Heidelberg Metals, Inc. (Neville Metals)**, 3100 Grand Avenue, Pittsburgh, PA 15225. To expand, operate and maintain the existing barge mooring facility approximately 850.0 feet in length and 130.0 feet wide (as measured from the normal pool

elevation) along the left bank and in the channel of the Ohio River (WWF) located at River Mile 7.14 (Emsworth, PA Quadrangle N: 1.5 inches; W: 14.9 inches) in Neville Township, **Allegheny County**. Perpetual maintenance dredging is authorized.

E63-475. Encroachment. **Missionary Partners, LTD**, 859 Missionary Drive, Pittsburgh, PA 15236. To place and maintain fill in approximately 0.08 acre of wetlands (PEM) adjacent to an unnamed tributary to Peters Creek (TSF) for the purpose of constructing an access to a business building located approximately 600 feet south-west from the intersection of Route 88, Finley Avenue and Boyka Drive (Hackett, PA Quadrangle N: 21.5 inches; W: 0.5 inch) in Union Township, **Washington County**. The permittee has met wetland replacement obligations by contributing to the Wetland Replacement Fund.

Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E54-268. Encroachment. **James L. McAndrew**, 100 Centre Street, Ashland, PA 17921. To construct and maintain a single-span bridge, having a clear span of approximately 16 feet and an underclearance of approximately 5 feet, across Little Mahanoy Creek, for the purpose of providing access to a portion of an 89.47-acre tract. The project is located approximately 1,000 feet north of the intersection of T-962 and T-964 (Ashland, PA Quadrangle N: 2.4 inches; W: 8.1 inches), in Butler Township, **Schuylkill County**.

Northwest Regional Office: Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

E16-110. Water Obstruction and Encroachment Permit. **Toby Township**, R.R. 3, Box 316, Rimersburg, PA 16248. To remove the existing structure and to construct and maintain a prestressed concrete plank beam bridge having a clear, normal span of 10 meters and a minimum underclearance of 1.71 meters across Cherry Run and a de minimis wetland fill (0.02 hectare) on T-374 approximately 60 meters south of S.R. 2009 (Rimersburg, PA Quadrangle N: 13.5 inches; W: 4.1 inches) located in Toby Township, **Clarion County**.

E20-485. Water Obstruction and Encroachment Permit. **Pennsylvania Fish and Boat Commission, Bureau of Engineering and Development**, 450 Robinson Lane, Bellefonte, PA 16823. To construct and maintain an earth fill public fishing pier with rock riprap armor extending a distance of approximately 200 feet from the edge of water with a top width of approximately 30 feet occupying 0.23 acre of the lake bed and having a total volume of 2,300 cubic yards of earth fill to be obtained by excavating approximately 2 acres of the bed of Tamarack Lake in the immediate vicinity of the proposed pier. To install 20 piles of rock riprap in 5-ton piles on the lake bed for fish habitat structures. This project is located at an existing public access area along Tamarack Road on the southwestern side of the lake approximately 0.75 mile northwest of Freyermuth Road (Cochranon, PA Quadrangle N: 15.1 inches; W: 11.4 inches) located in East Mead Township, **Crawford County**.

E61-227. Water Obstruction and Encroachment Permit. **Rocky Grove Presbyterian Church**, 321 Rocky Grove Avenue, Franklin, PA 16323. To construct and maintain approximately 300 feet of 5-foot-diameter corrugated metal pipe stream enclosure in a tributary to French Creek (Monkey Run) adjacent to the Rocky Grove Avenue Presbyterian Church in the village of Rocky Grove along

S. R. 417 approximately 2,600 feet northeast of S. R. 322 (Franklin, PA Quadrangle N: 6.4 inches; W: 10.5 inches) located in Sugarcreek Borough, **Venango County**.

[Pa.B. Doc. No. 99-2091. Filed for public inspection December 10, 1999, 9:00 a.m.]

Availability of Technical Guidance

Technical Guidance Documents are on DEP's World Wide Web site (www.dep.state.pa.us) at the Public Participation Center. The "1999 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 1999.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Please check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Guidance—Substantive Revision

DEP ID: 550-0800-001 Title: Pennsylvania's Plan for Addressing Problem Abandoned Wells and Orphaned Wells Description: This guidance represents the DEP Bureau of Oil and Gas Management's strategic plan for pursuing the plugging of abandoned oil and gas wells as part of the DEP Reclaim PA program. Anticipated Effective Date: January 14, 2000, Comment Period Ends: January 10, 2000, Contact: Carl Morgeneier at (717) 772-2199 or email at Morgeneier.Carl@dep.state.pa.us.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-2092. Filed for public inspection December 10, 1999, 9:00 a.m.]

DEPARTMENT OF HEALTH

Advisory Health Board Meeting

The Department of Health hereby gives notice that the Advisory Health Board will meet on December 17, 1999 from 9 a.m. until 1 p.m. in Room 812 of the Health and Welfare Building to review and approve changes to the draft Communicable Disease Regulations.

Further information regarding the meeting or a copy of the draft regulations may be obtained by contacting Dr. James T. Rankin, Department of Health, Division of Communicable Disease Epidemiology, P. O. Box 90, Harrisburg, PA 17108, (717) 787-3350.

Persons with a disability who desire to attend the meeting, and require an auxiliary aid service or other accommodation to do so, or who require a copy of the draft regulations in an alternative format (that is large print, audio tape, Braille) should also contact Dr. Rankin at (717) 787-3350, V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT & T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 99-2093. Filed for public inspection December 10, 1999, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Tic Tac Toe '00 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

- Name:* The name of the game is Pennsylvania Tic Tac Toe '00.
- Price:* The price of a Pennsylvania Tic Tac Toe '00 instant lottery game ticket is \$1.00.
- Play Symbols:* Each Pennsylvania Tic Tac Toe '00 instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: X (XXX) and O (OOO).
- Prizes:* The prizes that can be won in this game are \$1, \$2, \$5, \$10, \$25, \$100 and \$2,500.
- Approximate Number of Tickets Printed For the Game:* Approximately 8,160,000 tickets will be printed for the Pennsylvania Tic Tac Toe '00 instant lottery game.
- Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same row in the play area, and a prize amount of \$2,500 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$2,500.

(b) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same row in the play area, and a prize amount of \$100 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$100.

(c) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same column in the play area, and a prize amount of \$25 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$25.

(d) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same row in the play area, and a prize amount of \$10 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$10.

(e) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same column in the play area, and a prize amount of \$5 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$5.

(f) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same column in the play area, and a prize amount of \$2 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$2.

(g) Holders of tickets with three matching play symbols of X (XXX) or three matching play symbols of O (OOO) in the same diagonal in the play area, and a prize amount of \$1 in the corresponding prize arrow, on a single ticket, shall be entitled to a prize of \$1.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Find 3 "X"s Or 3 "O"s In A Row, Column Or Diagonal With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 8,160,000 Tickets</i>
Diagonal	\$1	1:7.69	1,060,800
Center Column	\$2	1:13.04	625,600
Left Column	\$5	1:37.50	217,600
Bottom Row	\$10	1:150	54,400
Right Column	\$25	1:300	27,200
Top Row	\$100	1:4,364	1,870
Center Row	\$2,500	1:240,000	34

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Tic Tac Toe '00 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Tic Tac Toe '00, prize money from winning Pennsylvania Tic Tac Toe '00 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Tic Tac Toe '00 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote

Pennsylvania Tic Tac Toe '00 or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 99-2094. Filed for public inspection December 10, 1999, 9:00 a.m.]

Rates of Tax on Aviation Gasoline and Jet Fuel for 2000; Oil Company Franchise Tax Rate for 2000

Aviation Gasoline and Jet Fuels

Under 74 Pa.C.S. § 6121(b), the Secretary of Revenue announces that for the calendar year 2000 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 3/10¢ 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 2000 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 5/10¢ to 1 9/10¢ gallon or fractional part thereof.

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985 and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986 and each January 1 thereafter. Under 74 Pa.C.S. § 6121(b) and § 6131(b) the rate of each tax increases or decreases 1/10 of a cent per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the United States Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1, subject to a maximum rate of 6¢ per gallon for aviation gasoline and 2¢ per gallon for jet fuels. On November 1, 1999, the most recently available 12-month period was September 1998 to September 1999, as reported in Bureau of Labor Statistics, U.S. Department of Labor, Producer Price Indexes, September 1999, for which the percentage change was +47.8%. Accordingly, the aviation gasoline tax rate and the jet fuel tax rate both increase by 4/10 of a cent per gallon.

Oil Company Franchise Tax

The Secretary of Revenue announces that for the calendar year 2000 there is no increase in the current rate of the oil company franchise tax which is hereby determined to be 13.9¢ per gallon on all liquid fuels and 18.8¢ per gallon on all fuels used or sold and delivered by distributors within this Commonwealth under 75 Pa.C.S. § 9004(b) and § 9002, definition of "Cents per Gallon Equivalent Basis."

The rate of the oil company franchise tax imposed under Chapter 95 (Taxes for Highway Maintenance and Construction) of the Vehicle Code, 75 Pa.C.S. § 9502, and

*The rate of 3 7/10¢ per gallon consists of the 1 1/2¢ per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(2), 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.

collected under Chapter 90 (Liquid Fuels and Fuels Tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue and announced by each December 15 for the following calendar year. The tax rate is determined on a "cents per gallon equivalent basis," which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the *Pennsylvania Bulletin* no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Average wholesale price" as used above is defined as:

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 1999 the Department has determined that the average wholesale price of liquid fuels and fuels was less than 90¢ per gallon; accordingly, an average wholesale price of 90¢ per gallon is used to determine the rate for 2000.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon is:

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5
75 Pa.C.S. § 9502(a)(4)	00.0	55.0
Total Mills per Gallon:	153.5	208.5
Decimal Equivalent:	.1535	.2085
Multiply by Average Wholesale Price:	x 90¢	x 90¢
Product:	13.815¢	18.765¢
Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth):	13.9¢	18.8¢

Act 3 of 1997 provides that the oil company franchise tax as computed above is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2000 the combined rate of tax for liquid fuels (primarily gasoline) is 25.9¢ per gallon and for fuels (primarily diesel fuel) is 30.8¢ per gallon.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 99-2095. Filed for public inspection December 10, 1999, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right of Way; District 5-0

The Department of Transportation (Department), pursuant to the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and in 67 Pa. Code § 495.4, gives notice that an application to lease highway right of way has been submitted to the Department by Eastern Schuylkill Recreation Commission of 320 East Broad Street, Tamaqua, PA 18252, seeking to lease highway right of way located along SR 209 in Schuylkill Township, Blythe Township, and Walker Township, Schuylkill County, 39 acres ±, adjacent to SR 209, for the purposes of a public walking trail. Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Walter E. Bortree, P.E., District Engineer, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103.

Questions regarding this application or the proposed use may be directed to Paul J. Goida, Right of Way Administrator, Engineering District 5-0, 2460 Parkwood Drive, Allentown, PA 18103, (610) 791-6011.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 99-2096. Filed for public inspection December 10, 1999, 9:00 a.m.]

Retention of Engineering Firms

Northampton County Project Reference No. 08430AG2461

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately nine (9) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on S.R. 0033, Section 001, Northampton County, PA 33 Extension South—with Lehigh River Bridge. This project involves new construction of the Southern section of State Route 0033, including a bridge over the Lehigh River. The estimated construction cost is \$33 million.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the acceptable letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting acceptable letters of interest:

- a. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving, and drainage. The TCM-1's listed must have extensive steel and concrete bridge inspection experience. The TCI-M must be NICET

Level II Highway Materials Certified and Nuclear Gauge Certified. The CDS operator will be a full time TCI who is PennDOT CDS certified.

- b. Understanding of Department's requirements, policies, and specifications.
- c. Past Performance.
- d. Ability to provide CDS operator.
- e. Number of NICET certified inspectors in each payroll classification.
- f. Number of available inspectors in each payroll classification.
- g. Ability to provide CPM scheduling.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	2 (2)
Transportation Construction Inspector—Materials (TCI-Materials) (NICET Highway Materials Level 2 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	3 (2)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	2 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1999:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCM-1)	\$46.27
(TCIS)	\$40.54
(TCI-Materials)	\$36.55
(TCI)	\$35.47
(TA)	\$24.39

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauge/License (at point of need when required)
- 1 Paint Test Kit
- 1 Base Radio Station
- 10 Two-Way Radios
- 1 Two-Way Radio Repeater Station
- 1 Camera (type 35mm)

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project reference number must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project. The Technical Assistant(s) do not need to be identified in the Letter of Interest.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes Classification</i>
TCM-1	2
TCIS	3
TCI-M	2
TCI	4

No resumes are required for the TA Classification.

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and

additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to: Mr. Walter E. Bortree, P.E., District Engineer, Engineering District 5-0, 2460 Parkwood Drive, Allentown, PA 18103 Attention: Mr. Brian H. Graver.

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 P.M. prevailing time on the sixth (6th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to: Mr. Brian H. Graver, District 5-0, at (610) 791-6022 or Mr. Kevin E. Milnes, P.E., District 5-0, at (610) 791-6036.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information for each Project Reference Number for which the applicant wishes to be considered.

The Letter of Interest and required information must be submitted to the person designated in the individual advertisement.

The Letter of Interest and required information must be received by the Deadline indicated in the individual advertisement.

All consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the appropriate District Office, by the deadline stipulated in the individual advertisements.

For Statewide projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the Central Office, Bureau of Design by the deadline stipulated in the individual advertisements.

By submitting a letter of interest for the projects that request engineering services, the consulting firm is certifying that the firm is qualified to perform engineering services in accordance with the laws of the Commonwealth of Pennsylvania. A firm not conforming to this requirement may submit a letter of interest as a part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

Information concerning the Annual Qualification Package can be found in Strike-off Letter No. 433-99-04 or under the Notice to all Consultants published in the February 27, 1999 issue of the Pennsylvania Bulletin.

The requirements for Letters of Interest, in addition to the requirements stipulated in the individual advertisement, are as follows:

1. The Letter of Interest must include the project reference number, the firm's legal name, and the firm's federal identification number.
2. Identify the project manager.
3. Identify subconsultants, if any, including DBE/WBE, if required.
4. Identify key project staff.

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 a Letter of

Interest on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st century (TEA-21) and currently certified by the Department of Transportation shall have the opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The TEA-21 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 are defined prior to the act, WBEs or combinations thereof).

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 99-2097. Filed for public inspection December 10, 1999, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Senator Edwin G. Holl, Chairperson of the Senate Banking and Insurance Committee, to review House Bill 854, Printers Number 2459 (Micozzie), the Medical Foods Insurance Coverage Act. House Bill 854 would require health insurance policies to provide

coverage for low protein modified food products for the treatment of phenylketonuria (PKU), branched-chain ketonuria, galactosemia and hemocystinuria. Coverage would be limited to \$2,500 for an insured individual for any continuous period of 12 months.

The Council is requesting that anyone supporting or opposing these mandated insurance benefits provide six copies of such documentation to the Council no later than February 11, 2000. The documentation should be mailed to Flossie Wolf, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101.

Documentation submitted should be in accordance with any or all of the following information categories described in section 9 of Act 34:

(i) The extent to which the proposed benefit and the services it would provide are needed by, available to and utilized by the population of the Commonwealth.

(ii) The extent to which insurance coverage for the proposed benefit already exists, or if no such coverage exists, the extent to which this lack of coverage results in inadequate health care or financial hardship for the population of the Commonwealth.

(iii) The demand for the proposed benefit from the public and the source and extent of opposition to mandating the benefit.

(iv) All relevant findings bearing on the social impact of the lack of the proposed benefit.

(v) Where the proposed benefit would mandate coverage of a particular therapy, the results of at least one professionally accepted, controlled trial comparing the medical consequences of the proposed therapy, alternative therapies and no therapy.

(vi) Where the proposed benefit would mandate coverage of an additional class of practitioners, the results of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and those practitioners already covered by benefits.

(vii) The results of any other relevant research.

(viii) Evidence of the financial impact of the proposed legislation, including at least:

(A) The extent to which the proposed benefit would increase or decrease cost for treatment or service.

(B) The extent to which similar mandated benefits in other states have affected charges, costs and payments for services.

(C) The extent to which the proposed benefit would increase the appropriate use of the treatment or service.

(D) The impact of the proposed benefit on administrative expenses of health care insurers.

(E) The impact of the proposed benefits on benefits costs of purchasers.

(F) The impact of the proposed benefits on the total cost of health care within the Commonwealth.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 99-2098. Filed for public inspection December 10, 1999, 9:00 a.m.]

Mandated Benefits

Section 9 of Act 34 of 1993 requires that the Health Care Cost Containment Council review existing or proposed mandated health benefits on request of the executive and legislative branches of government. The Council has been requested by Representative Nicholas A. Micozzie, Chairperson of the House Insurance Committee, to review House Bill 1832, Printers Number 2249 (Nailor). House Bill 1832 would require health insurance policies to provide coverage for treatment of temporomandibular joint dysfunction and surgery, if medically necessary, for deformities of the maxilla or mandible.

The Council is requesting that anyone supporting or opposing these mandated insurance benefits provide six copies of such documentation to the Council no later than February 11, 2000. The documentation should be mailed to Flossie Wolf, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101.

Documentation submitted should be in accordance with any or all of the following information categories described in section 9 of Act 34:

(i) The extent to which the proposed benefit and the services it would provide are needed by, available to and utilized by the population of the Commonwealth.

(ii) The extent to which insurance coverage for the proposed benefit already exists, or if no such coverage exists, the extent to which this lack of coverage results in inadequate health care or financial hardship for the population of the Commonwealth.

(iii) The demand for the proposed benefit from the public and the source and extent of opposition to mandating the benefit.

(iv) All relevant findings bearing on the social impact of the lack of the proposed benefit.

(v) Where the proposed benefit would mandate coverage of a particular therapy, the results of at least one professionally accepted, controlled trial comparing the medical consequences of the proposed therapy, alternative therapies and no therapy.

(vi) Where the proposed benefit would mandate coverage of an additional class of practitioners, the results of at least one professionally accepted, controlled trial comparing the medical results achieved by the additional class of practitioners and those practitioners already covered by benefits.

(vii) The results of any other relevant research.

(viii) Evidence of the financial impact of the proposed legislation, including at least:

(A) The extent to which the proposed benefit would increase or decrease cost for treatment or service.

(B) The extent to which similar mandated benefits in other states have affected charges, costs and payments for services.

(C) The extent to which the proposed benefit would increase the appropriate use of the treatment or service.

(D) The impact of the proposed benefit on administrative expenses of health care insurers.

(E) The impact of the proposed benefits on benefits costs of purchasers.

(F) The impact of the proposed benefits on the total cost of health care within the Commonwealth.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 99-2099. Filed for public inspection December 10, 1999, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (act) (71 P. S. § 745.5(g)) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committee comment period. The Commission comments are based upon the criteria contained in section 5a(h) and (i) of the act (75 P. S. § 745.5a(h)(i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulations must be submitted by the dates indicated.

Reg No.	Agency/Title	Issued	Final-Form Submission Deadline
60-2	Pennsylvania Turnpike Commission Traffic Regulations (29 Pa.B. 4968 (September 25, 1999))	11/29/99	10/25/01
7-346	Environmental Quality Board Solvent Cleaning Operations (29 Pa.B. 4661 (August 28, 1999))	11/29/99	10/27/01

Turnpike Commission Regulation No. 60-2 Traffic Regulations November 29, 1999

We have reviewed this proposed regulation from the Pennsylvania Turnpike Commission (PTC) and submit for consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to statutory authority, reasonableness, need, protection of the public health and safety, and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 601.4. Speed limits.—Clarity.

Subsection (a) provides specific speed limits, but allows exceptions. On the other hand, a vehicle is restricted to the maximum and minimum posted speed limits. For

clarity, the PTC should delete the specific speed limits and simply require vehicles to obey the posted maximum and minimum speed limits.

2. Section 601.5. Hazardous materials.—Statutory authority; Reasonableness; Protection of the public health and safety; and Clarity.

Subsections (a) to (e)

The Preamble states "The Department of Transportation [Department] has terminated its hazardous materials permitting process and the Commission (PTC), following the Department's lead has done the same. Both entities terminated their programs due to *anticipated* Federal legislation that was to take effect this year." (Emphasis added.) Why is the PTC revising regulations to conform with legislation that hasn't passed? How will the PTC protect the public health and safety if the current regulation is deleted prior to implementation of the Federal program? If the sole basis for these amendments is to eliminate redundant state permitting, the PTC should wait for implementation of the Federal regulations.

Subsection (f)

Subsection (f) provides that an "administrative fee in the amount of \$300, payable directly to the Pennsylvania Turnpike Commission, will be assessed for violation of subsection (e)." A "fee" that will only be imposed in the instance of a violation is actually a "fine." As such, it raises several questions of statutory authority.

Section 6110(b) of the Motor Vehicle Code (75 Pa.C.S. § 6110(b)) establishes penalties for violation of the rules and regulations of the PTC and for fare evasion. Paragraph (1) provides that the fine for violation of the PTC's regulations shall be \$25, unless *otherwise provided by statute.* (Emphasis added.) Paragraph (2) establishes fines for fare evasion. Both paragraphs provide that fines shall be imposed upon conviction of a summary offense. This implies that the alleged violator is entitled to a hearing before a magistrate, with the right to appeal a conviction.

Given this statutory provision, we question the PTC's authority to impose a fine by regulation. If the PTC can demonstrate that it has the statutory authority to do so, who will make the finding of a violation, what procedure will be followed, and what recourse will be available for the violator to challenge the finding?

Finally, we question the statutory authority for the mandate that the "fee" will be paid directly to the PTC. The Judicial Code (42 P. S. § 3571(b)(2)) provides that all fees and fines imposed through State Police action shall be paid to the Commonwealth and credited to the Motor Vehicle Fund.

3. Section 601.6. Parking, stopping, loading, or unloading.—Need and Clarity.

Subsection (b), as amended, states "The State Police may remove . . . the vehicle within 24 hours . . . of the presumption of abandonment." This provision lacks clarity—it could be interpreted that the State Police may not remove the vehicle beyond 24 hours after it is presumed abandoned. We assume this isn't the intent. Further, this sentence is not needed because it duplicates the preceding sentence. For these reasons, the PTC should consider deleting this sentence.

4. Section 601.18. Accident prevention investigations.—Statutory authority and Clarity.

This section is modeled after section 3754 of the Motor Vehicle Code (75 P. S. § 3754), which provides for the confidentiality of accident prevention investigations un-

dertaken by the Department of Transportation in association with the Pennsylvania State Police. The PTC has proposed this section under section 6110 of the Motor Vehicle Code (75 P. S. § 6110(a)), which authorizes the PTC to apply provisions of the Motor Vehicle Code to its own operations, and modify them through regulation.

Subsection (b) states "In-depth accident investigations and safety studies and information, records and reports used in their preparation are not discoverable nor admissible *in any legal action or other proceeding.*" (Emphasis added.) However, the PTC should limit the scope of this provision to civil proceedings. In *Commonwealth of Pennsylvania, Department of Transportation v. Taylor, Commonwealth of Pennsylvania, Department of Transportation v. Hall*, 1999 Pa. Super. 174 (1999), the Pennsylvania Superior Court has held that Section 3754(b) of the Motor Vehicle Code does not apply to criminal prosecutions.

**Environmental Quality Board Regulation No. 7-346
Solvent Cleaning Operations
November 29, 1999**

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) specify the criteria the Commission must employ in determining whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to economic impact, reasonableness, need and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. General Applicability of the Regulation—Reasonableness, Need and Economic Impact.

Through this rulemaking, the EQB has proposed a comprehensive, aggressive program to reduce volatile organic compound (VOC) emissions. This regulation applies to a broad range of industries which use solvents in their cleaning operations. In the preamble, the EQB estimates that industry in Pennsylvania will save \$7.3 million the first year this regulation is in place, and \$14.6 million annually in subsequent years. According to the EQB, the regulation will result in slight increases to industry's operating costs. It asserts these increases will be offset by reduced evaporative loss of solvents as a result of requiring the use of lower volatility solvents.

Commentators disagree with the EQB's cost estimates and the impact the changes would have on their industries. They are concerned about the uniform applicability of the rulemaking, including the absence of any exceptions or exemptions.

We have the following concerns about the impact of this rulemaking:

- The EQB has not estimated the level of VOC reduction that will be achieved through the implementation of the regulation, nor has the EQB quantified the extent to which it will help Pennsylvania attain the required VOC reductions under the Clean Air Act.

—Prior to imposing these stringent requirements for solvent cleaning operations, the EQB should estimate what the anticipated VOC reductions will be.

- The EQB is applying the Federal maximum achievable control technology (MACT) for hazardous air pollutant (HAP) solvents to both HAP and non-HAP solvents. According to the preamble, the EQB is attempting to discourage operators from converting to non-HAP solvents

to avoid the more stringent MACT requirements. However, the Federal MACT only applies to six halogenated HAP solvents.

—The EQB should explain the compelling public interest and environmental benefit of extending the more stringent MACT requirements to non-HAP solvents.

- Other states which have imposed requirements for using lower volatility solvents, such as California, Illinois and Maryland, have higher volatility standards, exemptions or limited applicability. For example, the lower volatility solvent requirements in some other states apply only to cleaning metal parts. In addition, other states exempt the electronics industry where low volatility solvents are insufficient to remove films and coatings applied during the manufacturing process. The EQB should:

—Justify the reasonableness of imposing on Pennsylvania businesses what may be the most stringent operating requirements in the United States for cleaning machines. What additional VOC reductions will be achieved by applying the regulation to the cleaning of all parts instead of limiting the applicability to the cleaning of metal parts?

—Consider exempting the electronics industry and limiting applicability of the regulation to cleaning metal parts.

—Provide a more accurate estimate of associated costs.

- Existing regulations, in sections 129.63(a), (b) and (c) contain a 10 square foot de minimis threshold before the regulations apply. The EQB has deleted the de minimis threshold in the proposed regulation. Consequently, even small amounts of solvent would be regulated. The Department of Defense Regional Environmental Coordinator (DOD REC) for Federal Region III commented that the regulation will place an undue hardship on operators with Title V permits. According to DOD REC, operators with Title V permits will have to amend their permits to include small cold cleaning machines which were previously exempt. The EQB should:

—Explain the reasonableness of eliminating the de minimis threshold and for not applying some smaller exemption threshold.

—Provide an estimate of the amount of VOC reduction that will result from removing the de minimis threshold.

—Clarify the effect of this rulemaking on Title V permits. Will operators have to revise their existing Title V permits to include small degreasers that were previously exempt because they were considered insignificant emission sources?

—Justify the costs and recordkeeping requirements associated with permit revisions resulting from the elimination of the de minimis threshold.

- The EQB asserts that industry will realize significant savings by using lower volatility solvents. However, commentators dispute this assertion. They state that low volatility solvents take longer to evaporate, which will lengthen drying times for cleaning operations. Consequently, by using low volatility solvents some industries could be faced with modifying their manufacturing processes to account for longer drying times and making equipment modifications or replacements. The EQB should:

—Estimate the costs of manufacturing and equipment modifications associated with compliance.

—Address situations where no suitable low volatility solvent is available.

- Finally, commentators assert that the EQB's savings estimates do not take into account the cost of finding solvent replacements to comply with the regulation. For example, Armstrong Industries estimates an initial compliance cost of \$500,000 and an additional \$220,000 of annual operating costs at one facility as a result of the proposed regulation.

—The EQB needs to revise its cost estimates, taking into account commentators' concerns.

2. Section 121.1. Definitions—Reasonableness and Clarity.

Cold cleaning machine

This definition includes all solvents with >5% solvent or HAP by weight. Commentators assert this standard includes solvents that aren't volatile and don't contribute to ozone formation. Did the EQB intend to include solvents that aren't volatile and don't contribute to ozone formation? If so, the EQB should justify including these solvents. If not, the definition should be revised to exclude them.

The proposed definition also differs from the Federal regulatory definition of that term (40 CFR (Subpart T) § 63.461). The EQB should amend the definition to include all heated, non-boiling VOC solvent cleaners, or explain why it has not adopted the Federal definition.

Dwell and Dwell time

The definition of "dwell" applies to "[H]olding parts . . . above the solvent vapor zone." "Dwell time" refers in part to "[T]he period of time between when a parts basket is placed in the vapor zone. . ." (emphasis added). These provisions are inconsistent and should be clarified in the final-form regulation.

Solvent cleaning machine idle time

Although this term is defined, we have not found it used in the regulation. If the term is retained in the final regulation, it should be used in the text of section 129.63 to improve clarity and the internal consistency of the regulation. If it is not used in section 129.63, it should be deleted.

Solvent vapor zone and Vapor zone

The terms "solvent vapor zone" (in the definition of "dwell") and "vapor zone" (in the definition of "dwell time") are undefined terms that appear to have the same meaning. Either one or the other, but not both, should be defined and used.

Solvent vapor and Solvent vapor layer

Similarly, the undefined term "solvent vapor" is used in the definition of "freeboard refrigeration device" and the undefined term "solvent vapor layer" is used in the definition of "solvent/air interface." If the terms have the same meaning, one term should be defined and that term should be used consistently throughout the final regulation. If they are different, each term used should be defined.

Vapor cleaning machine

This definition provides that the in-line machine must boil the liquid solvent to generate the vapor used in the cleaning or drying cycle. That part of the definition is consistent with Federal regulations (at 40 CFR (Subpart T) § 63.461). However, the additional phrase "or that

heats liquid solvent" is not included in the Federal definition. The EQB should explain why it has diverted from the Federal definition.

3. Section 129.63(a). Cold Cleaning Machines—Reasonableness and Need.

Subsection (a)(3)

Subsection (a)(3)(v) prohibits the use of air agitated solvent baths. However, the corresponding provision in the Federal MACT (40 CFR 63.462(c)(6)) does not preclude their use. The EQB should explain why it is reasonable and necessary to prohibit air agitated solvent baths.

Subsections (a)(4) and (5)

Subsection (a)(4) prohibits the use of a solvent with a vapor pressure of 2.0 millimeters of mercury (mm Hg) or more, measured at 20°C (68°F) containing VOCs 1 year after implementation of the proposed regulation. Subsection (a)(5) prohibits solvents with a vapor pressure of 1.0 mm Hg or greater 2 years after implementation of the proposed regulation. These proposed requirements for low vapor pressure solvents are not contained in the Federal MACT.

The EQB needs to address the following issues in the final regulation:

- Are effective solvents that meet these pressure requirements widely available to industry?
- Will the use of solvents that meet these criteria result in a significant VOC reduction?
- What other states have requirements similar to those proposed in this rulemaking? Do they apply Statewide to all industries? Do they apply only in specific regions or nonattainment areas?
- If the final regulation establishes a program with no exceptions or only a few exceptions, will a waiver process be included to address individual situations?

4. Solvent 129.63(d). Airless cleaning machines and airtight cleaning machines—Clarity.

Subsection (d)(3) requires the operator of a machine to operate the machine in conformance with "good air pollution control practices." To improve clarity, the EQB should define or reference what these practices are.

5. Section 129.63(e). Hand-wipe cleaning operations—Reasonableness and Clarity.

Subsection (e) and the definition of "hand-wipe cleaning operation" are adapted from Federal regulations specific to aerospace manufacturing. As such, they apply only to owners and operators of commercial, civil, or military aerospace original equipment manufacturing and rework operations. The EQB's proposal, on the other hand, would apply to all sources.

- Did the EQB intend to include all hand-wipe cleaning operations, such as use of a computer screen cleaning pad, or general janitorial services, under its provisions? If so, how does the EQB intend to enforce such a provision? The EQB should consider establishing a de minimis level or an exemption for consumer uses. In doing so, it should include a definition for "consumer product."

- References to "wipe rags" at section 129.63(c)(vi) and (d)(7)(v) should be revised to reflect the "hand-wipe" terminology in this section and the definition of "hand wipe cleaning operations."

- How will requirement for placing hand-wipes in closed containers for disposal and recycling ultimately reduce the level of VOC emissions?

6. Section 129.63(f). Alternative provisions for solvent cleaning machines—Clarity.

We found the following clarity concerns in subsection (f):

- The first sentence states that the section applies to all solvent cleaning machines and that compliance is demonstrated by complying with paragraph (1) or (2). The chart in paragraph (1) does not include cold cleaning machines. Did the EQB intend to include alternative provisions for subsection (a), cold cleaning machines?

- The chart in paragraph (1)(ii) includes a category for new in-line solvent cleaning machines. What is the definition of "new"? Either a definition for "new" or a date, such as purchased after publication of the final rulemaking, should be added.

- Subsection (f)(3) references emission limits determined using Table IV. This appears to be a misprint and should read "Table 6" for consistency with the title of the table in the proposal.

- The tables are not numbered consistently. Although there are two tables in the proposal, the first table is not numbered and the second table is labeled "Table 6." The EQB should either explain this numbering sequence or label all tables sequentially.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 99-2100. Filed for public inspection December 10, 1999, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-636	State Board of Psychology Application Fees	11/30/99
16A-612	State Board of Landscape Architects Continuing Education	11/30/99

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 99-2101. Filed for public inspection December 10, 1999, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws

Danny J. Ament; Doc. No. SC99-10-003

Notice is hereby given of the Order to Show Cause issued on November 15, 1999 by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: Sections 106, 209(b), 603, 607 and 639 of the Insurance Department Act (40 P. S. §§ 26, 47(b), 232, 233, 237, 279).

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); 1 Pa. Code §§ 31.1—35.193, 35.225—35.251 (relating to General Rules of Administrative Practice and Procedure); 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) 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 should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-2102. Filed for public inspection December 10, 1999, 9:00 a.m.]

Alleged Violation of Insurance Laws

Michael Bowman; Doc. No. SC99-09-001

Notice is hereby given of the Order to Show Cause issued on November 23, 1999 by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: The Insurance Department Act (40 P. S. § 234, § 474), 18 Pa.C.S. § 4117.

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) 1 Pa. Code §§ 31.1—35.193, 35.225—35.251 (relating to General Rules of Administrative Practice and Procedure); 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) 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 should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-2103. Filed for public inspection December 10, 1999, 9:00 a.m.]

Application and Request for a Certificate of Authority

Christ the King Manor, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at King's Court at Christ the King Manor, DuBois, PA. The initial filing was received on November 29, 1999 and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of June 18, 1984, P. L. 391, No. 82, as amended. Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Michael S. Graeff, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, email: mgraeff@ins.state.pa.us or by fax (717) 787-8557.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-2104. Filed for public inspection December 10, 1999, 9:00 a.m.]

Application and Request for a Certificate of Authority

Moravian Village of Bethlehem, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Moravian Village of Bethlehem, Bethlehem, PA. The initial filing was received on November 29, 1999 and was made under the requirements set forth under the Continuing Care Provider

Registration and Disclosure Act of June 18, 1984, P. L. 391, No. 82, as amended. Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Michael S. Graeff, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, email: mgraeff@ins.state.pa.us or by fax (717) 787-8557.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-2105. Filed for public inspection December 10, 1999, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Union County, Wine & Spirits Shoppe #6001, 326 Market Street, Lewisburg, PA 17837-1420.

Lease Expiration Date: January 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,500 to 5,500 net useable square feet of new or existing retail commercial space within the Borough of Lewisburg.

Proposals due: January 7, 2000 at 12 Noon

Department: Pennsylvania Liquor Control Board

Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Ronald Hancher, Jr., (717) 657-4228

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 99-2106. Filed for public inspection December 10, 1999, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act (65 P. S. § 366.3) mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General, and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12 month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics (BLS) immediately prior to the date adjustment is due to take effect.

As required by section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U (PA-DE-NJ-MD) over the past 12 months as reported by BLS on November 17, 1999, that the salaries covered by that law shall be increased by 2.4% effective January 1, 2000. The following chart sets out the agency head position, the salary prior to the adjustment, the percentage amount of the adjustment, and the new salary:

COLA Adjustment for Elected and Appointed Officials Receiving Salaries Contained in Act 1995-51

COLA ADJUSTMENT IS BASED ON THE PERCENT CHANGE IN THE CPI-U FOR PA-DE-NJ-MD, CMSA, FOR THE 12 MONTH PERIOD ENDING OCTOBER 1999

<i>Position</i>	<i>Salary Prior to 1/1/2000</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/2000</i>
Governor	\$132,382	2.4%	\$135,559
Lieutenant Governor	\$111,201	2.4%	\$113,870
State Treasurer	\$110,142	2.4%	\$112,785
Auditor General	\$110,142	2.4%	\$112,785
Attorney General	\$110,142	2.4%	\$112,785
Large Agency Head	\$105,906	2.4%	\$108,448
Secretary of Education			
Secretary of Environmental Protection			
Secretary of Health			
Secretary of Labor and Industry			
Secretary of Public Welfare			
Secretary of Transportation			
Secretary of Corrections			
Medium Agency Head	\$100,610	2.4%	\$103,025
Secretary of Aging			
Secretary of Community & Economic Development			
Secretary of General Services			
Secretary of Revenue			
State Police Commissioner			
Secretary of Conservation & Natural Resources			
Small Agency Head	\$95,315	2.4%	\$97,603
Adjutant General			
Secretary of Agriculture			
Secretary of Banking			
Secretary of the Commonwealth			
Insurance Commissioner			
Liquor Control Board			
Chairperson	\$53,800	2.4%	\$55,091
Member	\$51,682	2.4%	\$52,922
Civil Service Commission			
Chairperson	\$43,024	2.4%	\$44,057
Member	\$43,024	2.4%	\$44,057
State Tax Equalization Board			
Chairperson	\$18,534	2.4%	\$18,979
Member	\$17,209	2.4%	\$17,622
Milk Marketing Board			
Chairperson	\$17,209	2.4%	\$17,622
Member	\$16,548	2.4%	\$16,945
Securities Commission***			
Chairperson	\$28,956	2.4%	\$29,651
Member	\$26,416	2.4%	\$27,050
Athletic Commission			
Chairperson	\$13,901	2.4%	\$14,235
Member	\$13,238	2.4%	\$13,556
Board of Pardons			
Member	\$12,180	2.4%	\$12,472
Board of Claims			
Chairperson	\$89,807	2.4%	\$91,962
Member	\$85,572	2.4%	\$87,626
Public Utility Commission			
Chairperson	\$103,110	**	\$105,525
Member	\$100,610	2.4%	\$103,025
Environmental Hearing Board*			
Chairperson	\$103,110	-	\$105,525
Member	\$100,610	-	\$103,025

*: The Environmental Hearing Board is not contained in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the PUC.

** : Act 1995-51 states that the PUC Chairperson shall receive \$2,500/year more than PUC Members.

***: Per Act 1998-51.

ROBERT BITTENBENDER,
Secretary

OFFICE OF GENERAL COUNSEL

Bond Counsel Invitation to Qualify No. 081-0GC-ITQ-99-01

The Commonwealth of Pennsylvania is extending the time to accept qualifications from law firms for participation in bond counsel pools established by the Governor's Office of General Counsel (OGC). As previously advertised, the OGC intends to establish pools of qualified counsel to serve as bond counsel to the following agencies: Commonwealth of Pennsylvania, Office of the Budget; PENNVEST; Pennsylvania Housing Finance Agency; Pennsylvania Economic Development Financing Authority; Pennsylvania Industrial Development Authority; Pennsylvania Higher Educational Facilities Authority; and the State Public School Building Authority. The OGC is seeking to review qualifications from legal service providers (law firms) for participation in four designated bond counsel pools to serve the above-identified financing agencies through a formal Invitation to Qualify (ITQ) process. Those law firms that submitted qualifications by the November 22, 1999, deadline are not required to resubmit but may do so if desired.

To obtain a copy of the ITQ or information on the OGC and the executive agencies to be served by the four bond counsel pools, law firms are encouraged to visit the OGC's Website at www.ogc.state.pa.us. Law firms may also obtain a copy of the ITQ by sending a written request to M. Jane Demko by mail at Office of General Counsel, 333 Market Street, 17th Floor, Harrisburg, PA 17101, by E-mail at jdemko@state.pa.us, or by fax at (717) 787-1788. Law firms should address questions pertaining to this ITQ to M. Jane Demko at the above-listed address, E-mail or fax. All submissions to this ITQ are due by 2 p.m. on January 14, 2000. The OGC will reject as nonresponsive all submissions received after this date and time. The OGC expects to make its bond counsel appointments for future Commonwealth financing transactions to law firms identified and qualified through this ITQ process and thus strongly encourages any and all interested law firms to participate at this time to ensure consideration of their qualifications to provide bond counsel services.

JAMES M. SHEEHAN,
General Counsel

[Pa.B. Doc. No. 99-2108. Filed for public inspection December 10, 1999, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Condensed Balance Sheet and Condensed Statement of Operations

Condensed Balance Sheet

June 30, 1999
(Audited)
(In Thousands)

<i>Assets</i>	
Current Assets	\$4,707
Restricted Assets	5,922
Fixed Assets (Net)	73,660
Other Assets	<u>1,277</u>
Total Assets	<u>85,566</u>
<i>Liabilities and Fund Equity</i>	
Current Liabilities	4,002
Long-Term Liabilities	<u>56,314</u>
Total Liabilities	<u>60,316</u>
Contributed Capital	38,501
Accumulated Deficit	(13,251)
Total Fund Equity	<u>25,250</u>
Total Liabilities and Fund	85,566

Condensed Statement of Operations & Accumulated Deficit Year Ended June 30, 1999 (Audited) (In Thousands)

Oper. Revenue & Grants	\$13,243
Operating Expenses	(6,913)
Depreciation and Amort.	(3,188)
Net Interest Income/Exp.	(2,966)
Net Profit	176
Accum. Deficit, Beg. of Year	(13,427)
Accum. Deficit, End of Year	(13,251)

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 99-2109. Filed for public inspection December 10, 1999, 9:00 a.m.]

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #9925.1, Waterproofing the Concrete Roof Deck, Tioga Marine Terminal—Office Building, until 2 p.m. Wednesday, December 29, 1999. The bid documents can be obtained from the Director of Procurement, PRPA, 210 W. Washington Sq., 13th Floor, Philadelphia, PA 19106, (215) 928-9100 and will be available December 14, 1999. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

Mandatory prebid job site meeting will be held 12/21/99, 10 a.m. at the Tioga Admin. Bldg., 3460 N. Delaware Ave., Suite 203, Philadelphia, PA 19134.

JAMES T. MCDERMOTT,
Executive Director

[Pa.B. Doc. No. 99-2110. Filed for public inspection December 10, 1999, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Gas Service Without Hearing

A-121850F2021. National Fuel Gas Distribution Corporation. Application for approval of abandonment of service by National Fuel Gas Distribution Corporation to twenty-one gas service customers located in Clinton, Irwin and Scrubgrass Townships, Venango County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before December 27, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: National Fuel Gas Distribution Corporation

Through and By Counsel: Gwen M. Ralph, Esquire, National Fuel Gas Distribution Corporation, 1100 State St., Erie, PA 16512.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-2111. Filed for public inspection December 10, 1999, 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 4, 2000, as set forth in 52 Pa. Code § 3.381 (relating to the applications for the transporta-

tion 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 beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00116394. Atlantic Coast Express, Inc., t/d/b/a A.C.E. Transportation Services (8637 North Country Place Drive, Tobyhanna, Monroe County, PA 18466), a corporation of the Commonwealth of Pennsylvania—persons, upon call or demand, in the county of Monroe. *Attorney:* W. Brian Golden, P. O. Box 152, Mount Pocono, PA 18344.

A-00116395. Randy Fink (R. R. 1, Box 315, New Millport, Clearfield County, PA 16861) persons in paratransit service between points in the county of Clearfield, and from points in the said county, to points in Pennsylvania, and return. *Attorney:* Gary A. Knaresboro, 218 South Second Street, Clearfield, PA 16830.

A-00116396. Mark Alan Brest, t/d/b/a Mark's Taxi Service (350 Sharpsville Avenue, Sharon, Mercer County, PA 16146)—persons upon call or demand in the cities of Sharon and Farrell, the boroughs of Sharpsville, Wheatland, Hermitage and West Middlesex, and the townships of Shenango, South Pymatuning and Pymatuning, all in the county of Mercer. *Attorney:* David Goodwin, P. O. Box 673, Sharon, PA 16146-0673.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-00116037, F. 3. Sammy N. Fox, t/d/b/a Fox Charter Service (R. D. 3, Box 212C, Waynesburg, Greene County, PA 15370)—Additional Right—persons, in group and party service, using vehicles seating 15 passengers or less, including the driver, between points in the counties of Washington, Westmoreland, Fayette and Greene, and from points in the said counties and the county of Allegheny, to points in Pennsylvania, and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer as described under each application.

A-00116397. Mohamed El-Malah (3360 Chichester Avenue, Building S-14, Boothwyn, Delaware County, PA 19061)—household goods in use, between points in the city and county of Philadelphia; which is to be a transfer of the right authorized James Stewart, under the certificate issued at A-00076042, subject to the same limitations and conditions.

Applications of the following for amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-00101020, F. 2, Am-A. Contract Delivery, Inc. (118 West Clarkson Street, Philadelphia, PA 19120-2926), a corporation of the Commonwealth of Pennsylvania—amendment to its common carrier certificate: *So as to permit the discontinuance of service and cancellation of the certificate of public convenience which grants the*

following rights: (1) To transport, as a Class B carrier, household goods in use, between points in the city and county of Philadelphia; and (2) To transport, as a common carrier, property, except household goods in use, between points in Pennsylvania.

A-00108869, F. 1, Am-A. E. N. Corliss, Inc. (613 Prospect Road, Springfield, Delaware County, PA 19064), a corporation of the Commonwealth of Pennsylvania—amendment to its common carrier certificate: *So as to permit* the discontinuance of service and cancellation of the certificate of public convenience which grants the following rights: (1) To transport, as a Class B carrier, household goods in use, between points in the city and county of Philadelphia; (2) To transport, as a Class D carrier, household goods in use, from points in the city and county of Philadelphia, to points in Pennsylvania within an airline distance of 25 statute miles of the Philadelphia City Hall, and vice versa; and (3) To transport, as a common carrier, property, except household goods in use, between points in Pennsylvania.

Complaint

Great Escape Vacations Ltd t/a
Great Escape Travel
11 Centennial Way
Scottsdale PA 15683

In re: A-00111467C9901
A-00111467

Dear Respondent:

On September 23, 199, the Bureau of Transportation and Safety instituted a complaint against Great Escape Vacations, Ltd., t/a Great Escape Travel, respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00111467.

The complaint and notice were published in the October 23, 1999 issue of the *Pennsylvania Bulletin*, after the Commission was unsuccessful in serving respondent by mail. To date, more than twenty (20) days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00111467C9901 is hereby sustained and the right(s) and the certificate of public convenience issued to the respondent at A-00111467 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

Very truly yours,
James J. McNulty
Secretary

Service of Notice of Formal Complaints Against Philadelphia Taxi Cab Drivers

The following formal complaints have been filed against Philadelphia taxi cab drivers by the Pennsylvania Public Utility Commission:

Name of Driver	Taxi Driver Certification Complaint #	Cab #	Violation of 52 Pa. Code	Date of Violation	Penalty
Clarence R. McPherson	H-00001105M9701	P-607	30.71(f) Expired TDC. 30.76(d)(7) Driving while operator's license suspended.	7/26/97	\$100.00 fine & cancellation of TDC.
Donald Burton	H-00001240M9601	P-272	30.71(f) Expired TDC. 30.76(d)(8) Driving while operator's license suspended.	1/04/96	Revocation of TDC.
Mario Bonelli	H-00003499M9501	P-287	30.71(f) Expired TDC.	2/09/95	Suspension of TDC.

Please be Advised That the Complaint Will be Processed as Follows:

A. Pursuant to 52 Pa. Code § 30.53, you must file an answer within fifteen (15) days of the receipt of this complaint. The answer shall raise all factual and legal arguments that you wish to claim in your defense. The answer shall be notarized and the original and two (2) copies sent to: James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

All answers must include the reference number of this complaint and the applicable P-number(s).

B. Pursuant to 52 Pa. Code § 30.55, if an answer is not filed within 15 days of the receipt of this complaint, a fine of \$1,000 will be assessed for each violation cited in the

complaint. Additionally, if you are not authorized by the Commission to perform the service, your vehicle registration may be suspended.

C. You may elect not to contest this complaint by paying the proposed fine in Item 16 by certified check or money order. Payment must be made to: Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

All payments must include the reference number of this complaint and the applicable P-number(s) on the check or money order.

(NOTE: PERSONAL CHECKS ARE UNACCEPTABLE.)

D. If a timely answer is filed which contests the complaint, it will be assigned to a Special Agent or an Administrative Law Judge who will serve as the presiding officer in the case. The Agent or the Judge is not

bound by the action in Item 16. A penalty imposed by them may be greater or less than the penalty in Item 16.

E. If you file an answer which admits or does not deny the violations in this complaint, an order will be issued, without benefit of the case being heard in front of a Special Agent or an Administrative Law Judge, imposing the action sought in Item 16.

[Pa.B. Doc. No. 99-2112. Filed for public inspection December 10, 1999, 9:00 a.m.]

Wastewater

A. 230117F0002. Frank Colombo, Jr., t/a Glenburn Services Company. Application of Frank Colombo, Jr., t/a Glenburn Services Company, for approval to offer, render, furnish or supply wastewater service to the public in additional territory in Glenburn Township, Lackawanna County, Pennsylvania.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before December 27, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Frank Colombo, Jr., t/a Glenburn Services Company.

Through and By Counsel: Needle, Goldenziel & Pascale, P.C., 240 Penn Avenue, Scranton, PA 18503.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-2113. Filed for public inspection December 10, 1999, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Engineering Firm

Open End Mechanical, Electrical, Plumbing (MEP) Engineering Contract Systemwide

Reference No. 3-118

The Turnpike Commission (Commission) will retain one mechanical, electrical, plumbing (MEP) engineering firm for an open end contract to perform design and construction services for a variety of building facility-related projects along the entire Turnpike system. Services from the engineering firm include, but are not limited to: studies, concept plans, preliminary/final designs, production of construction documents suitable for competitive bidding, review of project submittals and construction phase services for multiple projects performed simultaneously under short completion schedules.

The firm selected will have experience with the types of buildings and systems in the Turnpike inventory, such as, administrative offices, toll plaza structures, maintenance facilities, sewage treatment plants, domestic water well systems, exterior lighting systems, and the like.

The contract will be for a maximum cost of \$500,000 or for a 24-month period. The firm will be required to provide sufficient office personnel, managers, engineers,

technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend construction meetings with the Commission.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate an ability to analyze available data to make decisions and develop plans to complete the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Department of Transportation and Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Direct inquiries to Deann S. Metro at (717) 939-9551, Ext. 3731; or by E-mail at dmetro@paturnpike.com.

Open End Environmental/Civil Design Services Engineering Contract, Systemwide

Reference No. 3-119

The Turnpike Commission (Commission) will retain one environmental/civil engineering firm for an open-end contract to perform design and construction services for a variety of facility-related projects along the entire Turnpike system. Services from the engineering firm include, but are not limited to: studies, concept plans, preliminary/final designs, production of construction documents suitable for competitive bidding, inspection services, operation and maintenance analysis, and monitoring and sampling as required by the Department of Environmental Protection.

The firm selected will have experience with the types of facilities in the Turnpike inventory, such as, wastewater treatment plants (activated sludge, oxidation ditch, contact stabilization, trickling filter, and onlot treatment plants), domestic water well systems, and underground storage tanks. Investigations at facilities may include groundwater and soil characterizations, sinkhole analysis, erosion and sedimentation studies and drainage studies.

The contract will be for a maximum cost of \$500,000 or for a 24-month period. The firm will be required to provide sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. In addition, the firm selected may be required to attend construction meetings with the Commission.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must

clearly demonstrate an ability to analyze available data to make decisions and develop plans to complete the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Direct inquiries to Deann S. Metro at (717) 939-9551, Ext. 3731; or by E-mail at dmetro@paturndpike.com.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information. The Letters of Interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified)

2. Three page expression of interest in the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for this project and provide explanation that the firm has successfully completed similar type projects of the same magnitude.

3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultant's listed in the letter of interest will require written approval from the Commission.

4. Tabulation of workload for the prime consultant and all subconsultants for all Department of Transportation and Turnpike Commission projects.

5. A copy of the annual qualification package submitted to the Department of Transportation for the current year, that is in the same district as the project or one that is best suited for the project. If an interested firm does not perform work for the Department of Transportation, and does not have an annual qualification package prepared, the following information must still be provided.

The annual qualification package should contain at a minimum, the following information for the prime consultant and all subconsultants which should be attached to the back of the letter of interest (subs to follow primes):

- Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, not more than 1 year old as of the date of the advertisement.

- Resumes of key personnel expected to be involved in the project. (limit to one 8 1/2 x 11 page, one side, per person). Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-state headquarters or corporations not incorporated in this Commonwealth.

- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate letters of interest from joint venture constituents. A firm will not be permitted to submit a letter of interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the above services are invited to submit a letter of interest and required information to Don Santostefano, Facilities Manager, at the PA Turnpike Commission Administration Building located at 176 Kost Road, Carlisle, PA 17013-9779 (parcel delivery address). Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676.

The letter of interest and required information must be received by 12 p.m. (noon), Thursday, December 30, 1999. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable letters of interest received in response to this solicitation, one firm will be selected for each project. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Selection Committee. Technical proposals or requests for proposals will not be requested prior to selection.

The Commission reserves the right to reject all letters of interest, to cancel solicitation requested under this notice, and/or to re-advertise solicitation for the work and services.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 99-2114. Filed for public inspection December 10, 1999, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

PA Department of Community and Economic Development

374 Forum Building

Harrisburg, PA 17120

800-280-3801 or (717) 783-5700

Reader's Guide

Legal Services & Consultation—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 A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

1287119 Oil grain leather. For a copy of the bid package fax request to (717) 787-0725.

Department: Corrections
Location: Graterford, PA
Duration: FY 99-2000
Contact: Vendor Services, (717) 787-2199

1251119 Filter bags and filter bag cages. For a copy of the bid package fax request to (717) 787-0725.

Department: Corrections
Location: Camp Hill, PA
Duration: FY 99-2000
Contact: Vendor Services, (717) 787-2199

Commodities

SERVICES

Advertising Public Relations—01

PDA 437 Design, implement and maintain outdoor advertising campaign and other design work for the PA Produce Promotion Program.

Department: Agriculture
Location: Statewide
Duration: April 1, 2000 to March 31, 2001 with options to extend up to three years.
Contact: Mike Mesaris, (717) 787-5674

Computer Related Services—08

AE-5232 Rebid Installation of new partition and door to create a new conference room with a new suspended ceiling and lighting system. Installation of new lighting system for the front office area. To obtain a copy of this bid package please fax the following information to Tina Chubb at (717) 783-7971: Contract # AE-5232 Rebid, Company Name, Company Contact Person, Address, Telephone Number, and fax Number. Please reference AE-5232 Rebid on your fax.

Department: Transportation
Location: Maintenance Building District 6-5, Blaine & Ruffner Streets, Philadelphia, PA 19140
Duration: 90 Calendar Days
Contact: Tina Chubb, (717) 787-7001

Construction & Construction Maintenance—09

FBP-12-0032 Removal of existing steel/masonry structure; Clearing, Excavating, Backfilling, and Grading; Dewatering; Rock Lining; E & S Measures; Selected Material Surfacing; Traffic Signing; Guide Rail; Landscaping; Plain and Reinforced Concrete Structures; Architectural Surface Treatment; and Prestressed Concrete Spread Box Beams. Project is near Ravensburg State Park. Bid Documents will be available on or after December 13, 1999.

Department: Conservation and Natural Resources
Location: Crawford Township
Duration: Complete all work by October 31, 2000
Contact: Construction Management Section, (717) 787-5055

MTCE 99-297 Install polygal clean twin wall 8 mm polycarbonate on two gutter connected greenhouses, roof and vent sections only. For more info call the number listed or fax your request for a bid package to (412) 257-6761. Include the bid number, your complete company name, address, phone, contact person, fax and phone number. An onsite visit is required for this bid.

Department: Public Welfare
Location: Mayview State Hospital—Greenhouse, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: 7/1/2000—6/30/01
Contact: Alice Rock, (412) 257-6762

015DGS514-26 Project Title: Upgrade Heating Control System. Brief Description: Upgrade of forced air heating control system and addition of fans to assist air distribution of multistory building. Estimated Range: \$1,000,000 to \$5,000,000. HVAC and Electrical Construction. Plans Deposit: \$50 per set payable to: Sturgeon Engineering, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Sturgeon Engineering, Inc., 120 S. Broad Street, Grove City, PA 16127, Tel: (724) 458-6040. A prebid conference has been scheduled for Tuesday, December 21, 1999 at 1 p.m. at the Warren State Hospital, in the lobby of the Main Building, Warren, PA. Contact: George Hagstrom, Tel: (724) 458-6040. All contractors who have secured contract documents are invited and urged to attend this prebid conference. Bid Date: Wednesday, January 5, 2000 at 11 a.m.

Department: General Services
Location: Warren State Hospital, Warren, Warren County, PA
Duration: 210 Calendar days from date of initial job conference
Contact: Contract and Bidding Unit, (717) 787-6556

015DGS501-19 Project Title: Heating, Ventilation and Air Conditioning in Patient Areas of Main Building. Brief Description: Interior renovations and exterior window replacement. Replace heating system, new air conditioning system, renovate toilet/shower rooms, new finishes, new lighting and miscellaneous electrical power renovations. Estimate Range: \$1,000,000 to \$5,000,000. General, HVAC, Plumbing and Electrical Construction. Plans Deposit: \$100 per set payable to: Wallace & Watson—Associates, P.C. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Wallace & Watson—Associates, P.C., 609 Hamilton Mall—Suite 200, Allentown, PA 18101-2189, Tel: (610) 437-4450. A prebid conference has been scheduled for Thursday, December 16, 1999 at 10 a.m. at the Allentown State Hospital, Maintenance Building # 34, Allentown, PA. Contact: Glenn Lightenwalner, R.A., Tel: (610) 437-4450. Bid Date: Wednesday, January 5, 2000 at 1 p.m.

Department: General Services
Location: Allentown State Hospital, Allentown, Lehigh County, PA
Duration: 189 Calendar days from date of initial job conference
Contact: Contract and Bidding Unit, (717) 787-6556

FDC-400-603 Demolition of existing superstructure; excavating, backfilling and capaction; Guide Rail; Reinforced Cast-in-Place Concrete; Concrete Restoration Work; Structural Steel; Wood Deck and Rail, and Painting. Work is located at Hickory Run State Park and Nescopeck State Park. Bid Documents will be available on or after December 13, 1999.

Department: Conservation and Natural Resources
Location: Kidder Township, Carbon County and Dennison Township, Luzerne County
Duration: Complete all work by October 31, 2000
Contact: Construction Management Section, (717) 787-5055

0251-B03 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of one residential dwelling located at 101 Oakville Road, in the Township of Chippewa, Beaver County. Contractor will be required to demolish and/or remove all structures, outbuildings and site improvements. Contractor will also be required to comply with FHWA and State regulations. For bid forms, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: Chippewa Township
Duration: 30 days
Contact: Michael Sudar, (412) 429-4830

015DGS948-41SW1 Project Title: Sitework for the Keystone Building. Brief Description: The Package consists of, but is not limited to, the following work: selective demolition, grading, paving, landscaping, concrete, etc. Estimated Range: \$500,000 to \$1,000,000. Sitework Construction. Plans Deposit: \$250 per set payable to: CRSS Constructors. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to cover the cost of delivery. A separate check must be submitted to cover the cost of delivery. Mail requests to: Reliance Reprographics, Inc., Governor's Plaza South, Building 1, Suite 110, 2001 North Front Street, Harrisburg, PA 17102. Tel: (717) 232-5700. A Prebid Conference has been scheduled for Tuesday, January 4, 2000 at 2 p.m. meeting to be held in the corporate board room, Arsenal Building, 18th & Herr Streets, Harrisburg, PA. Contact Person: Justin Koenes, Tel: (717) 233-7507. All questions must be submitted in writing to CRSS Constructors, Inc. in Association with the Quandel Group, Inc., P. O. Box 60827, Harrisburg, PA 17106-0827. Attn: Justin Koenes, Tel: (717) 233-7507, Fax: (717) 233-7528 by Friday, January 7, 2000. Bid Date: Wednesday, January 19, 2000 at 2 p.m.

Department: General Services
Location: Keystone Building Project, Capitol Complex, Harrisburg, Dauphin County, PA
Duration: 292 Calendar days from date of initial job conference
Contact: Contract and Bidding Unit, (717) 787-6556

015DGS964-32 Project Title: Roof Replacement. Brief Description: Remove existing roofing system and replace with a tapered insulation, thermalplastic membrane roof system. Recondition all joints in coping stones. Install new drains and some new drain lines. Estimated Range: \$100,000 to \$500,000. General Construction. Plans Deposit: \$25 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Mail requests to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid Date: Wednesday, January 5, 2000 at 11 a.m.

Department: General Services
Location: Pennsylvania National Guard Armory, Ligonier, Westmoreland County, PA
Duration: 90 Calendar days from date of initial job conference
Contact: Contract and Bidding Unit, (717) 787-6556

570-27ST1.1 Project Title: Precast Concrete Cells. Brief Description: All work necessary to complete fabricating, furnishing, delivering and installing all precast concrete cells, accessories and embedded items and includes installation of embedded items furnished by others. Estimated Range: Over \$10,000,000. Precast Concrete Cells. Plans Deposit: \$250 per set. Payable to P. J. Dick Incorporated. Refundable upon return of plans and specifications in reusable condition (no mark allowed) as construction documents within 15 days after the bid opening date. Plans and specifications may be obtained by prospective bidders at the office of P. J. Dick Incorporated, 1020 Lebanon Road, West Mifflin, PA 15122-1036, telephone (412) 462-9300, attention Marlene Martak upon receipt of the deposit. Bidder is responsible for the cost of delivery of plans and specifications. Mail a separate check for \$40 or provide your express mail account number to the office mentioned above. Prebid Conference: A Prebid Conference has been scheduled for Wednesday, December 22, 1999 at 10 a.m. at the 2nd floor meeting room at the offices of P. J. Dick Incorporated, 1020 Lebanon Road, West Mifflin, PA 15122. Bid Date: Friday, January 7, 2000 at 11 a.m.

Department: General Services
Location: State Route 4020 Luzerne Township
Duration: 300 Calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Engineering Services—14

K00053 Edinboro University of the State System of Higher Education is seeking a professional firm to prepare a comprehensive Facilities Master Plan in accordance with Volume VI-C of the SSHE Facilities Manual which will address the efficient and effective use of campus facilities, improvement of existing campus conditions, and possible future growth. To obtain a copy of the Request for Proposal, contact Tom Anderson, Purchasing Office, (814) 732-2704, fax (814) 732-2281. It is anticipated that proposals will be due in mid-January 2000. The actual due date will be stated in RFP. Nondiscrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education. MBE/WBE firms are encouraged to participate.

Department: State System of Higher Education
Location: Edinboro University of Pennsylvania, Edinboro, PA
Duration: Approximately 180 calendar days from Notice to Proceed
Contact: Tom Anderson, Contract Specialist, (814) 732-2704

DEP-BWE-00.1 The DEP requires the services of a geotechnical engineering consultant for 4 years to assist and advise the Department's Bureau of Waterways Engineering on proposed and existing water related projects statewide on an as-needed basis.

Department: Environmental Protection
Location: Entire state of Pennsylvania
Duration: 4 years (July 1, 2000 to June 30, 2004)
Contact: Dale A. Hamlen, (717) 783-7482

08430AG2461 To provide supplementary construction staff of approximately nine inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on S.R. 0033, Section 001 in Northampton County, Engineering District 5-0.

Department: Transportation
Location: Engineering District 5-0
Duration: Thirty days after construction completion
Contact: Consultant Agreement Division, (717) 783-9309

Financial & Insurance Consulting—17

012-9006-07 PennSERVE announces the availability of grant funding for operation of AmeriCorps national services programs by nonprofit organizations, government agencies and educational institutions. A cash match is required based on funding levels. Priority areas are education, public safety, environment and human needs. Letters of intent to apply due by January 13, 2000, with full applications due by 4 p.m., January 24, 2000. Applications available by calling/faxing PennSERVE at (717) 787-1971 (phone) or (717) 705-4215 (fax).

Department: Labor and Industry
Location: 4304 Labor & Industry, Harrisburg, PA 17120
Duration: 1 year upon award
Contact: Renee F. Johnson, (717) 787-1971

Food—19

G-2000-01 Poultry and Poultry Products: Bidding period shall cover January 1, 2000 through December 31, 2000 with issuance of bid proposals being made on as needed basis. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

Department: Corrections
Location: 1030 East Roy Furman Highway, Waynesburg, PA 15370
Duration: January 1, 2000 through December 31, 2000 to be bid on an as needed basis.
Contact: Pat Nichols, (724) 852-5533

G-2000-02 Meat and Meat Products: Bids for various meat and meat products will be issued on an as needed basis. Estimated quantities and product(s) specification can be obtained by contacting the institutional contact person.

Department: Corrections
Location: SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370
Duration: Various dates during the period January 1, 2000 through December 31, 2000
Contact: Pat Nichols, (724) 852-5533

G-2000-03 Fish and Seafood: Bids will be issued on an as needed basis for the referenced commodities. Delivery of the products specified shall be made as needed and requested by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

Department: Corrections
Location: Department of Corrections, SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370
Duration: Various bids will be issued during the period of January 1, 2000 through December 31, 2000
Contact: Pat Nichols, (724) 852-5533

CI year 2000 Colegen Casing 30 mm Collagen for fresh products. Approximately 360,000 ft. for the next 12 months.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

RFP 022400-01 Edinboro University of the State System of Higher Education will select a supplier for providing year round dining services at Edinboro University campuses. Interested bidders should obtain a Request for Proposal from Angela Holler, Director of Purchasing, 220 McNeerney Hall, Edinboro University of PA, Edinboro, PA 16444; (814) 732-2704. Interested bidders must respond by January 21, 2000. A preproposal conference will be held at the University on January 20, 2000. Proposals will be due February 24, 2000, 1:30 p.m. The System encourages response from small, minority women owned and disadvantaged firms. Nondiscrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Edinboro University Main Campus and Edinboro University in Erie, Porreco Campus
Duration: 5 years
Contact: Angela Holler, Director of Purchasing, (814) 732-2704

CI year 2000 Breeding Breeding, a formula wheat flour dough, baked and sized to the appropriate granulation. Breeding to be used for beef, fish and pork. Batter, a dry blend of ingredients for beef, fish and pork. Pre-dust for the beef, fish and pork products. Samples will be supplied at the time of bidding.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

CI year 2000 Beef/Pork Pork primal cuts, approximately 200,000 lbs. beef primal cuts, approximately 500,000 lbs.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

CI year 2000 Veal Veal trimmings, frozen 75/25 approximately 60,000 lbs.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

CI year 2000 turkey Communitated Turkey, under 20% fat, frozen and packed in 40 lb. boxes approximately 150,000 lbs.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

CI year 2000 Fish Fish, whitefish blocks species: cod, pollack, whiting or haddock approximately 500,000 lbs.

Department: Corrections
Location: State Correctional Inst. Camp Hill, Correctional Industries Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Linda Malinak, (717) 975-4931

HVAC—22

AE-5371 Rebid Install a fully integrated building automation system. To obtain a copy of this bid package please Fax the following information to Tina Chubb, (717) 783-7971: Contract # AE-5371 Rebid, Company Name, Company Contact Person, Address, Telephone Number, and fax number. Please reference AE-5371 Rebid on your fax.

Department: Transportation
Location: PennDOT Engineering District 11-0, 45 Thomas Run Road, Bridgeville, PA 15017
Duration: 60 Calendar Days
Contact: Tina Chubb, (717) 787-7001

AE-5375 Rebid Remove existing vehicle exhaust system and install new system. To obtain a copy of this bid package please fax the following information to Roberta Cooper at (717) 783-7971: Contract # AE-5375 Rebid, Company Name, Company Contact Person, Address, Telephone Number, and Fax Number. Please reference AE-5375 Rebid on your fax.

Department: Transportation
Location: County Maintenance District 6-3 Building Media, Delaware County, PA
Duration: 90 Calendar Days
Contact: Roberta Cooper, (717) 787-4006

AE-5269 Rebid Installation of vehicle exhaust systems. To obtain a copy of this bid package please fax the following information, to Tina Chubb at (717) 783-7971: Contract # AE-5269 Rebid, Company Name, Company Contact Person, Address, Telephone Number, and Fax Number. Please reference AE-5269 Rebid on your fax.

Department: Transportation
Location: Chester County Maintenance Bldg. No. 062-0101, 401 Montgomery Avenue, P. O. Box 504, West Chester, PA 19380
Duration: 90 Calendar Days
Contact: Tina Chubb, (717) 787-7001

SP # 00670014 The contractor shall provide all labor, equipment, parts, and materials required to inspect, test, repair and rebuild electric motors at the Embreeville Complex, Coatesville, PA 19320. To receive specifications, submit fax to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526 (Fax (610) 562-6025).

Department: Public Welfare
Location: Embreeville Complex, 1822 W. Strasburg Rd., Coatesville, PA 19320
Duration: Anticipated Dates: July 1, 2000—June 30, 2003
Contact: Beverly O. Epting, PA, (610) 562-6031

100-Plumb Various Plumbing Supplies.

Department: Military Affairs
Location: Ft. Indiantown Gap, Annville, PA 17003-5002
Duration: FY99-2000
Contact: Eugene Ollar, (717) 861-2921

SP # 00670013 The contractor shall provide all labor, equipment and parts required to inspect, service and repair the high voltage systems throughout the Embreeville Complex, Coatesville, PA 19320. To receive specifications, submit fax to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526 (Fax (610) 562-6025).

Department: Public Welfare
Location: Embreeville Complex, 1822 W. Strasburg Road, Coatesville, PA 19320
Duration: Anticipated Date: July 1, 2000—June 30, 2003
Contact: Beverly O. Epting, PA, (610) 562-6031

SP # 00670015 The contractor shall provide all labor and equipment required to service and maintain the sewer mains throughout the Embreeville Complex, Coatesville, PA 19320. To receive specifications, submit FAX to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526 (Fax (610) 562-6025).

Department: Public Welfare
Location: Embreeville Complex, 1822 W. Strasburg Road, Coatesville, PA 19320
Duration: Anticipated Dates: July 1, 2000—June 30, 2003
Contact: Beverly O. Epting, PA, (610) 562-6031

Lodging/Meeting—27

SP 3590007941 Provide lodging, meeting rooms and meals for the Department of Environmental Protection, Office of Field Operations. This will require one, three-day meeting as follows: 1st day—Single occupancy lodging and meals for approximately 175 attendees; 2nd day—Single occupancy lodging and meals for approximately 350 attendees; 3rd day—Single occupancy lodging and meals for approximately 175 attendees; Meeting Room—1 large meeting room to accommodate up to 350 attendees for entire three-day meeting; Breakout Rooms—10 breakout rooms per day.

Department: Environmental Protection
Location: Within the Commonwealth of Pennsylvania
Duration: Through June 30, 2000
Contact: Sherry Morrow, (717) 772-1216

Property Maintenance—33

AE-5259 Rebid Installation of new overhead door. To obtain a copy of this bid package please FAX the following information to Roberta Cooper at (717) 783-7971: Contract # AE-5259 Rebid, Company Name, Company Contact Person, Address, Telephone Number, and FAX Number. Please reference AE-5259 Rebid on your fax.

Department: Transportation
Location: PennDOT District 1-4 Maintenance Facilities (Weld Shops), North Street, Mercer, PA
Duration: 90 Calendar Days
Contact: Roberta Cooper, (717) 787-4006

040112 PennDOT requires approximately 30 mowing cycles, spring cleanup, lawn maintenance, and turf fertilization at each of three safety rest areas in Luzerne County. Request for bid may be received by fax at (570) 963-4245 (Attn: roadside) or by phoning (570) 963-4048 between 8 a.m. and 3 p.m. Monday through Friday.

Department: Transportation
Location: Luzerne County (0430)
Duration: Two year with option for renewal
Contact: Martha Spaide, (570) 963-4048

040111 PennDOT requires approximately 30 mowing cycles, spring cleanup, lawn maintenance and turf fertilization at each of two safety rest areas in Lackawanna/Susquehanna Counties. Request for bid may be received by fax at (570) 963-4245 (Attn: roadside) or by phoning (570) 963-4048 between 8 a.m. and 3 p.m. Monday through Friday.

Department: Transportation
Location: Lackawanna (0420) and Susquehanna (0450) Counties
Duration: Two year with option for renewal
Contact: Martha Spaide, (570) 963-4048

040113 PennDOT requires approximately 30 mowing cycles, spring cleanup, lawn maintenance, and turf fertilization at each of 3 (three) safety rest areas in Pike County. Request for bid may be received by fax at (570) 963-4245 (Attn: roadside) or by phoning (570) 963-4048 between 8 a.m. and 3 p.m. Monday through Friday.

Department: Transportation
Location: Pike County (0440)
Duration: Two year with option for renewal
Contact: Martha Spaide, (570) 963-4048

03RS16 Tree removal and trimming in Sullivan County, 4.08 lane miles on S. R. 87. Contractor to provide all equipment, labor, material, and traffic control necessary to complete contract according to bid specification. Job is to be bid on per mile basis. Payment will be made lump sum.

Department: Transportation
Location: S. R. 87
Duration: 3 months
Contact: Lyndon B. Mink, (570) 368-4224

Sanitation—36

SP # 00670012 The contractor shall furnish all equipment, vehicles, labor, supervision and management required to collect and remove refuse (except for certain types of refuse excluded by provisions of this specification) from the Embreeville Complex, Coatesville, PA 19320. To receive specifications, submit Fax to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526 (Fax (610) 562-6025).

Department: Public Welfare
Location: Embreeville Complex, 1822 W. Strasburg Road, Coatesville, PA 19320
Duration: Anticipated Dates: July 1, 2000—June 30, 2003
Contact: Beverly O. Epting, PA, (610) 562-6031

SP # 00670011 The contractor shall provide all labor, equipment, supervision and management required to remove and dispose all accumulated fly ash from the breaching chamber and smoke stack of the boiler plant at the Embreeville Complex, Coatesville, PA 19320. To receive specification, submit Fax to Beverly O. Epting, PA, Hamburg Center, Hamburg, PA 19526 (Fax (610) 562-6025).

Department: Public Welfare
Location: Embreeville Complex, 1822 W. Strasburg Road, Coatesville, PA 19320
Duration: Anticipated Dates: July 1, 2000—June 30, 2003
Contact: Beverly O. Epting, PA, (610) 562-6031

Security Services—37

M-3680 Southwest Microwave Equipment. Geophone repair kits, alarm transmitter board with terminals, etc. All needed for Southwest Perimeter Intrusion System.

Department: Corrections
Location: State Correctional Institution at Rockview, Rt. 26 Box A, Bellefonte, PA 16823
Duration: 12/20/99 to 6/30/2000
Contact: Cheryl Snook, Purchasing Agent, (814) 355-4874, ext. 206

Vehicle, Heavy Equipment—38

1040-002 PA Department of Transportation is seeking vendors to do tire replacement and repair in Indiana County. Also included, will be road service and after hours, weekend and holiday road service as requested.

Department: Transportation
Location: Indiana County
Duration: From 1/1/2000 through 12/31/2000
Contact: Tom Betzold, (724) 357-2813

Miscellaneous—39

SP 3881139007 Provide materials and installation of Woven Wire Deer Fencing as follows: One Fence in the Elk State Forest, Cameron County. Fence Area—Johnson Run III—Approximately 6,000 lineal feet perimeter, located in Gibson Township, Timber Sale 13-98BC13. Also four walk-thru gates, primed and painted yellow. Site inspection will be on December 16, 1999 at 9 a.m., meet at the District Office in Emporium, PA. Bid opening will be December 30, 1999 at 2 p.m.

Department: Conservation and Natural Resources
Location: Gibson Township, Cameron County, Elk State Forest, District Office, P. O. Box 327, Emporium, PA 15834
Duration: June 30, 2000
Contact: Robert W. Martin, Jr., District Forester, (814) 486-3353

RFP # 14-99 Statewide Adoption Network (SWAN) Program—To increase adoption opportunities for children with special needs and to reduce the amount of time it takes to complete the adoption process. Nearly 1800 children per year will be adopted Statewide with over half receiving some services from the prime contractor. Key elements of the RFP include Direct Services, System Support Services, Data System Management, Administration and Fixed Assets. The RFP seeks a contractor to manage the SWAN Program by managing referrals to affiliates based on the units of service requests for contracted services made by counties from their Needs-Based Budget, monitoring all subcontracts, incorporating data into a management information system as required by Department of Public Welfare for reporting and research purposes and implementing other related initiatives. Copies of this RFP can be obtained by faxing requests to (717) 787-3560.

Department: Public Welfare
Location: Statewide
Duration: Anticipated contract date is 7/1/2000—6/30/2005
Contact: Kathy King-McCarthy, (717) 705-3878

[Pa.B. Doc. No. 99-2115. Filed for public inspection December 10, 1999, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	PR Award Date or Contract Effective Date	To	In the Amount Of
5820-02 RIP # 2/Supp # 2	11/29/99	A W Enterprises	10,000.00
5820-02 RIP # 2/Supp # 2	11/29/99	Maxon America Inc.	10,000.00
5820-02 RIP # 2/Supp # 2	11/29/99	Ericsson Inc.	50,000.00
9140-04	12/01/99	Adams Utility Services Co. d/b/a Adams En- ergy	2,000,000.00
9140-04	12/01/99	Agway En- ergy Prod- ucts LLC	2,000,000.00
9140-04	12/01/99	Bedford Val- ley Petro- leum	2,000,000.00
9140-04	12/01/99	Columbia Pe- troleum Corporation d/b/a Carlos R. Leffler Inc.	2,000,000.00
9140-04	12/01/99	Exprot Fuel Co. Inc.	2,000,000.00
9140-04	12/01/99	Farm & Home Oil Co.	2,000,000.00
9140-04	12/01/99	Guttman Oil Co. Inc.	2,000,000.00
9140-04	12/01/99	Jack Rich Inc.	2,000,000.00
9140-04	12/01/99	JJ Powell Inc.	2,000,000.00
9140-04	12/01/99	Luther P. Miller Inc.	2,000,000.00
9140-04	12/01/99	Sun Company Inc. d/b/a Montour Oil Service	2,000,000.00

Requisition or Contract #	PR Award Date or Contract Effective Date	To	In the Amount Of
9140-04	12/01/99	Louis Nardello Company Inc. d/b/a Nardello Fuels	2,000,000.00
9140-04	12/01/99	Orris Fuel Inc.	2,000,000.00
9140-04	12/01/99	The Sico Co. Inc.	2,000,000.00
9140-04	12/01/99	United Refin- ing Co. Inc.	2,000,000.00
9140-04	12/01/99	Witter Gas & Oil Co. Inc.	2,000,000.00
8118410-01	11/30/99	Terre Hill d/b/a Terre Hill Con- crete	52,995.00
1201119-01	11/30/99	Amtex	36,504.00
8183490-01	11/30/99	AC Miller Concrete Prod. Inc.	41,432.00
8250670-01	11/30/99	Westgate Chevrolet d/b/a Apple Chevrolet	12,192.00
1520158-01	11/30/99	PB Group Inc.	256,300.00
1170219-01	11/30/99	Life Home Healthcare Services LLC	46,585.00
8176640-01	11/30/99	Dyna Tech Industries Ltd.	9,450.00
1139219-01	11/30/99	S & B Foundry	54,262.00
1141169-01	11/30/99	Vetronix Corp.	77,766.20

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 99-2116. Filed for public inspection December 10, 1999, 9:00 a.m.]

