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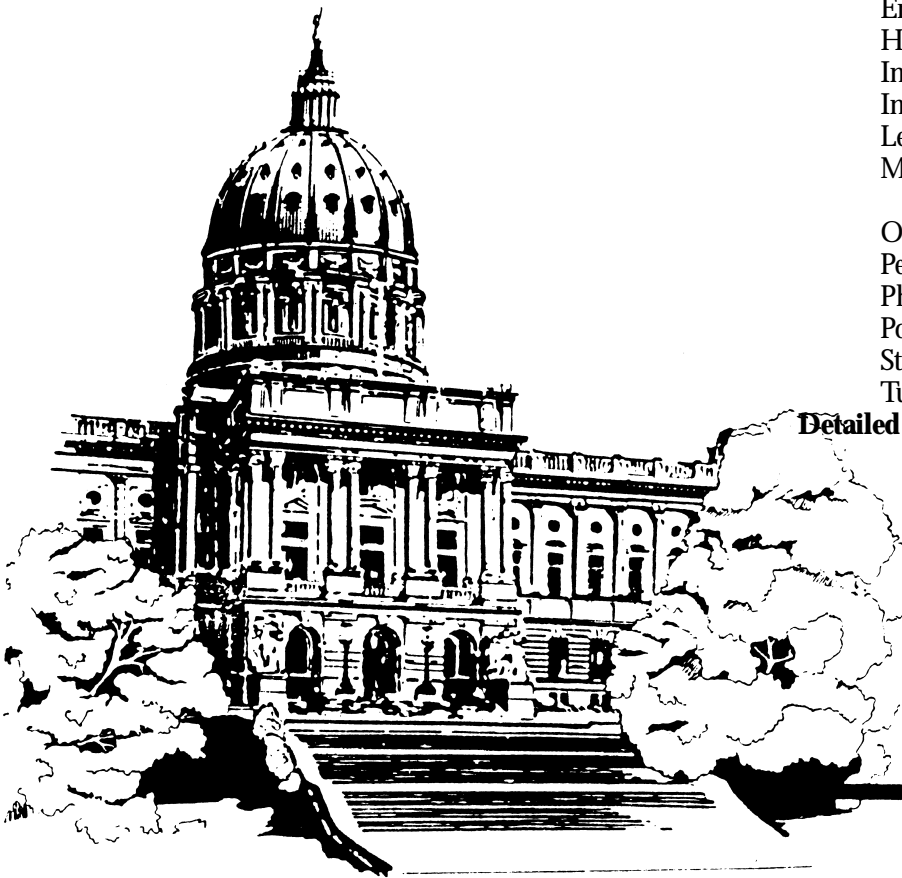
PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Courts
Delaware River Basin Commission
Department of Banking
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Revenue
Environmental Quality Board
Human Relations Committee
Independent Regulatory Review Commission
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Medical Professional Liability Catastrophe
Loss Fund
Office of the Budget
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Port of Pittsburgh Commission
State Employees' Retirement Board
Turnpike Commission

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

No. 325, December 2001

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

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 COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 5]

Amendment of Rule 507; No. 233 Judicial Administration Doc. no. 1

Order

Per Curiam:

And Now, this 28th day of November, 2001, Pennsylvania Rule of Judicial Administration 507 is amended as follows.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 5. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Rule 507. Record Retention Schedules.

(a) *Offices [scheduled] Scheduled by the County Records Committee. Counties of the First Class.*

(1) *Offices Scheduled by the County Records Committee.* Common Pleas Court Prothonotaries, Clerks of Courts, Clerks of Orphans' Courts, Registers of Wills, District Attorneys, Sheriffs, Coroners, and Jury Commissioners or their Home-Rule equivalents when disposing of records shall do so in conformity with the applicable record retention schedules and the conditions stipulated therein promulgated from time to time by the County Records Committee under the act of August 14, 1963 (P. L. 839, No. 407) (16 P. S. § 13001 et seq.).

(2) *Counties of the First Class.* Prothonotaries, Clerks of Courts, Clerks of Orphans' Courts, Registers of Wills, and Jury Commissioners of counties of the first class when disposing of records shall do so in conformity with the record retention schedules and the conditions stipulated therein promulgated from time to time by the County Records Committee for counties of the second through eighth classes under the act of August 14, 1963 (P. L. 839, No. 407) (16 P. S. § 13001 et seq.), as amended.

(b) *Offices [scheduled] Scheduled by the Supreme Court.* System and related personnel engaged in clerical

functions in offices which support the offices covered by general or specific record retention and disposition schedules promulgated from time to time by the Supreme Court when disposing of records shall do so in conformity with the [applicable] record retention and disposition schedules and the conditions stipulated therein.

(c) *Non-scheduled offices.* System and related personnel in offices not covered under subdivisions [A or B] (a) or (b) when disposing of records shall submit to the Administrative Office of Pennsylvania Courts and to the Pennsylvania Historical and Museum Commission duplicate copies of a record disposal certificate form and a written statement explaining the nature and the content of the records. After consultation with the Commission, the Administrative Office may authorize the destruction of such records, either with or without the retention of a permanent copy.

(d) *Disposal Certification Requests. Disposal Logs.* All requests for disposition of permanent records shall be made on forms adopted from time to time by the Administrative Office of Pennsylvania Courts. No permanent records may be disposed unless authorization is sought, and received, utilizing the appropriate disposal certification request form. All non-permanent records disposed upon expiration of the retention period provided in the applicable record retention and disposition schedules shall be listed on record disposal log forms adopted from time to time by the Administrative Office of Pennsylvania Courts. The record disposal log forms shall be filed with the Administrative Office of Pennsylvania Courts on an annual basis, or as otherwise provided by the Administrative Office of Pennsylvania Courts.

Official Note: The record retention schedules promulgated by the County Records Committee are only applicable to county offices of counties of the second through eighth classes, since the County Records Act, as amended, is only applicable to counties of the second through eighth classes. Accordingly, none of the county offices of the counties of the first class are governed by the County Records Act. Nonetheless, many of the county offices of the counties of the first class which support the Unified Judicial System unofficially utilize the record retention schedules promulgated by the County Records Committee in disposing official records within their control. In order to foster uniformity among these offices, subsection (a)(2) was added, specifically listing the offices within the counties of the first class which must henceforth comply with the record retention schedules promulgated by the County Records Committee.

UNIFIED JUDICIAL SYSTEM SCHEDULED COURT RECORDS DISPOSAL CERTIFICATION REQUEST
[Pursuant to PA RJA 507(b)]

COUNTY	JUDICIAL DISTRICT	IF APPLICABLE	
		MAGISTERIAL DISTRICT	DISTRICT JUSTICE NAME
OFFICE OF ORIGIN		PERSON MAKING DISPOSAL REQUEST (RECORD CUSTODIAN)	
ADDRESS			
Approval Requested For: <input type="checkbox"/> Records Destruction <input type="checkbox"/> Records Transfer to PHMC			
RECORD TITLE AND INCLUSIVE DATES <i>(one series per form)</i>			
DESCRIPTION OF RECORD <i>(include type of information contained and purpose of record)</i>			
RETENTION PERIOD IN SCHEDULE	PAGE AND SECTION IN SCHEDULE	HAVE ALL AUDIT REQUIREMENTS BEEN MET? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable	
QUANTITY			
_____ TOTAL CUBIC FEET			
No. of cartons _____	Length _____	Width _____	Height _____ OF AVERAGE CARTON
No. of volumes _____	Length _____	Width _____	Height _____ OF AVERAGE VOLUME
No. of file drawers _____	<input type="checkbox"/> Legal <input type="checkbox"/> Letter <input type="checkbox"/> Other _____		
HAVE RECORDS BEEN MICROFILMED? <input type="checkbox"/> Yes <input type="checkbox"/> No		ARCHIVAL MEDIUM UTILIZED	
Size: <input type="checkbox"/> 16mm <input type="checkbox"/> 35mm <input type="checkbox"/> Other _____			
Form: <input type="checkbox"/> Roll <input type="checkbox"/> Cartridge <input type="checkbox"/> Cassette <input type="checkbox"/> Fiche			
<input type="checkbox"/> Other _____			
LOCATION OF SECURITY COPY			
FOR USE BY RECORD CUSTODIAN			
_____ hereby requests that the Record Retention Officer seek approval from the Administrative Office of Pennsylvania Courts for permission to dispose of or transfer the records identified above.			
_____	_____	_____	_____
<i>Date</i>	<i>Signature</i>	<i>Phone Number</i>	
FOR USE BY DISTRICT RECORDS RETENTION OFFICER			
Authorization to dispose of or transfer the above-identified records is requested. If destruction of the records is requested, I certify that the records have been reproduced on a medium approved by the Administrative Office of Pennsylvania Courts.			
_____	_____	_____	
<i>Date</i>	<i>Signature</i>	<i>Judicial District</i>	
FOR USE BY THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS			
Review by the Pennsylvania Historical and Museum Commission <input type="checkbox"/> is <input type="checkbox"/> is not requested.			
_____	_____	_____	
<i>Date</i>	<i>Signature</i>	<i>Title</i>	
FOR USE BY THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION ONLY IF REVIEW REQUESTED BY AOPC			
<input type="checkbox"/> Concur With Request <input type="checkbox"/> Recommend Denial of Request <input type="checkbox"/> Recommend Disposal Request Be Amended As Follows:			
_____	_____	_____	
<i>Date</i>	<i>Signature</i>	<i>Title</i>	
FOR USE BY THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS			
Approval is given for: <input type="checkbox"/> Destruction <input type="checkbox"/> Destruction as Amended <input type="checkbox"/> Transfer to PHMC			
Comments/Amendments: <input type="checkbox"/> Disapproved <input type="checkbox"/> Retain Pending Further Instructions			
_____	_____	_____	
<i>Date</i>	<i>Signature</i>	<i>Title</i>	

*Original must be sent to the Administrative Office of Pennsylvania Courts, 1515 Market Street, Suite 1414, Philadelphia, PA 19102.
 Keep a copy for your records.*

Unified Judicial System Disposal Log for Non-Permanent Records

Page ___ of ___

1. _____ <i>County/Agency</i>	2. _____ <i>Judicial District</i>	3. _____ <i>Record Custodian</i>
4. _____ <i>Office/Department</i>	5. _____ <i>Address</i>	6. _____ <i>Telephone #</i>

7. Record Title	8. Authorization for Disposal		9. Inclusive Dates of Records	10. Volume in Cubic Feet	11. Format	12. Mf (Y-N)	13. Primary Copy (Y-N)	14. Date Approved	15. Record Retention Officer Initials
	Schedule [§ Name (e.g. 5.7 Juvenile)]	Page No.							

FOR USE BY RECORD CUSTODIAN

I, _____ hereby request that the Record Retention Officer authorize the disposal of the listed records.

Record Custodian's Name
Title
Date

Record Custodian's Signature
Title
Date

FOR USE BY THE DISTRICT RECORD RETENTION OFFICER

I, _____ hereby approve of the disposal of the records listed as requested.

Record Retention Officer's Name
Title
Date

Record Retention Officer's Signature
Title
Date

Original to be retained by the District Record Retention Officer. Copy to be provided to Record Custodian. Copy to be provided to the AOPC on or before January 15th each year.

PENNSYLVANIA BULLETIN, VOL. 31, NO. 50, DECEMBER 15, 2001

6782

THE COURTS

Title 204—JUDICIAL SYSTEMS GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index and Judicial Salaries Pursuant to Act 51 of 1995; No. 234; Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 29th day of November, 2001, pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, it is hereby *Ordered* that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the most recent 12-month period and the judicial salary amounts effective January 1, 2002, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 2002, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 224 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending October 2001, was 2.8 percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Friday, November 16, 2001).

The Court Administrator of Pennsylvania also reports that the following judicial salaries are adopted to implement Act 51 of 1995:

§ 211.2. Judicial salaries effective January 1, 2002.

(a) *Supreme Court.*—The annual salary of the Chief Justice of the Supreme Court shall be \$141,114 and the annual salary of each of the other justices of the Supreme Court shall be \$137,386.

(b) *Superior Court.*—The annual salary of the President Judge of the Superior Court shall be \$135,092 and the annual salary of the other judges of the Superior Court shall be \$133,083.

(c) *Commonwealth Court.*—The annual salary of the President Judge of the Commonwealth Court shall be \$135,092. The annual salary of each of the other judges of the Commonwealth Court shall be \$133,083.

(d) *Courts of common pleas.*—

(1) The annual salary of a president judge of a court of common pleas shall be fixed in accordance with the following schedule:

(i) Allegheny County, \$121,611.

(ii) Philadelphia County, \$122,185.

(iii) Judicial districts having six or more judges, \$120,464.

(iv) Judicial districts having three to five judges, \$119,890.

(v) Judicial districts having one or two judges, \$119,315.

(vi) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$120,464.

(vii) Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$119,890.

(viii) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$120,464.

(ix) Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$119,890.

(2) The other judges of the courts of common pleas shall be paid an annual salary of \$119,315.

(e) *Philadelphia Municipal Court.*—The President Judge of the Philadelphia Municipal Court shall receive an annual salary of \$118,169. The annual salary for the other judges of the Philadelphia Municipal Court shall be \$116,162.

(f) *Philadelphia Traffic Court.*—The President Judge of the Philadelphia Traffic Court shall receive an annual salary of \$63,101. The annual salary for the other judges of the Philadelphia Traffic Court shall be \$62,528.

(g) *District justices.*—A district justice shall receive an annual salary payable by the Commonwealth of \$59,085.

(h) *Senior judges.*—The compensation of the senior judges pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) shall be \$365 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not when added to retirement income paid by the Commonwealth for such senior judge exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which said senior judge retired. A senior judge who so elects may serve without being paid all or any portion of the compensation provided by this section.

[Pa.B. Doc. No. 01-1282-10. Filed for public inspection December 14, 2001, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5]

Statewide Uniformity

Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Pa.Rs.Crim.P. 113 (Criminal Case File and Docket Entries) and 577 (Procedures Following Filing of Motion), amend Pa.Rs.Crim.P. 103 (Definitions), 114 (Notice and Docketing of Orders), 573 (Pretrial Discovery and Inspection), 575 (Answers), and 576 (Filing), revise the Comment to Pa.R.Crim.P. 581 (Suppression of Evidence), and rescind Pa.Rs.Crim.P. 113 (Notice of Court Proceeding(s) Requiring Defendant's Presence), 574 (Motions), and 577 (Service). These rule changes clarify the procedures governing motions, orders, and court notices in criminal cases, achieve more statewide uniformity in criminal motions practice, and eliminate the local rules and practices governing motions practice that are hampering the statewide practice of law. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report. Additions are shown in boldface; deletions are in boldface and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel, Anne T. Panfil, Chief Staff Counsel, Supreme Court of Pennsylvania, Criminal Procedural Rules Committee, 5035 Ritter Road, Suite 800, Mechanicsburg, PA 17055, fax: (717) 795-2106, e-mail: criminal.rules@supreme.court.state.pa.us no later than Monday, January 14, 2002.

JOSEPH P. CONTI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 113. [Notice of Court Proceeding(s) Requiring Defendant's Presence] (Rescinded).

[Notice of a court proceeding requiring a defendant's presence shall be either:

(1) in writing and served by

(a) personal delivery to the defendant or defendant's attorney; or

(b) leaving a copy for or mailing a copy to the defendant's attorney at the attorney's office; or

(c) sending a copy to the defendant by certified, registered, or first class mail addressed to the defendant's place of residence, business, or confinement; or

(2) given to the defendant orally in open court on the record.]

[Comment]

[Some judicial districts use a document called a "subpoena" to give a defendant notice of required court appearances. Nothing in this rule is intended to change this practice.

See Rule 577 for the procedures for serving all written motions and any document for which filing is required.

See Rule 451 for the procedures for service in summary cases.]

Official Note: Former Rule 9024 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 9025 June 2, 1994, effective September 1, 1994. New Rule 9024 adopted June 2, 1994, effective September 1, 1994; renumbered Rule 113 and amended March 1, 2000, effective April 1, 2001; **rescinded, _____ 2002, and replaced by Rule 114(C), effective, _____ 2002.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed rescission of the rule published at 31 Pa.B. 6792 (December 15, 2001).

(Editor's Note: This rule is new and is printed in regular face to enhance readability.)

Rule 113. Criminal Case File and Docket Entries.

(A) The clerk of courts shall maintain the criminal case file for the court of common pleas. The criminal case file shall contain all original records, papers, and orders filed in the case, and copies of all court notices. These records, papers, orders, and copies shall not be taken from the custody of the clerk or court without order of the court, but the parties shall be permitted to make copies.

(B) The clerk of courts shall maintain a list of docket entries, a chronological list, in electronic or written form, of documents and entries in the criminal case file and of all proceedings in the case.

(C) The docket entries shall include at a minimum the following information:

(1) the defendant's name, last known address, and date of birth;

(2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance, and the date of any withdrawal of appearance;

(3) notations concerning all papers filed with the clerk, all court notices, appearances, pleas, motions, orders, verdicts, findings and judgments, and sentencings, briefly showing the nature and title, if any, of each paper filed, writ issued, plea entered, or motion made and the substance of each order or judgment of the court and of the returns showing execution of process;

(4) notations concerning oral motions made or oral orders issued in the courtroom when the clerk of courts has the capacity to do so and when ordered by the court;

(5) a notation of every judicial proceeding, continuance, and disposition;

(6) the location of exhibits made part of the record during the proceedings; and

(7) all other information required by Rules 114 and 576.

(D) The clerk of courts in the performance of his or her duties shall be under the direction of the president judge.

Comment

This rule sets forth the mandatory contents of the list of docket entries and the criminal case files. The list of docket entries is a running record of all information related to any action in a criminal case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings. The clerk of courts is required to make docket entries at the time the information is made known to the clerk, and the practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement in paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any litigant in the case. The requirement also ensures that attorneys are served as required in Rules 114 and 576. See also Rule 576(B)(4) concerning certificates of service.

Official Note: Adopted _____, 2002, effective _____, 2002.

Committee Explanatory Reports:

Report explaining the provisions of the proposed new rule published at 31 Pa.B. 6792 (December 15, 2001).

Rule 114. [Notice and] Filing, [Docketing] Docket Entries and Service of Orders and Court Notices.

(A) The president judge shall ensure that all orders and court notices promptly are filed in the criminal case file and docket entries made, and promptly are served.

(B) Upon receipt of an order [from a judge] or a court notice, the clerk of courts shall time stamp the order or court notice with the date of receipt, and promptly shall [immediately docket] file the order or court notice in the criminal case file, and [record in the docket] make a docket entry of the date of receipt [it was made] and the date on the order or court notice.

(C) (1) The clerk of courts promptly shall [forthwith furnish] serve a copy of the order [, by mail or personal delivery,] or court notice to each party or attorney, and shall [record in the docket] make a docket entry of the [time] date and manner [thereof] of service.

(2) The president judge may designate the court administrator to serve orders or court notices. Concurrently with service, the order or court notice shall be filed in the criminal case file and a docket entry made.

(D) Service shall be:

(1) in writing by

(a) personal delivery to the party's attorney or, if unrepresented, the party; or

(b) personal delivery to the party's attorney's employee at the attorney's office; or

(c) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office; or

(d) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the party's attorney in the box in the courthouse assigned to the attorney for service; or

(e) sending a copy to an unrepresented party by certified, registered, or first class mail addressed to the party's place of residence, business, or confinement; or

(f) sending a copy by facsimile transmission if the party's attorney, or if unrepresented, the party, has filed a written request for this method of service or has included a facsimile number on a prior legal paper filed in the case; or

(2) orally in open court on the record.

(E) Unified Practice

Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a party to file or serve orders or court notices.

Comment

This rule was amended in 2002 to provide in one rule the procedures for the filing, making docket entries, and service of all orders and court notices, and incorporates the provisions of former Rule 113 (Notice of Court Proceedings Requiring Defendant's Presence).

Historically, some orders or court notices have been served by the court administrator or by the court. Paragraph (C)(2) permits the president judge to continue this practice. Pursuant to paragraph (A), the president judge must ensure that all orders and court notices promptly are filed and docket entries made, and are served in a prompt and efficient manner. See 42 Pa.C.S. §§ 2756 and 2757 concerning clerks of courts' duties.

When the court administrator serves the order or court notice pursuant to paragraph (C)(2), the docket entry must include the date and manner of service as required by paragraph (C)(1).

[The] This rule makes it clear that the [notice and] filing, recording of docket entries, and service procedures are mandatory and may not be modified by local rule.

Paragraphs (B) and (C) requires the clerk of courts to enter three dates in the list of docket entries with regard to the court's orders and notices: the date of receipt of the order or notice; the date on the order or notice; and the date the order or notice is served. The date of receipt is the date of filing under these rules. Concerning appeal periods and entry of orders, see Rule 720 (Post-sentence Procedures; Appeal) and Pa.R.A.P. 108 (Date of Entry of Orders).

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the defendant's presence.

Paragraph (D)(1)(d) recognizes the practice in some judicial districts of assigning boxes in the

courthouse for receipt of service, and these boxes are generally assigned to local counsel. This form of service may not be made on other counsel, such as members of the Attorney General's office, who do not have courthouse boxes or on local counsel who do not agree to this method of service.

A facsimile number set forth on letterhead is not sufficient to authorize service by facsimile transmission under paragraph (D)(1)(f).

Nothing in this rule is intended to preclude the use of advanced communication technology for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts.

Under the post-sentence motion procedures, the clerk of courts must comply with this rule after entering an order denying a post-sentence motion by operation of law. See Rule 720(B)(3)(c).

[As used in this rule, "clerk of courts" is intended to mean that official in each judicial district who has the responsibility and function under state or local law to maintain the official court file and docket, without regard to that person's official title.]

Paragraph (E), titled "Unified Practice," emphasizes that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all criminal rules through Rule 105 (Local Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the Rule 105 Comment. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See Rule 105(A).

See Rule 103 for the definitions of clerk of courts and court administrator.

See Rule 113 (Criminal Case File and Docket Entries) for the requirements concerning the contents of the criminal case file and the minimum information to be included in the docket entries.

Official Note: Formerly Rule 9024, adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 9025 and Comment revised June 2, 1994, effective September 1, 1994; renumbered Rule 114 and Comment revised March 1, 2000, effective April 1, 2001 [.]; amended _____, 2001, effective _____, 2001.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed rule changes concerning filing, making docket entries, and service of orders and court notices published at 31 Pa.B. 6792 (December 15, 2001).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART F(1). Motion Procedures

Rule 574. [Motions] (Rescinded).

[(A) All motions, challenges, and applications or requests for an order or relief shall be made by

written motion, except as otherwise provided in these rules, or as permitted by the court, or when made in open court during a trial or hearing.

(B) A written motion shall comply with the following requirements:

(1) The motion shall be signed by the person or attorney making the motion. The signature of an attorney shall constitute a certification that the attorney has read the motion, that to the best of the attorney's knowledge, information, and belief there is good ground to support the motion, and that it is not interposed for delay.

(2) The motion shall state with particularity the grounds for the motion, the facts that support each ground, and the types of relief or order requested. The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable.

(3) If the motion sets forth facts that do not already appear of record in the case it shall be verified by the sworn affidavit of some person having knowledge of the facts or by the unsworn written statement of such a person that the facts are verified subject to the penalties for unsworn falsification to authorities under Crimes Code § 4904, 18 Pa.C.S. § 4904.

(C) Any motion may request such alternative relief as may be appropriate.

(D) The failure, in any motion, to state a type of relief or order, or a ground therefor, shall constitute a waiver of such relief, order, or ground.]

Official Note: Rule 9020 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 574 and amended March 1, 2000, effective April 1, 2001; rescinded and replaced by Rule 575 _____, 2002, effective _____, 2002.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed rescission of Rule 574 published at 31 Pa.B. 6792 (December 15, 2001).

Rule 575. Motions and Answers.

(A) MOTIONS

(1) All motions shall be in writing, except as permitted by the court or when made in open court during a trial or hearing.

(2) A written motion shall comply with the following requirements:

(a) The motion shall be signed by the person or attorney making the motion. The signature of an attorney shall constitute a certification that the attorney has read the motion, that to the best of the attorney's knowledge, information, and belief there is good ground to support the motion, and that it is not interposed for delay.

(b) The motion shall include the court, caption, term, and number of the case in which relief is requested.

(c) The motion shall state with particularity the grounds for the motion, the facts that support each ground, and the types of relief or order requested.

(d) The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable.

(e) The motion shall include any requests for hearing or argument, or both.

(f) The motion shall include a certificate of service as required by Rule 576(B)(4).

(g) If the motion sets forth facts that do not already appear of record in the case it shall be verified by the sworn affidavit of some person having knowledge of the facts or by the unsworn written statement of such a person that the facts are verified subject to the penalties for unsworn falsification to authorities under Crimes Code (4904, 18 Pa.C.S. § 4904.

(3) The failure, in any motion, to state a type of relief or a ground therefor shall constitute a waiver of such relief or ground.

(4) Any motion may request such alternative relief as may be appropriate.

(5) Rules to show cause and rules returnable are abolished. Notices of hearings are to be provided pursuant to Rules 114(C) and 577(A)(2).

(B) ANSWERS

[(A)] (1) An answer to a motion is not required unless [ordered by the court] the judge orders an answer in a specific case as provided in Rule 577, or an answer otherwise is [provided in] required by these rules. Failure to answer shall not constitute an admission of the [well-pleaded] facts alleged in the motion [unless an answer has been required by the court or otherwise by these rules.

(B) The court may order a written answer, or it may order an oral response at the time of a hearing or argument on a motion.

(C)] (2) A party may file a written answer, or may respond orally at the time of a hearing or argument on a motion, even though an answer [has] is not [been] required [by the court and has not been otherwise required by these rules].

[(D)] (3) A written answer shall comply with the following requirements:

[(1)] (a) * * *

[(2)] (b) [The answer shall be divided into consecutively numbered paragraphs corresponding to the numbered paragraphs of the motion.] The answer shall meet the allegations of the motion and shall specify the type of relief, order, or other action sought.

(c) The answer shall include a certificate of service as required by Rule 576(B)(4).

[(3)] (d) If the answer sets forth facts that do not already appear of record in the case [it], the answer shall be verified by the sworn affidavit of some person having knowledge of the facts or by the unsworn written statement of such a person that the facts are verified subject to the penalties for unsworn falsification to authorities under Crimes Code § 4904, 18 Pa.C.S. § 4904.

[(4)] (e) * * *

(C) UNIFIED PRACTICE

Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a party to attach a proposed order to a motion, requiring an answer to every motion, or requiring a cover sheet for any motion or answer.

Comment

For the definition of motions, see Rule 103.

Rules to Show Cause and Rules Returnable were abolished in 2002 because the terminology is arcane, and the concept of these "rules" has become obsolete. These "rules" have been replaced by the plain language notice of hearings provided in Rule 577(A)(2).

Pursuant to paragraphs (A)(2)(f) and (B)(3)(c), and Rule 576(B)(4), all filings by the parties must include a certificate of service setting forth the date and manner of service, and the names, addresses, and phone numbers of the persons served.

Although paragraph (B)(1) does not require an answer to every motion, the rule permits a judge to order an answer in a specific case. See Rule 114 for the requirements for the filing, making docket entries, and serving of orders.

Paragraph (B)(1) changes prior practice by providing that the failure to answer a motion in a criminal case never constitutes an admission. Although this prohibition applies in all cases, even those in which an answer has been ordered in a specific case or is required by the rules, the judge would have discretion to impose other appropriate sanctions if a party fails to file an answer ordered by the judge or required by the rules.

See Rule 906(E) that requires an answer to all first counseled PCRA petitions in death penalty cases.

Paragraph (C), titled "Unified Practice," was added in 2002 to emphasize that local rules must not be inconsistent with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all criminal rules through Rule 105 (Local Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the Rule 105 *Comment*. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See Rule 105(A).

The prohibition on local rules mandating cover sheets was added because cover sheets are no longer necessary with the addition of the Rule 576(B)(1) requirement that the court administrator be served a copy of all motions and answers.

Although paragraph (C) precludes local rules that require a proposed order be included with a motion, a party may include a proposed order.

Official Note: Former Rule 9020 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 574 and amended March 1, 2000, effective April 1, 2001; rescinded _____, 2002, effective _____, 2002. Former Rule 9021 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 575

and amended March 1, 2000, effective April 1, 2001; combined with Rule 574 and amended _____, 2002, effective _____, 2002.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed rule changes combining Rule 574 with Rule 575 published at 31 Pa.B. 6792 (December 15, 2001).

Rule 576. Filing and Service by Parties.

(A) FILING

(1) [Except as otherwise provided in these rules, all] All written motions and any written answers, and any [notice] notices or [document] documents for which filing is required, shall be filed with the clerk of courts.

[D] (2) Filing [may] shall be [accomplished] by:

[(1)] (a) * * *

[(2)] (b) mail addressed to the clerk of courts [, provided, however, that]. Except as provided by law, filing by mail shall be timely only when actually received by the clerk of courts within the time fixed for filing.

[(B)] (3) [Except as provided in paragraph (C), when] The clerk of courts shall accept all written motions, answers, notices, or documents presented for filing. [a written motion, notice, or] When a document, which is filed pursuant to paragraph (A)(1), is received by the clerk of courts, the clerk shall [docket] file it in the criminal case file, and [record] make a docket entry of the [time] date of filing [in the docket]. [A copy of these papers shall be promptly transmitted to such person as may be designated by the court.]

[(C)] (4) In any case in which a defendant is represented by an attorney, if the defendant submits for filing a written motion, notice, or document that has not been signed by the defendant's attorney, the clerk of courts shall not [docket or record it] file it in the criminal case file or make a docket entry, but shall forward it to the defendant's attorney within 10 days of receipt.

(5) Unified Practice

Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring that a document has to be presented in person before filing or requiring review by a court or court administrator before a document may be filed.

(B) SERVICE

(1) All written motions and any written answers, and notices or documents for which filing is required, shall be served upon each party and the court administrator concurrently with filing.

(2) Service on the parties shall be by:

(a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or

(b) personal delivery of a copy to the attorney's employee at the attorney's office; or

(c) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or

(d) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or

(e) sending a copy to an unrepresented party by certified, registered, or first class mail addressed to the party's place of residence, business, or confinement.

(3) Service on the court administrator shall be by:

(a) mailing a copy to the court administrator; or

(b) in those judicial districts that maintain in the courthouse assigned boxes for the court administrator to receive service, leaving a copy for the court administrator in the court administrator's box; or

(c) leaving a copy for the court administrator at the court administrator's office.

(4) Certificate of Service

(a) All documents that are filed and served pursuant to this rule shall include a certificate of service.

(b) The certificate of service shall be in substantially the form set forth in the *Comment*, signed by the party's attorney, or, if unrepresented, the party, and shall include the date and manner of service, and the names, addresses, and phone numbers of the persons served.

(C) Any non-party requesting relief from the court in a case shall file the motion with the clerk of courts as provided in paragraph (A), and serve the defendant's attorney, or if unrepresented, the defendant, the attorney for the Commonwealth, and the court administrator as provided in paragraph (B).

Comment

[This rule] Paragraph (A)(1) requires the filing of all written motions and answers. [, but it] The provision also applies to notices and other documents only if filing is required by some other rule or provision of law. See, e.g., the notice of withdrawal of charges provisions in Rule 561 (Withdrawal of Charges by Attorney for the Commonwealth), the notice of alibi defense and notice of insanity defense or mental infirmity defense provisions in Rule 573 (Pretrial Discovery and Inspection), the notice that offenses or defendants will be tried together provisions in Rule 582 (Joinder—Trial of Separate Indictments or Informations), the notice of aggravating circumstances provisions in Rule 801 (Notice of Aggravating Circumstances), and the notice of challenge to a guilty plea provisions in Municipal Court cases in Rule 1007 (Challenge to Guilty Plea). [As used here, "written motions" includes all motions, challenges, and applications or requests for an order or relief that must be made by written motion under Rule 574(A).]

When a motion, notice, document, or answer is presented for filing pursuant to paragraph (A)(1), the clerk of courts must accept it for filing even if the motion, notice, document, or answer does not comply with a rule or statute or appears to be untimely filed. It is suggested that the judicial district implement procedures to inform the filing

party when a document is not in compliance with these rules or a local rule so the party may correct the problem.

See *Commonwealth v. Jones*, 700 A.2d 423 (Pa. 1997); and *Commonwealth v. Little*, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings by prisoners proceeding pro se (the "prisoner mailbox rule").

[Those rules that provide for filing with the trial court or the sentencing court are not exceptions to the general requirement of this rule that filing be with the clerk of courts.]

Paragraph (A)(5), titled "Unified Practice," was added in 2002 to emphasize that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all criminal rules through Rule 105 (Local Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the Rule 105 Comment. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See Rule 105(A).

Any local rule that requires personal appearance in addition to filing with the clerk of courts is inconsistent with this rule.

See Rule 113 (Criminal Case File and Docket Entries) for the requirements concerning the contents of the criminal case file and the minimum information to be included in the docket entries.

See Rule 103 (Definitions) for the definitions of court administrator, clerk of courts, and motions.

[As used in this rule, "clerk of courts" is intended to mean that official in each judicial district who has the responsibility and function under state or local law to maintain the official court file and docket, without regard to that person's official title.

The second sentence of paragraph (B) is intended to provide flexibility to the local courts to designate the court official, such as a local court administrator, who processes motions and other matters for appropriate scheduling and disposition.]

Paragraph [(C)] (A)(4) was added in 1996 to provide a uniform, statewide procedure for the clerks of courts to handle filings by represented defendants when the defendant's attorney has not signed the document being filed by the defendant. See Pa.R.A.P. 3304 (Hybrid Representation). Paragraph [(C)] (A)(4) only applies to cases in which the defendant is represented by counsel, not cases in which the defendant is proceeding pro se.

Paragraph (B)(1) requires that, concurrently with filing, the party must serve a copy on the court administrator. This requirement provides flexibility to accommodate the various practices for scheduling. However, it is not intended to replace the requirement that the party must file with the clerk of courts.

When a judge is assigned to a case, in addition to the requirements of paragraph (B)(1), it is suggested counsel send the judge a courtesy copy of any filings.

Under any system of scheduling, once a hearing or argument is scheduled, the court or court administrator must give notice of the hearing or argument to the parties, and a copy of the notice must be filed in the criminal case file and a docket entry made. See Rule 114(C)(2).

Paragraph (B)(2)(d) recognizes the practice in some judicial districts of assigning boxes in the courthouse for receipt of service, and these boxes are generally assigned to local counsel and the court administrator. This method of service may not be made on other counsel, such as members of the Attorney General's office, who do not have courthouse boxes or on local counsel who do not agree to this method of service.

Paragraph (B)(4) requires the filing party to include with the document filed a certificate of service. The certificate of service should be in substantially the following form:

I hereby certify that I am this day serving upon the persons and in the manner indicated below. The manner of service satisfies the requirements of Pa.R.Crim.P. 575.

Service by first class mail addressed as follows:

(NAME) (717) 787-0000
Deputy Attorney General
Office of the Attorney General
16 Floor Strawberry Square
Harrisburg PA 17120
(Attorney for the Commonwealth)

Service in person as follows:

(NAME) (717) 240-0000
Assistant District Attorney
Cumberland County Courthouse
Carlisle, PA
(Attorney for the Commonwealth)

Service by leaving a copy at the office of:

(NAME) (717) 240-0000
Court Administrator
Cumberland County Courthouse
Carlisle, PA

Service by certified mail, return receipt requested, as follows:

(NAME) (no phone)
Drawer 00000000
Camp Hill, PA

Dated:

S _____
(NAME), Esq. (Attorney Registration No. 00000)

Under 18 Pa.C.S. § 4904 (unsworn falsification to authorities), a knowingly false certificate of service constitutes a misdemeanor of the second degree.

See Rule 451 for the procedures for service in summary cases.

See Rule 114 for the requirements for docketing and service of court orders and notices.

Official Note: Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. **Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1,**

1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001, rescinded _____, 2002, effective _____, 2002. Rule 576 combined with Rule 577 and amended _____, 2002, effective _____, 2002.

Committee Explanatory Reports:

* * * * *

Report explaining the proposed amendments and combining of Rule 576 with former Rule 577 published at 31 Pa.B. 6792 (December 15, 2001.)

Rule 577. [Service] (Rescinded).

[(A) Except as otherwise provided in these rules, all written motions and any document for which filing is required shall be served upon each party concurrently with filing.

(B) Except as otherwise provided in these rules, service may be accomplished by:

(1) personal delivery of a copy to a party or a party's attorney; or

(2) leaving a copy for or mailing a copy to a party's attorney at the attorney's office; or

(3) sending a copy to a party by certified, registered, or first class mail addressed to the party's place of residence, business, or confinement.

(C) Proof of service need not be filed unless ordered by the court.]

[Comment]

[This rule requires service of all written motions, but it applies to other documents only if filing is required by some other rule or provision of law. As used here, "written motions" includes all motions, challenges, and applications or requests for an order or relief that must be made by written motion under Rule 574.

See Rule 451 for the procedures for service in summary cases.

See Rule 113 for the procedures for giving a defendant notice of a court proceeding requiring the defendant's appearance.]

Official Note: Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded _____, effective _____, and replaced by Rule 576(B).

Committee Explanatory Reports:

* * * * *

Report explaining the rescission of the rule published at 31 Pa.B. 6792 (December 15, 2001).

(Editor's Note: This rule is new and is printed in regular face to enhance readability.)

Rule 577. Procedures Following Filing of Motion.

(A) Following the filing of a motion,

(1) if the court determines an answer is necessary, the court may order a written answer, or it may order an oral response at the time of a hearing or argument on a motion. Any written order shall be filed, a docket entry made, and served by the clerk of courts pursuant to Rule 114(B), (C), and (D).

(2) If it is determined a hearing or argument is necessary, the court or the court administrator shall schedule the date and time for the hearing or argument. Pursuant to Rule 114(C), notice of the date and time for the hearing or argument shall be served by the clerk of courts, unless the president judge has designated the court administrator to serve these notices as provided in Rule 114(C)(2). When the court administrator serves the notice, a copy shall be filed and a docket entry made.

(B) The court promptly shall dispose of any motion.

(C) Unified Practice

Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a personal appearance as a prerequisite to a determination of whether a hearing or argument is scheduled.

Comment

Paragraph (A)(2) is intended to accommodate the variation in practice among judicial districts concerning scheduling responsibilities. For example, in some judicial districts, the court has determined that there will be hearings or arguments on all motions and the court administrator is authorized to schedule these hearings or arguments, while in other judicial districts, the judges review all the motions, or review only those motions in certain categories of motions, to determine whether a hearing or argument is necessary and set their own schedules for these hearings or arguments.

In those judicial districts in which the judge schedules hearings or arguments, the court administrator must ensure that the judge promptly receives the motion.

In all cases, the notice of the date and time of the hearing or argument must be served as provided in Rule 114(C) and (D). When the court administrator serves the notice, the date and manner of service must be included in the docket entries when the copy of the notice is filed in the criminal case file as provided in Rules 113 and 114(D).

Paragraph (C), titled "Unified Practice," emphasizes that local rules must not conflict with the statewide rules. Although this prohibition on local rules that are inconsistent with the statewide rules applies to all criminal rules through Rule 105 (Local Rules), the reference to the specific prohibitions is included because these types of local rules have been identified by practitioners as creating significant impediments to the statewide practice of law within the unified judicial system. See the first paragraph of the Rule 105 *Comment*. The term "local rule" includes every rule, regulation, directive, policy, custom, usage, form or order of general application. See Rule 105(A).

The practice in some counties of requiring an attorney to take a motion to a judge for the scheduling of a hearing is inconsistent with this rule.

Official Note: Adopted _____, 2001, effective _____, 2001.

Committee Explanatory Reports

Report explaining the provisions of the proposed new rule published at 31 Pa.B. 6792 (December 15, 2001).

CORRELATIVE AMENDMENTS

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 103. Definitions.

The following words and phrases, when used in any Rule of Criminal Procedure, shall have the following meanings:

* * * * *

CLERK OF COURTS is that official, **without regard to that person's title**, in each judicial district who, pursuant to 42 §§ 2756 and 2757, has the responsibility and function [**under state or local law**] to maintain the official criminal [**court**] case file and [**docket**] list of docket entries, and to perform such other duties as required by rule or law [**, without regard to that person's official title**].

* * * * *

COURT is a court of record.

COURT ADMINISTRATOR is that official in each judicial district who has the responsibility for case management and such other responsibilities as provided by the court.

* * * * *

MOTION shall include any challenge, petition, application, or other form of request for an order or relief.

ORDINANCE is a legislative enactment of a political subdivision.

* * * * *

Official Note: Previous Rules 3 and 212 adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present Rule 3 adopted January 31, 1970, effective May 1, 1970; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; amended June 30, 1977, effective September 1, 1977; amended January 4, 1979, effective January 9, 1979; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended August 12, 1993, effective September 1, 1993; amended February 27, 1995, effective July 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 103 and Comment revised March 1, 2000, effective April 1, 2001; **amended _____, 2001, effective _____, 2001.**

Committee Explanatory Reports:

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Report explaining the proposed addition of definitions of court administrator and motion published at 31 Pa.B. 6792 (December 15, 2001).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART F. Procedures Following Filing of Information

Rule 573. Pretrial Discovery and Inspection.

(A) INFORMAL

Before any disclosure or discovery can be sought under these rules by either party, counsel for the parties shall

make a good faith effort to resolve all questions of discovery, and to provide information required or requested under these rules as to which there is no dispute. When there are items requested by one party which the other party has refused to disclose, the demanding party may make appropriate motion [**to the court**]. Such motion shall be made within 14 days after arraignment, unless the time for filing is extended by the court. In such motion the party must set forth the fact that a good faith effort to discuss the requested material has taken place and proved unsuccessful. Nothing in this provision shall delay the disclosure of any items agreed upon by the parties pending resolution of any motion for discovery.

* * * * *

(C) DISCLOSURE BY THE DEFENDANT

(1) MANDATORY:

(a) Notice of Alibi Defense:

A defendant who intends to offer the defense of alibi at trial [**shall**], [**at**] **within** the time required for filing the omnibus pretrial motion under Rule [**578**] **579**, [**file of record notice signed by the defendant or the attorney for the defendant, with proof of service upon the attorney for the Commonwealth, specifying intention to claim such defense.**] shall file with the clerk of courts notice specifying the intention to claim the defense of alibi, and a certificate of service on the attorney for the Commonwealth. The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented. Such notice shall contain specific information as to the place or places where the defendant claims to have been at the time of the alleged offense and the names and addresses of witnesses whom the defendant intends to call in support of such claim.

(b) Notice of Insanity Defense or Mental Infirmity Defense:

A defendant who intends to offer at trial the defense of insanity, or a claim of mental infirmity, [**shall, at**] **within** the time required for filing an omnibus pretrial motion under Rule [**578**] **579**, [**file of record notice signed by the defendant or the attorney for the defendant, with proof of service upon the attorney for the Commonwealth, specifying intention to claim such defense.**] shall file with the clerk of courts notice specifying the intention to claim the defense of insanity or a claim of mental infirmity, and a certificate of service on the attorney for the Commonwealth. The notice and certificate shall be signed by the attorney for the defendant, or the defendant if unrepresented. Such notice shall contain specific available information as to the nature and extent of the alleged insanity or claim of mental infirmity, the period of time that the defendant allegedly suffered from such insanity or mental infirmity, and the names and addresses of witnesses, expert or otherwise, whom the defendant intends to call at trial to establish such defense.

* * * * *

Comment

This rule is intended to apply only to court cases. However, the constitutional guarantees mandated in *Brady v. Maryland*, 373 U.S. 83 (1963), and the refinements of the Brady standards embodied in subsequent judicial decisions, apply to all cases, including court cases

and summary cases, and nothing to the contrary is intended. For definitions of "court case" and "summary case," see Rule 103.

Any motion under this rule must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

* * * * *

See Rule 576(B)(4) and Comment for the contents and form of the certificate of service.

It is intended that the remedies provided in paragraph (E) apply equally to the Commonwealth and the defendant as the interests of justice require.

* * * * *

Official Note: Present Rule 305 replaces former Rules 310 and 312 in their entirety. Former Rules 310 and 312 adopted June 30, 1964, effective January 1, 1965. Former Rule 312 suspended June 29, 1973, effective immediately. Present Rule 305 adopted June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised April 24, 1981, effective June 1, 1981; amended October 22, 1981, effective January 1, 1982; amended September 3, 1993, effective January 1, 1994; amended May 13, 1996, effective July 1, 1996; Comment revised July 28, 1997, effective immediately; Comment revised August 28, 1998, effective January 1, 1999; renumbered Rule 573 and amended March 1, 2000, effective April 1, 2001; amended _____, 2002, effective _____, 2002.

Committee Explanatory Reports:

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Report explaining the proposed changes to paragraphs (C)(1)(a) and (b) published at 31 Pa.B. 6792 (December 15, 2001).

PART F(1). Motion Procedures

Rule 581. Suppression of Evidence.

* * * * *

Comment

* * * * *

It should be noted that failure to file the [**application**] **motion** within the appropriate time limit constitutes a waiver of the right to suppress. However, once the [**application**] **motion** is timely filed, the hearing may be held at any time prior to or at trial.

All motions to suppress must comply with the provisions of Rule 575 (Motions and Answers) and Rule 576 (Filing and Service by Parties).

* * * * *

Official Note: Rule 323 adopted March 15, 1965, effective September 15, 1965; amended November 25, 1968, effective February 3, 1969. The 1968 amendment, suspended, amended, and consolidated former Rules 323, 324, 2000 and 2001 of the Pennsylvania Rules of Criminal Procedure. This was done in accordance with Section 1 of the Act of July 11, 1957, P. L. 819, 17 P. S. § 2084. Paragraph (f) amended March 18, 1972, effective immediately; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraphs (f) and (g) and Comment amended September 23, 1985, effective January 1, 1986; effective date extended to July 1, 1986; renumbered Rule 581 and amended March 1,

2000, effective April 1, 2001; **Comment revised _____, 2001, effective _____, 2001.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed Comment revision referencing Rules 575 and 576 published at 31 Pa.B. 6792 (December 15, 2001).

REPORT

Proposed new Rules 113 and 577, amendments to Rules 103, 114, 573, 575, and 576, revision of the Comment to Rule 581, and rescission of Rules 113, 574, and 577.

STATEWIDE UNIFORMITY: MOTIONS, ANSWERS, ORDERS, AND COURT NOTICES IN CRIMINAL CASES

INTRODUCTION

The Committee has continued its review of the Criminal Rules to determine how best to (1) promote the statewide uniformity of practice and procedure and (2) eliminate the local rules and local practices that are hampering the statewide practice of law.¹ As the result of this ongoing review, the Committee has developed the following proposal for changes to the Criminal Rules governing motions and answers, and the filing and service of motions, answers, orders, and notices.²

BACKGROUND

For a number of years, the Committee has been receiving correspondence from attorneys with practices in more than one judicial district, including counsel from the State Police and the Attorney General's office, questioning the validity of specific local rules or local practices that appear to conflict with current Rules 114, 574, 575, 576, and 577, and are hampering their ability to practice in multiple judicial districts.³ In an effort to better understand the problems related to motions practice, the Committee first contacted current and former Committee members engaged in private practice concerning their experience with local rules and local practices regulating motions practice. Subsequently, we surveyed the members of the Pennsylvania Association of Criminal Defense Lawyers for their input concerning the impact of local rules on their multi-judicial district practices. From the information we received from these surveys, as well as the correspondence from the other attorneys, the Committee identified several aspects of local motions practice that seem to be the major troublemakers for attorneys with multi-judicial district practices, including local rules and local practices

- requiring counsel personally appear to file motions
- requiring counsel personally appear to present motions to the judge before filing with the clerk of courts
- requiring counsel to personally obtain hearing dates and serve the other parties
- requiring counsel to use rules to show cause and rules returnable
- requiring cover sheets, answers, hearings, oral arguments, briefs, or proposed orders in every case.

¹ The first phase of our review resulted in the Court's amendment of Pa.R.Crim.P. 105 (Local Rules) to more clearly define local rules and set forth the procedures for local rules to be effective and enforceable. See Court's Order and Committee explanatory Final Report at 30 Pa.B. 5842 (November 11, 2000). The present proposal is the second phase of the project.

² The Judicial Council's Local Rules Subcommittee, under the supervision of Madame Justice Newman, also is studying statewide local rules governing motions practice, and has been apprised of this proposal.

³ We repeatedly have heard that, notwithstanding the requirements of Rule 105 (Local Rules), frequently the local requirements are not memorialized as local rules or vary from judge to judge within a judicial district, are difficult for out-of-county practitioners to find, and are not lodged with the Committee making it difficult for us to monitor.

In addition, although not a major troublemaker, there are problems in ensuring prompt service under the rules.

The Committee also surveyed all president judges to gather general information about motions practice in their respective judicial districts, and to determine whether they use cover sheets, rules to show cause or rules returnable, and require proposed orders. We received responses from about half the judicial districts, and found that most do not use cover sheets or rules to show cause or rules returnable, and they were equally divided concerning requiring a proposed order, or answers, hearings, oral arguments, or briefs.

Armed with all this information, after extensive review and discussions, the Committee agreed the rules should be changed to incorporate the following points:

(1) clarify in a new rule the procedures for maintaining the criminal case file and maintaining a list of docket entries (new Rule 113);

(2) require a certificate of service (Rules 575 and 576);

(3) no longer allow the failure to file an answer to be deemed an admission (Rule 575);

(4) abolish rules to show cause and rules returnable and provide for a notice of hearing (Rule 575);

(5) prohibit local rules requiring a proposed order in every case or an answer to every motion (Rule 575);

(6) abolish cover sheets (Rule 575);

(7) make it clear that a motion must be filed with the clerk of courts first, and any local rules to the contrary are prohibited by the rules (Rule 576);

(8) make it clear that any local rules that require personal appearance to file, or court review before filing, or personal appearance to get a hearing date are prohibited by the rules (Rule 576);

(9) provide for service on the court administrator of any document that is filed (Rule 576);

(10) acknowledge that there are variations in how scheduling is handled in the judicial districts, and those variations should be permitted to continue (Rules 114 and 577); and

(11) include provisions governing what happens after a motion is filed and served (new Rule 577).

The proposed rule changes incorporating the above ideas and making other conforming and correlative changes are discussed more fully below.

DISCUSSION

1. UNIFIED PRACTICE

One of the primary goals of the rule changes the Committee is proposing is to eliminate the local rules and local practices that conflict with the statewide rules and adversely affect motions practice and the statewide practice of law within the unified judicial system. After a great deal of discussion trying to come up with the best way to address this matter, we settled on a "sledgehammer" approach—adding specific prohibitions in the rules and highlighting the prohibitions in the Comments. To accomplish this, we are proposing that a new section, titled "Unified Practice," be added to Rules 114, 575, 576, and new Rule 577. This section includes the general prohibition against local rules that are inconsistent with the provisions of the rule, tying in with the Rule 105 (Local Rules) general prohibition against all local rules that are inconsistent with the statewide rules, and specific prohibitions against the local rules and local prac-

tices that are creating the most significant impediments to the statewide practice of law.

(a) Rules 114 and 577

Rule 114 addresses the filing and service of orders and court notices. The troublesome local practices identified as impediments to the statewide practice of law related to Rule 114 are the requirements in some judicial districts or by some judges that, in every case, counsel must appear in person to obtain a hearing date, and then counsel must file the notice of the hearing date and serve it on the parties. The Committee agreed these local practices specifically should be prohibited, see Rule 114(E), not only because they are impediments to the statewide practice of law, but also because they are contrary to the intent and spirit of the statewide rules. Similarly, the "Unified Practice" provision in Rule 577(C) prohibits local rules that require a personal appearance as a prerequisite to a determination whether a hearing or argument is scheduled.

(b) Rule 575

Rule 575 governs motions and answers. Three specific local rule or local practice requirements have been identified as causing problems, and are prohibited by paragraph (C). These are the requirements in some judicial districts or by some judges that all motions include cover sheets or proposed orders, and that there be an answer filed to every motion. Because we are proposing in Rule 576 that the court administrator be served with a copy of any motion that is filed, and because our survey of president judges revealed that few judicial districts are using cover sheets, the Committee agreed there is no need for cover sheets. To avoid confusion and to eliminate a possible hurdle for statewide practitioners, we are proposing that the use of cover sheets be prohibited. Similarly, from our survey of the president judges, we learned that very few judicial districts require proposed orders. Furthermore, the Committee noted it is often difficult when making a motion to know what should be the precise nature of the order to propose for the motion. Accordingly, the Committee agreed proposed orders should not be mandated for every motion or answer. However, as explained in the Rule 575 Comment, a party has the option of attaching a proposed order in the appropriate case. Finally, the local rules requiring answers in every case conflict with the provisions of present Rule 575,⁴ and are being prohibited.

(c) Rule 576

The area of motions practice that generates the most local rules and the greatest variance in local practice concerns filing of motions. Although the 1983 amendments to the rules governing filing required all filings to be with the clerk of courts first, either by mail or in person, before transmission to other court officials, the proliferation of local rules and local practices governing filing that are inconsistent with Rule 576 continues to plague multi-judicial district practitioners, as well as the Committee. We still are hearing about local rules or local practices that require a party to bring the motion in person, frequently on specified days or at specified times, to a judge or court administrator before filing with the clerk of courts. The Committee spent a great deal of time revamping Rule 576 to make it absolutely clear that filing may be accomplished only by personally delivering the motion to the clerk of courts or by mail to the clerk. The

⁴ Rule 575 provides that an answer is not required unless ordered by the court, which does not mean a general order for an answer in all cases, but rather an order issued in a specific case.

"Unified Practice" provision, Rule 576(A)(5), prohibits any local rules that require a document to be presented in person or reviewed by the court or court administrator before filing.

(d) *Comments to Rules 114, 575, 576, and 577*

The Comments to Rules 114, 575, 576, and 577 all include a provision explaining the purpose of the "Unified Practice" provision, and its relationship to the general prohibition in Rule 105 (Local Rules) against local rules that are inconsistent with the statewide rules. To emphasize the definition of local rule, this explanatory paragraph includes the Rule 105 definition of "local rule." In addition to this general explanatory paragraph, the Rule 575 Comment explains the Committee's reasoning for prohibiting cover sheets. Finally, because of the pervasiveness of the local rules and local practices requiring personal appearances for filing or for securing a hearing date, the Comments to Rules 576 and 577 include a specific statement that these practices are inconsistent with the rules.

2. *CERTIFICATE OF SERVICE*

The second significant change being proposed is the addition of the requirement that all motions, Rule 575(A)(2)(e), and all answers, Rule 575(B)(3)(c), include a certificate of service. The Committee thought this an important addition to ensure all the proper parties are served.⁵ This requirement is consistent with similar provisions in the Rules of Civil Procedure and the Rules of Appellate Procedure. The contents of the certificate of service are enumerated in Rule 576(B)(4), and must include the date and manner of service, and the names, addresses, and phone numbers of the persons served. A sample form modeled on Pa.R.A.P. 122 is included in the Rule 576 Comment.

In developing the form of certificate of service, the question of who should sign the certificate arose. The Committee considered whether the rule should require the attorney or party, if unrepresented, to sign, or the person, such as a secretary, who actually mails or delivers the documents. Since the attorney, or the party, if unrepresented, has the responsibility for service under Rule 576, we concluded the attorney or party should sign the certificate of service.

Finally, to conform with these changes, the Committee is proposing that Rule 573(C)(1)(a) and (b) (Pretrial Discovery and Inspection) be amended by changing "proof of service" to "certificate of service."

3. *New Rule 113 (Criminal Case File and Docket Entries)*

During the Committee's discussions about the filing and service of motions, answers, orders, and court notices, a number of questions came up about capturing the information concerning a criminal case, such as the dates of filing and service, and maintaining the papers filed in the case. As we considered these questions, we noted the term "docket" is used to mean different things in different rules and even within one rule.⁶ In Pennsylvania, for example, the term "docket" is used as a verb to mean either the act of bringing something to the clerk of courts,

with "docketing" used to mean "filing," or the act of the clerk of courts entering information on the docket, with "docketing" used to mean "entering." "Docket" also is used as a noun to mean the "record."⁷ In addition, from our research, we learned that some counties do not keep a running record of docket entries, but merely construct the docket if an appeal is taken. In these counties, everything is kept in the case file, and it appears anyone can have access to this file. In view of these considerations, the Committee agreed it would be useful to have a rule governing the "docket," and is proposing new Rule 113 to fill this gap.⁸

The new rule places the burden of maintaining both the criminal case file, paragraph (A), and the list of docket entries, paragraph (B), on the clerk of courts. As explained in paragraph (A), the criminal case file contains all the original records, papers, and orders filed in the case, and copies of all court notices. Paragraph (A) prohibits the removal of these documents from the criminal case file without a court order, but provides that the parties must be permitted to make copies of the documents. This change is needed to prevent the court's papers from being lost, a problem that from time to time is alluded to in case law because of the difficulties lost documents create in reproducing the record of the case for the appeal.

Paragraph (B) is proposed to address two issues. First, by using the terminology "list of docket entries" to replace "docket" to describe the entity in which all the information that is required to be maintained in a criminal case is recorded, we are accommodating both the manual system of recording and maintenance of information that is currently being used in a number of judicial districts and the electronic recording and maintenance of information that is used in others.⁹ Second, the definition in paragraph (B) of "list of docket entries" as a "chronological list, in electronic or written form, of documents and entries in the criminal case file, and of all proceedings in the case," is intended to end the practice in some judicial districts of not creating the list of docket entries unless an appeal is taken. This is explained further in the first paragraph of the Comment.

Paragraph (C) outlines the minimum information that must be included in the list of docket entries.¹⁰ Paragraph (C)(2) requires the names and addresses of all attorneys who have appeared or entered an appearance. The Committee agreed it was important to capture this information to make sure there is a record of all attorneys who appear in a case, not only for the defendant and the Commonwealth, but also for witnesses or any other litigant in the case. In addition, having the attorneys' addresses ensures proper service under Rules 114 and 576. Paragraph (C)(4) requires notations concerning oral motions and oral orders that are made or issued in the courtroom. Recognizing that not all judicial districts currently have the capacity to make docket entries from the courtroom, the provision is limited to "when the clerk of courts has the capacity to do so or when ordered by the court." Paragraph (C)(6) requires information concerning "the location of exhibits made part of the record during the proceedings" and was added to address a serious problem in the criminal justice system. The Committee

⁵ For example, this will be helpful in cases in which the Attorney General's office is representing the Commonwealth, so the court will know whether that office has received service.

⁶ Black's Law Dictionary defines docket as a verb meaning "to abstract and enter in a book. To make a brief entry of any proceeding in a court of justice in the docket." As a noun, it is defined as "A minute, abstract, or brief entry; or the book containing such entries. A formal record, entered in brief of the proceedings in a court of justice. A book containing an entry in brief of all the important acts done in a court in the conduct of each case, from its inception to its conclusion. The name 'docket' or 'trial docket' is sometimes given to the list or calendar of causes set to be tried at a specified term, prepared by the clerks for the use of the court and bar."

⁷ A rule example is current Rule 114, which provides "the clerk of courts shall immediately docket the order and record in the docket the date . . ."

⁸ Because the Committee is proposing that present Rule 113 be rescinded as part of the changes proposed for Rule 114 discussed in Part 4, Rule 113 is an available number.

⁹ This also is intended to accommodate the statewide automation of the criminal divisions of the courts of common pleas that is expected to be in place by 2004.

¹⁰ It is expected that some judicial district may require additional information be included in the list of docket entries for administrative purposes.

expects this information in the list of docket entries will aid the courts and the parties in keeping track of the location of exhibits.

Finally, paragraph (F) addresses another problem the Committee has been advised about in numerous communications and which is addressed in case law—supervision of clerks of courts to ensure the timely filing of papers and making of docket entries. The Committee discussed this matter at length and reviewed the constitutional and statutory authorization for clerks of courts. Sections 2756 and 2757 of the Judicial Code, 42 Pa.C.S. §§ 2756 and 2757, establish the duties of the clerks of courts. Section 2757 provides, *inter alia*, that the office of the clerk of courts shall have the power and duty to:

(5) Exercise such other powers and perform such other duties as may now or hereafter be vested in or imposed upon the office by law, home rule charter, *order or rule of court*, or ordinance of a county governed by home rule charter or optional plan of government. (Emphasis added.)

Based on this statutory provision, paragraph (F) has been added to specifically authorize the president judge to supervise the clerk of courts.

The Committee also has conformed the terminology in Rules 103, 114, 576, and 577 with the changes being proposed in new Rule 113 concerning filing in the criminal case file and making docket entries.

4. Rule 114 (*Filing, Docket Entries, and Service of Orders and Court Notices*)

In developing this proposal, as noted above in Part 1, the Committee has been working toward statewide uniformity in the procedures governing motions practice. We recognized that the procedures governing orders and court notices are not uniform statewide, and the practice in many judicial districts are creating problems for the statewide practice of law. In addition to the "Uniform Practice" provision being added to Rule 114(E), discussed above in Part 1, the Committee is proposing a number of other changes to Rule 114 that will tighten up the procedures governing orders and court notices.¹¹

First, the title to Rule 114 is being changed to more accurately reflect the application of the rule; that it addresses the filing and service of orders and court notices, and making docket entries with regard to the filing and service of orders and court notices.

Throughout its discussions, a recurring issue the Committee encountered concerned the problems that arise because not all the court papers are filed in a timely manner, accurate docket entries are not always made promptly, and service of orders and court notices is not always made in a timely manner. These problems impact other Criminal Rules¹² and cause unnecessary delays in cases. From our research, the Committee noted the problems are exacerbated not only by the varied practices for handling these duties in the judicial districts, but also by the failure of some judicial districts to provide any uniform supervision. After considerable discussion, the Committee concluded that it is the responsibility of the president judge to ensure that orders and court notices are filed, docket entries are made, the orders and notices

are served as required by the rules, and all these duties are performed in a timely manner. The Committee also agreed that this responsibility should be made clear in Rule 114, and are proposing a new paragraph (A) to specifically provide for the president judge's authority to oversee the court officials who are given the responsibility to perform these duties.

A related issue debated at length by the Committee concerned which court officials should have the responsibility to file, make docket entries of, and serve orders and court notices. We are aware that in many judicial districts the clerk of courts is responsible for filing and for making the docket entries, and either the clerk of courts or the court administrator serves the orders and court notices. Because determining who has the responsibility is an administrative matter, we initially considered requiring the president judge to designate which court officials would have the responsibilities for these duties, but were concerned that until the president judge made the designation, there would be confusion and this would only make the problems worse. The Committee concluded the better procedure would be to have the rule "default" to the clerk of courts; that is, under paragraphs (B) and (C), the clerk of courts is the official responsible for filing, making docket entries, and serving orders and court notices. However, we agreed that this was one area where local practice should be accommodated as long as the president judge ensures the duties are performed in a timely manner. In recognition of this, new paragraph (C)(2) authorizes the president judge to designate the court administrator as the official to serve some or all orders and court notices.

During our review of Rule 114, the Committee discussed what information concerning orders and court notices should be included in the docket entries. First, although we recognize that most clerks of courts time stamp documents that come into their offices, to ensure accuracy concerning when the clerk of courts receives orders or court notices for filing and to eliminate variations in practice in this area, the Committee is proposing that Rule 114(B), which is taken from the first sentence of current Rule 114, should require the clerk of courts to time stamp the order or court notice with the date of receipt, which is the date the order or court notice is received in the clerk's office for filing. In addition, paragraph (B) requires the clerk also to make a docket entry of the date on the order or court notice, because frequently this will be different from the date of receipt, and this information could be important in the case.

Paragraph (C)(1), which is taken from the second sentence of current Rule 114, requires the clerk to make a docket entry of the date of service, and retains the requirement that the clerk make a docket entry of the manner of service. To ensure that the provisions of (C)(1) are complied with when the court administrator serves an order or court notice, paragraph (C)(2) includes the requirement that the order or court notice be filed in the criminal case file and a docket entry made.

Paragraph (D) incorporates the service provisions of current Rule 113 with the following changes. First, in our review of current Rule 113(1)(a), which provides for service by "personal delivery to the defendant or defendant's attorney," some members questioned whether service could be on a defendant instead of his or her attorney as implied by this language. The Committee concluded service should always be on the attorney unless the party is unrepresented, and is proposing this provision be

¹¹ As pointed out in footnote 5, the Committee is proposing that Rule 113 be rescinded and the provisions added to Rule 114. We are making this change because with the other changes being proposed for Rule 114, the two rules would cover the same procedures, thus making Rule 113 unnecessary.

¹² See, for example, Rule 720(B)(3)(c) that requires the clerk of courts to "forthwith enter an order on behalf of the court, and shall forthwith furnish a copy of the order . . . to the attorney for the Commonwealth, the defendant(s), and defense counsel . . ."

amended accordingly. See paragraph (D)(1)(a).¹³ During our discussion of this provision, the Committee considered whether service could be on an attorney's employee, noting that in practice this frequently occurs but is not specifically provided for in former Rule 113. We agreed Rule 114 should permit this practice but that it should be limited to service on the employee at the attorney's office. See paragraph (D)(1)(b).¹⁴

The Committee also considered the practice in some judicial districts of assigning mail slots/boxes in the courthouse for service on members of the local bar and the court administrator. We agreed this practice was a legitimate manner of service as long as the courthouse mailboxes are not used to serve a party who does not have a box or who has not given their permission to be served in the box. Accordingly, paragraph (1)(d) specifically permits service in courthouse mailboxes, with a Comment provision elaborating on the caveat.¹⁵

Finally, concerning methods of service, the Committee considered whether the rule should permit service of orders and court notices by facsimile or electronic transmission, similar to what is permitted by Pa.R.Civ.P. 236(d). Although fully cognizant that the use of electronic technology for transmitting documents is proliferating, the Committee was concerned about issues such as proof of service and signatures that arise with the various means of electronically transmitting documents, and agreed this matter required further research before proposing such a change for the criminal courts. Accordingly, the Committee concluded that for this proposal, we only would include facsimile transmissions as an acceptable method of service. Following the lead of Civil Rule 236(d), new paragraph (D)(1)(f) limits this method of service to cases in which the party's attorney, or, if unrepresented, the party, has authorized this method of service either by filing a specific request or including the facsimile number on a prior legal paper filed in the case. The Comment includes a paragraph clarifying that the facsimile number on letterhead is not sufficient to authorize service by facsimile.

The Committee's final consideration concerning Rule 114 was whether the court administrator or judge should be able to electronically transmit documents from their offices to the clerk of courts if the technology is available in the judicial district. We agreed that they should, but that this should not be mandatory. We, therefore, have added an explanation to this effect in the Comment.

5. Rule 575 (Motions and Answers)

As part of our review of the motions rules in general, the Committee noted that the rule governing motions, current Rule 574, and rule governing answers, current Rule 575, are similar in nature and closely related in process: motions and answers are documents that a party files, have similar contents, and must be served. In view of this, the Committee is proposing that Rules 574 and 575 be combined into one rule. Accordingly, current Rule 574 has been merged into current Rule 575 as new paragraph (A).¹⁶

Rule 575(A)(1) is taken from former Rule 574(A). The Committee agreed to define "motion" in Rule 103 rather

than having to enumerate the laundry list of documents considered motions—motions, challenges, and applications or requests for an order or relief—each time we refer to "motions" in the rules.¹⁷ In addition, consistent with our goal of statewide uniform motions procedures, the Committee is proposing the "except as otherwise provided by these rules" language be deleted from paragraph (A)(1) because (1) there does not appear to be any motion that would not be in writing, or as permitted by the court, or when made in open court during a trial or hearing,¹⁸ and (2) the language could be used as support by the judicial districts for enacting conflicting local rules that could be construed as falling within the "except as otherwise provided by the rules" provision.

Paragraphs (2)(a)—(c) and (f) are the same as present Rule 574(B)(1)—(3). Paragraphs (A)(2)(d) and (e) are new to the motions rule. Paragraph (A)(2)(d) adds the requirement that the motion include any requests for a hearing or argument or both, which is in accord with current practice. Paragraph (A)(2)(e) adds the requirement that the motion include a certificate of service. See discussion in Part 2 above.

A major change being proposed by the Committee is the abolition of rules to show cause and rules returnable in paragraph (A)(5). The Committee agreed these "rules" are confusing and no longer serve any useful purpose, and should be replaced by "plain language" notices of hearings issued by the court or court administrator as provided in Rules 114 and 557. The basis for this change is highlighted in the Comment.

Paragraph (B) incorporates the provisions of current Rule 575. The first sentence of current Rule 575(A) raised two questions for the Committee. The first question was whether the "or otherwise provided in these rules" language was necessary. Noting that Rule 906(E)(1)(a) requires an answer to all first counseled PCRA petitions in death penalty cases, and that down the road there may be other rules requiring answers, the Committee agreed the provision is necessary and should be retained. See paragraph (B)(1). For purposes of clarity, the Committee also is proposing that a cross-reference to Rule 906(E) be added to the Rule 575 Comment.

The second question was whether the "ordered by the court" language could be construed as authorizing a judicial district to establish a local rule requiring answers in every case. Agreeing there is a potential for the phrase to be misconstrued, and to avoid any language that could be read as encouraging local rules, the Committee has modified that portion of current Rule 575(A) by deleting "ordered by the court" and replacing it with "the judge orders an answer in a specific case as provided in Rule 577," see paragraph (B)(1), with an explanation in the Comment that the court may order an answer in specific cases. We also are proposing that a cross-reference to Rule 114 be added to the Rule 575 Comment to emphasize that the orders must be filed and served, and docket entries made.

The Committee discussed the provision in the second sentence of current Rule 575(A) that failure to answer is

¹⁷ The changes to Rule 103 are explained in the "correlative amendments" section below.

¹⁸ A review of the Committee's Report and Supplemental Report explaining the changes when the motions rules were adopted in 1984 found that the two rules referred to in the Report that provided different filing procedures, or were the "otherwise provided" rules, have been rescinded and replaced by other rules that do not provide different procedures. From a search of the current rules, we found that Rules 573 and Rule 581 have provisions for making a motion "to the court." As explained below in the "correlative amendments" section, the Committee agreed to delete the provision from Rule 573 but retain it in Rule 581, with a Comment in both rules explaining that Rules 575 and 576 must be followed.

¹³ A similar change is being proposed for Rule 576(B)(2)(a). See Part 6 below.

¹⁴ A similar change is being proposed for Rule 576(B)(2)(b). See Part 6 below.

¹⁵ Similar changes are being proposed for Rule 576(B)(2)(d) and (B)(3)(b). See Part 6 below.

¹⁶ Although the motion rule provisions are indicated in bold and underlined, for the most part, except where indicated in the discussion in this Part, the provisions of Rule 574 have been incorporated into Rule 575 without change, although the provisions have been reorganized. In addition, as part of this proposal, current Rule 574 would be rescinded and the number reserved for future use.

deemed an admission when an answer has been required by the court or otherwise by the rules, and whether the Criminal Rules should ever permit the failure to answer to be deemed an admission. We concluded the “deemed admission” is a civil concept and could lead to problems in the criminal context, and therefore, a failure to answer should never be an admission. Accordingly, the Committee is proposing the deletion of the “unless an answer has been required” clause at the end of the second sentence of current Rule 575(A). See paragraph (B)(1). In view of this change, the Committee also agreed the rule had to be clear that the judge could impose other appropriate sanctions on the non-responding party in a specific case, and has added a Comment provision explaining this point.

Paragraph (B)(3), which is essentially the same as current Rule 575(D), has been modified by the deletion of the requirement that the answer “be divided into consecutively numbered paragraphs corresponding to the numbered paragraphs of the motion.” See paragraph (B)(3)(b). Several members pointed out that answers may need to be less formally structured for a number of reasons, such as the answer may not respond to an entire motion or may raise other matters that do not correspond to the numbered paragraphs of the motion. The Committee agreed with this assessment, noting the provision is more mischievous than beneficial to the system, and that it makes sense to provide some flexibility in the nature of the answers in criminal cases.

Finally, as explained in Part 2 above, the Committee has added as paragraph (B)(3)(C) the requirement that the answer include a certificate of service.

6. Rule 576 (*Filing and Service By Parties*)

During the development of this proposal, the Committee agreed there should be a separate rule addressing the procedures following the filing and service of motions. See discussion below in Part 7. To accommodate this new rule, the Committee is proposing that Rules 576 (Filing) and 577 (Service) be combined into one rule because they are closely related in process. Accordingly, current Rule 577 has been merged into current Rule 576 as new paragraph (B).¹⁹

The title to Rule 576 has been changed (1) to reflect the new dual nature of the rule—filing and service—and (2) to distinguish the requirements of this rule, which applies to parties, from the filing and service requirements of Rule 114, which applies to the court.

Paragraph (A) is taken from current Rule 576. The order in which the paragraphs appear in the current rule has been reorganized so the method of filing, former paragraph (D), follows the requirements for filing in paragraph (A)(1).

Paragraph (A)(1) is similar to current Rule 576(A), with two changes. First, the “or otherwise provided in these rules” language has been deleted because of our concerns about the language being misconstrued as permitting inconsistent local rules in this area. See also the discussion in Part 5 above.²⁰ Second, the Committee has added “written answers” to the list of documents that must be filed to make the rules clear that the same requirements for filing apply to any answers. In addition, because Rule 575(A)(1) applies to “notices or documents for which filing

is required,” the Committee has added a cross-reference in the Comment to the Criminal Rules that require a notice to be filed. This cross-reference will serve as an aide to the bench and bar by clarifying the scope of the application of this provision of the rule.

Paragraph (A)(2) is the same as current Rule 576(D), except that the “may” has been changed to “shall” in the introductory clause to make the rule clear that these are the only ways to accomplish filing.²¹ This clarification is intended to preempt local rules dealing with filing of motions.

As the Committee worked on this proposal, the question of how to handle filings that are untimely or that do not comply with the rules arose. Should the clerk of courts have any role in determining the acceptability of filings? The Committee concluded that the determination of the acceptability of filings was not an issue for the clerk of courts, and that they should accept all filings submitted to their offices. Paragraph (A)(3) has been amended to make this clear, with further elaboration in the Comment. It also is suggested in the Comment that the judicial districts implement procedures to inform the filing party when the filing does not comply with the rules so the party may correct the problem.

Paragraph (B)(1), which is taken from current Rule 577(A), specifically requires the parties to serve not only all parties but also the court administrator. The Committee agreed this additional requirement is necessary to address a problem that had come to our attention; some clerks of courts are not complying with the provision of current Rule 576(B) requiring them to promptly transmit a copy to the designated court official.²² Because the court administrator frequently is the designated court official who schedules hearings and arguments, or who is responsible for getting the motions to the judge for scheduling, the Committee concluded the court administrator should receive a copy of all filings from the parties concurrently with filing. As noted in the Comment, this requirement however does not replace the requirement that the documents must be filed with the clerk of courts. In addition, recognizing that some counties assign judges to handle designated cases from the time of arraignment, the Committee has included in the Comment the suggestion that, in these cases, the attorney send the assigned judge a courtesy copy of the filings.

Another purpose of providing for service on the court administrator is to acknowledge the variations in practice concerning who does scheduling in each judicial district. The Committee agreed in this one area of the rules that there did not have to be uniformity, that either the court or the court administrator could continue to schedule hearings and arguments and other court proceedings. This point also is explained in the Comment.

Paragraph (B)(2), which is taken from current Rule 577(B), provides the methods of service. The Committee agreed that the same changes made in Rule 114 concerning service of orders and court notices should be made with regard to service by the parties. See discussion in Part 4 above. Paragraph (B)(2)(a) provides for personal service on the attorney unless the party is unrepresented. Paragraph (B)(2)(b) permits service by personal delivery to the attorney’s employee at the attorney’s office. Paragraph (B)(2)(d) acknowledges the local practice of using courthouse acknowledgment boxes for receipt of service.

¹⁹ Although the service rule provisions are indicated in bold and underlined, for the most part, except where indicated in the discussion in this Part, the provisions of Rule 577 have been incorporated into Rule 576 without change. In addition, as part of this proposal, current Rule 577 would be rescinded and replaced by new Rule 577.

²⁰ For the same reasons, this language has been deleted from paragraph (B), which is taken from current Rule 577(A).

²¹ For the same reason, the same change has been made in paragraphs (B)(2) and (3) concerning methods of service.

²² The last sentence in (A)(3), formerly Rule 576(B), has been deleted as no longer necessary because of the addition of this requirement.

Paragraph (B)(3) has been added to enumerate the means of service on the court administrator. The Committee is proposing the means of service be limited to mail, a courthouse box, or leaving a copy at the court administrator's office.

Paragraph (B)(4) sets forth the requirements for the certificate of service, discussed more fully above in Part 2.

Another issue the Committee considered at length concerned the application of Rule 576 to non-parties. Several members expressed concern that the addition of "by parties" to the title and using the term "parties" in the rule could be construed as limiting the application of the rule to parties, thereby excluding others who may make a motion in a specific case, such as a member of the press who is challenging, for example, a closure order. The Committee agreed anyone filing any form of request for relief in a criminal case, whether or not a party, should follow the requirements of Rule 576, and therefore, we have added new paragraph (C) to make this clear. Accordingly, any non-party requesting relief from the court in a case must file and serve the motion as required by Rule 576(A) and (B). New paragraph (C), however, in no way is intended to give "party" status to a non-party filing and serving under the rule.

7. *Rule 577 (Procedures Following Filing of Motion)*

As we developed this proposal, the Committee noted a gap in the rule procedures following the filing and service of motions. The current rules do not set forth procedures that would explain what happens after the filing and service of motions. Because most of the changes included in this proposal are intended to reduce the statewide variations in motions practice and procedure, the Committee concluded this gap should be filled, and is proposing a separate rule, new Rule 577.

Rule 577 is divided into 3 parts: (A) procedures following the filing of the motion, including the determination by the court whether an answer is required and scheduling of hearing and arguments; (B) the requirement that the court promptly dispose of any motion; and (C) the "unified practice" section prohibiting local rules concerning personal appearance to request a hearing.

The provisions of paragraph (A) tie in with the provisions of Rule 114 to make it clear that when any order for an answer is issued pursuant to paragraph (A)(1), or any court notice for a hearing or argument is issued pursuant to paragraph (A)(2), the filing, docket entries, and service provisions of Rule 114 must be followed, and that this is the responsibility of the court, not the parties. Further-

more, although the Committee was adamant that hearings, oral arguments, and briefs should not be required in every case, but rather should only be scheduled when necessary to assist the judge in deciding the motion, as noted in Part 4 above in the discussion of Rule 114, the Committee was aware that in a number of counties, the hearings are scheduled by the court administrator as a matter of course. We agreed that, just as is proposed for Rule 114, new Rule 577 must permit either the court administrator or the judge to do the scheduling, leaving the decision to local practice. This concept is reiterated in the Comment.

8. *Correlative Amendments*

(a) *Rule 103 (Definitions)*

Consistent with the changes being made to the motions rules and with new Rule 113, the definition of "clerk of courts" is being modified. In addition, the Committee is proposing that a definition of "court administrator" be added. Both definitions are intended to include the deputies or assistants when acting in the capacity of the clerk of courts or court administrator, as well as to accommodate those judicial districts that use other titles for their "clerks of courts." Finally, as explained in Part 3 above, the Committee agreed to include a definition of "motion" thereby eliminating the need to include the laundry list of documents that are motions every time the term "motion" is used in a rule.

(b) *Rule 573 (Pretrial Discovery And Inspection) and Rule 581 (Suppression Of Evidence)*

To conform with the proposed changes in Rules 575 and 576, and to avoid the misconstruction that Rule 573 provides an exception to the filing requirements of Rule 576(A), the Committee is proposing the deletion of the provision for making an appropriate motion "to the court" from Rule 573(A). Although similar language appears in Rule 581, the Committee agreed to retain "to the court" in Rule 581(A) because there are times when an suppression motion is made orally in open court and on the record, and we did not want to preclude this practice.

The Committee also is proposing that cross-references to Rules 575 and 576 be added to the Comments to Rules 573 and 581 to make it clear that both Rules 575 and 576 must be followed for any motions filed under Rules 573 and 581.

[Pa.B. Doc. No. 01-1282-16. Filed for public inspection December 14, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 4—ADMINISTRATION

OFFICE OF THE BUDGET

[4 PA. CODE CH. 7]

Fiscal Notes

The Office of the Budget (OB), by this order, adopts the amendments to Chapter 7, Subchapter R (relating to fiscal notes) under section 612 of The Administrative Code of 1929 (71 P. S. § 232) (Administrative Code) to read as set forth in Annex A.

The proposed amendments were published at 30 Pa.B. 5967 (November 18, 2000). No comments were received and there are no changes to the published proposed rulemaking.

Purpose

These regulatory changes will clarify the process that agencies must follow to ensure that fiscal notes accompany every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*.

The OB is updating Subchapter R so that it conforms with the present practice of writing fiscal notes.

Explanation of Regulatory Requirements

Administrative departments, boards, commissions and authorities receiving money from the State Treasury are required to provide fiscal notes with every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*. The regulatory changes codify the current practice of writing fiscal notes.

Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission (IRRC) shall submit to the OB one copy of the regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto. Agencies that are not required to submit a regulatory analysis form to IRRC for a regulatory action or administrative procedure shall submit the following information to the OB:

- (i) One copy of each regulatory action or administrative procedure.
- (ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.
- (iii) The probable cost for the fiscal year the program is implemented and a projected cost estimate of the program for each of the 5 succeeding fiscal years.
- (iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the 5 succeeding fiscal years.
- (v) The 3 year fiscal history of the program for which expenditures are to be made.

The enumerated information is also required to be submitted for Executive Orders, statements of policy and notice of rule changes and notices related to Federally required changes and changes in fee structure.

The OB reviews the regulatory action or administrative procedure, or changes thereto, and writes a fiscal note

explaining its economic impact. The OB sends the fiscal note to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

Fiscal Impact

The OB has determined that the amendments will not have any additional fiscal impact on the Commonwealth.

Paperwork

The amendments will not increase paperwork for the public or the Commonwealth.

Effective Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 8, 2001, the OB submitted a copy of the proposed rulemaking to IRRC and the Chairpersons of the Senate and House Appropriations Committees for review and comment. The OB also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the OB.

The OB prepared the final-form rulemaking with no comments received from IRRC, the Committees or the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on September 25, 2001, this final-form rulemaking was deemed approved by the Committees. The regulations were deemed approved by IRRC under section 5(g) of the Independent Regulatory Review Act, effective September 18, 2001.

Findings

The OB finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these regulations in the manner provided in this order is necessary and appropriate for the administration and enforcement of the Administrative Code.

Order

The OB, acting under the authority contained in section 612 of the Administrative Code orders that:

(a) The regulations of the OB, 4 Pa. Code Chapter 7, are amended by amending §§ 7.232 and 7.234 and by deleting §§ 7.233 and 7.235 to read as set forth in Annex A.

(b) The Secretary of the OB 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 OB 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. BITTENBENDER,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 5622 (October 6, 2001).)

Fiscal Note: Fiscal Note 9-1 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter R. FISCAL NOTES

§ 7.232. Definitions.

Regulatory actions and administrative procedures consist of the following:

- (1) Executive orders of the Governor, except those which have no general applicability and legal effect or are effective only against Commonwealth agencies or persons in their capacity as officers, agents or employes thereof.
- (2) Administrative and other regulations.
- (3) Statements of policy which are general and permanent in nature.
- (4) Notice of rule changes and notices related to Federally required changes and changes in fee structure.

§ 7.233. (Reserved).

§ 7.234. Responsibilities

(a) Agencies required by § 7.231 (relating to policy) to publish fiscal notes are to establish procedures to insure that fiscal notes are included with regulatory actions and administrative procedures as follows:

(1) Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission under the Regulatory Review Act (71 P.S. §§ 745.1—745.14) shall submit one copy of a regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto, to the Office of the Budget prior to the time that the regulatory action or administrative procedure, is deposited with the Legislative Reference Bureau.

(2) Agencies that are not required to submit a regulatory analysis form to the Independent Regulatory Review Commission for a regulatory action or administrative procedure shall submit the following information to the Office of the Budget:

(i) One copy of each regulatory action or administrative procedure.

(ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.

(iii) The probable cost for the fiscal year the program is implemented and a projected cost estimate of the program for each of the 5 succeeding fiscal years.

(iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the 5 succeeding fiscal years.

(v) The 3-year fiscal history of the program for which expenditures are to be made.

(b) The Secretary of the Budget will review or have reviewed each fiscal note before publication in the *Penn-*

sylvania Bulletin. The Secretary will, as appropriate, include recommendations and the reasons therefore.

(c) The Legislative Reference Bureau shall publish information contained in fiscal notes required by this subchapter.

§ 7.235. (Reserved).

[Pa.B. Doc. No. 01-1282-9. Filed for public inspection December 14, 2001, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[L-00000151]

[52 PA. CODE CHS. 59 AND 69]

Natural Gas Emergency Plans and Emergency Actions

The Pennsylvania Public Utility Commission (Commission) on August 9, 2001, adopted a final-form rulemaking order setting forth the procedures the Commission intends to follow in managing natural gas emergencies to maintain gas service and minimize service disruptions. The contact persons are Dr. Ahmed Kaloko, Bureau of Conservation, Economics and Energy Planning (717) 787-2139 (technical); and David Screven, Law Bureau (717) 787-2126 (legal).

Executive Summary

For many years, natural gas emergency planning has been a staple of this Commonwealth's natural gas distribution companies' (NGDC) operational considerations. Given the necessity for 100% reliability on all natural gas distribution systems, NGDCs have long planned for force majeure or other unexpected events that threatened system integrity.

On June 22, 1999, Governor Tom Ridge signed into law 66 Pa.C.S. §§ 2201—2212 (relating to the Natural Gas Choice and Competition Act) (act). The act revised 66 Pa.C.S. (relating to the Public Utility Code), by inter alia, adding Chapter 22, relating to the restructuring of the natural gas utility industry. Nevertheless, the act is clear that even with the restructuring of the natural gas industry, the requirement for 100% reliability of all NGDC systems remains constant.

The natural gas emergency regulations are designed to address the management of natural gas emergencies in this new environment to maintain (or restore as quickly as possible) gas service to essential human needs customers while minimizing service disruption. The final-form regulations address a number of matters that are critical to gas emergency and gas curtailment, including: (1) emergency load shedding; (2) a call for voluntary usage reduction; (3) a call for mandatory load and usage reduction; (4) issuance of periodic reports to the media on emergency situations; (5) notice of affected customers and natural gas suppliers (NGSs); (6) customer and NGS delivery requirements that apply to emergency actions; (7) a procedure for focusing emergency measures to confined geographic areas; and (8) procedures for establishing communications. On all of these issues, the regulations provide a strong framework for addressing these issues in more detail in the context of each utility's tariff and operational procedures.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 31, 2001, the Commission submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 805 (February 10, 2001), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Commission has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on October 25, 2001, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 1, 2001, and approved the final-form rulemaking.

Public Meeting held
August 9, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

Final Rulemaking Order

By the Commission:

Introduction

By order entered July 20, 2000, the Commission adopted a proposed rulemaking order setting forth the procedures the Commission intends to follow in managing natural gas emergencies in order to maintain gas service and minimize service disruptions. The Commission proposed to incorporate the regulations into Chapter 59 (relating to gas service), as §§ 59.71—59.75. The Commission directed that the proposed rulemaking be published in the *Pennsylvania Bulletin* for comment by interested parties. The proposed rulemaking was published in the February 10, 2001, edition of the *Pennsylvania Bulletin*. This order addresses the comments received from IRRC, the Office of Consumer Advocate (OCA) and the Energy Association of Pennsylvania (the Association).

Background

For many years, natural gas emergency planning has been a staple of this Commonwealth's NGDCs' operational considerations. Given the necessity for 100% reliability on all natural gas distribution systems, NGDCs have long planned for force majeure or other unexpected events that threatened system integrity. After the passage of the act in 1999, which restructured the natural gas utility industry, the importance of revising these requirements became apparent.

Commission staff established a collaborative working group as the appropriate vehicle to proceed with the implementation of gas emergency plans and curtailment under the act. On January 18, 2000, Commission staff convened the first meeting of the Gas Safety and Reliability Working Group (Working Group) addressing gas emergency plans and curtailment issues.

At the initial meeting of the Working Group, Commission staff identified statutory directives that applied to the Working Group, framed a tentative list of issues that should be addressed by the Working Group and established a date for the submission of informal comments.

Commission staff urged the parties to identify those common issues that would be addressed in the meetings. The OCA, the Office of Trial Staff (OTS), the Pennsylvania Gas Association (PGA), Texas Eastern Corporation, CNG Retail Services Corporation and TXU Energy Services (filed jointly with Statoil Energy) submitted informal comments on February 29, 2000.

The working group agreed that the requirements for gas emergency plans should be more than guidelines. As a result, the Working Group designated selected members to draft suggested regulations and this draft was delivered to the full group and considered at the meeting on May 23, 2000. The proposed regulations addressed a number of matters that are critical to gas emergency and gas curtailment, including: (1) emergency load shedding; (2) a call for voluntary usage reduction; (3) a call for mandatory load and usage reduction; (4) issuance of periodic reports to the media on emergency situations; (5) notice to affected customers and NGSs; (6) customer and NGS delivery requirements that apply to emergency actions; (7) a procedure for focusing emergency measures to confined geographic areas; and (8) procedures for establishing communications. The regulations provide a strong framework for addressing these issues in more detail in the context of each utility's tariff and operational procedures.

Since the proposed rulemaking was designed to replace the Commission Gas Curtailment Guidelines in §§ 69.21—69.27 (relating to gas curtailment), the Working Group suggested having the proposed regulations placed in Chapter 59 rather than in Chapter 69 (relating to general orders, policy statements and guidelines on fixed utilities). The Working Group agreed that the proposed regulations should be presented at a public meeting for the Commission's consideration.

By order entered July 20, 2000, the Commission adopted the proposed rulemaking, intending to add §§ 59.71—59.75, which established regulations for natural gas emergency plans and curtailment safety and reliability. The Commission directed that the proposed rulemaking be published in the *Pennsylvania Bulletin* for comment by interested parties. The proposed rulemaking was published at 31 Pa.B. 805 (February 10, 2001). Comments were received from IRRC, the OCA and the Association.

Comments

1. *Section 59.72(a) (relating to natural gas emergency planning)*

Comments

IRRC stated that § 59.72(a) had to be clarified. Subsection (a) states that an NGDC is required to file a natural gas emergency plan with the Commission "within 90 days from the effective date of this final-form rulemaking, or a later date as may be determined by the Commission. . ." IRRC questioned how the Commission would communicate this date to NGDCs. IRRC stated that the date should be specified in the final-form regulation.

Discussion

We are in agreement with IRRC's comments regarding § 59.72(a). Accordingly, the Commission deleted the language "or a later date as may be determined by the Commission" from the subsection. This deletion does not substantially affect this subsection.

2. Section 59.72(b)

Comments

IRRC, the OCA and the Energy Association submitted comments on proposed § 59.72(b). Section 59.72(b) deals with the arrangements that NGDCs make with their various customers so as to avoid or, at least, minimize the potential of natural gas supply shortfalls to the public. In its comments, IRRC noted that the proposed subsection contained language which implied that the provision was optional. IRRC stated that regulations establish binding norms and have the full force and effect of law. IRRC explained that if the subsection was intended to impose mandatory requirements on NGDCs, the word "shall" must be used in place of the phrase "are encouraged to." Conversely, IRRC stated that if § 59.72(b) was considered optional, then it should be deleted from the regulations.

The OCA also commented that the language in § 59.72(b) should be strengthened. The OCA stated that the critical nature of the proposed regulations made it necessary to frame the requirements set forth therein in clear, unambiguous and mandatory language. The OCA asserted that NGDCs should be obligated to attempt to make contractual and informal arrangements with market participants. Therefore, the OCA determined that the words "are encouraged" in subsection (b) cannot be expected to produce the best possible result for NGDCs to make preparations for emergencies and should be replaced with the phrase "shall make a reasonable effort. . ." The OCA was of the belief that this phrase strengthened the requirement substantially without making it unrealistic.

The Association's comments were essentially in response to the comments submitted by the OCA. The Association stated that because it is impossible to require a regulated party to contract with an unregulated one, § 59.72(b) should be adopted as proposed. The Association asserted that the OCA's proposed revision would require NGDCs to make a "reasonable attempt" to enter into arrangements for customers to reduce or discontinue service so that forced service reductions can be avoided or at least minimized. The Association questioned what is meant by the phrase "shall make a reasonable attempt." The Association explained that since the other parties to these potential arrangements are not subject to the Commission's jurisdiction, there is no legal mechanism to force them to do anything. The Association further asserted that NGDCs would be subject to constant regulatory second-guessing in two instances: (1) if an arrangement is not made, the NGDC could find itself having to defend whether its actions were reasonable; and (2) if an arrangement is made, the NGDC could find itself having to defend whether the quid pro quo it offered to the nonjurisdiction entity was unreasonably generous. Therefore, for these reasons, the Energy Association stated that the OCA's modified language should not be adopted.

Discussion

We are in agreement with IRRC and the OCA that regulations establish binding norms and have the full effect and force of law. See generally, *Human Relations Commission v. Norristown Area School District*, 374 A.2d 671 (Pa. 1977). The Working Group agreed that the requirements for gas emergency plans should be more than mere guidelines and proposed regulations designed to replace the Commission Gas Curtailment Guidelines in §§ 69.21—69.27. Since it was the intention of the Working Group to establish binding norms concerning the maintenance of gas service and the minimization of

service disruptions during natural gas emergencies, these proposed regulations must set forth mandatory language, not optional language. Thus, we shall replace the phrase "are encouraged" which is currently set forth in proposed § 59.72(b) with the phrase "shall attempt to make every reasonable effort."

We are not persuaded by the Association's argument that making this revision to § 59.72(b) will result in continuous regulatory second-guessing for NGDCs. We believe that the revision of this subsection fits better into the mold of a regulation. Moreover, to prevent catastrophic results in natural gas emergencies, we believe that NGDCs must make every "reasonable" effort to contract with their various customers so as to minimize the potential of supply shortfalls that threaten public health and safety. This is the essence of the entire rulemaking.

3. Section 59.72(c)

The OCA stated that the language in § 59.72(c) should be strengthened. Section 59.72(c) sets forth the make-up of a natural gas emergency plan. The OCA concluded that to make the subsection more specific and mandatory, the word "should" must be stricken and replaced with the word "shall."

In response, the Association stated that the OCA's suggestion to amend the word "should" to "shall" in § 59.72(c) is erroneous because the word "shall" already appears in the proposed subsection.

Discussion

We note that § 59.72(c) already includes the word "shall" and, therefore, we disregard the OCA's comments regarding this subsection.

4. Section 59.72(d)

Comments

In its comments, IRRC noted that subsection (d) provides that each natural gas emergency plan "should specify the procedures the NGDC shall use to provide notices to affected customers." IRRC stated that this subsection should include language that requires notice to be issued by the NGDC within a specified time period and should also use more binding language.

Similarly, the OCA commented that language should be added to subsection (d) which specified that the notice procedures set forth therein would be initiated as quickly as is reasonably possible. The OCA stated that timely notification will insure that customers have the greatest opportunity to respond to expected or potential curtailment. Therefore, the OCA proposed the inclusion of the following language in subsection (d): "Notice shall be given as quickly as is reasonably possible after the existence of emergency conditions and the appropriate responses are determined by the NGDC."

Additionally, the OCA stated that clarity is a fundamental element of effective communication; thus, the OCA proposed that subsection (d) also should be modified to require that notice be consistent with the Commission's existing Plain Language Policy. The OCA suggested the following language for inclusion in subsection (d): "All notices shall be prepared consistent with the Commission's Plain Language Policy."

In response, the Association argued that OCA's suggested changes to proposed § 59.72(d) should be rejected as an inappropriate attempt to prescribe the method, timing and wording of customer notices to a level of detail beyond that agreed to by the members of the Working

Group. The Association asserted that proposed § 59.72(d) read the way it was intended to by the members of the Working Group because they recognized that there were (1) diverse (and ever changing) means that could be used to notify customers; (2) that different means of notification may be appropriate under different circumstances; and (3) the impossibility of predetermining which means would be appropriate in the throes of a specific emergency situation.

Moreover, the Association noted that the notices would, to a significant extent, be governed by the individual NGDC's emergency plan. The Energy Association further asserted that since the members of the Working Group did not approve the level of micro-management that the OCA suggests for this subsection, the modification should be rejected accordingly.

Discussion

We are in agreement with the OCA that timely notification of natural gas emergencies will insure that customers have the greatest opportunity to respond to expected or potential curtailment. Therefore, in response to the OCA's and IRRC's comments regarding the inclusion of a specific time period in § 59.72(d), we shall add the sentence "After the NGDC determines the appropriate response, the NGDC shall issue notices to affected customers, their NGSs and NGDCs as soon as reasonably possible." This sentence also incorporates IRRC's concerns regarding using binding and more mandatory language.

We also agree with the OCA that the notice must be specific and clear. Therefore, we adopt the OCA's suggestion that the following language be placed within § 59.72(d): "All notices shall be prepared consistent with the Commission's Plain Language Policy."

5. Section 59.73 (relating to emergency action)

Comments

In its comments, IRRC noted that § 59.73(a) appeared to contain a typographical error. The subsection states that the definition of "Priority 1 customers" is set forth in subsection (j). Nevertheless, the definition of "Priority 1 customers" is contained in subsection (i).

Additionally, IRRC commented that subsections (b), (c)(3),¹ (h)(1) and (h)(3) of § 59.73 use the term "will" to describe actions that the NGDC must take. All of these subsections deal with the actions the NGDC is required to perform in responding to a natural gas emergency. IRRC explained that according to the *Pennsylvania Code & Bulletin Style Manual*, the term "will" is used to describe actions that an agency will undertake. IRRC stated that the term "shall" is to be used whenever anyone else has a duty to act.

IRRC also commented that § 59.73(h) and (h)(2) appear to set forth language which implied that the provisions were optional. IRRC stated that because regulations establish binding norms, the language therein must be mandatory.

Furthermore, the OCA stated that it generally agrees that the proration hierarchy specified in § 59.73(h) is reasonable and provides adequate flexibility for operating contingencies. The OCA, however, determined that the language must be mandatory and the word "should" set forth therein must be replaced with the word "shall."

¹ IRRC inadvertently referred to this section as § 59.73(b)(3) in its comments.

The OCA also stated the definition of Priority 1 in § 59.73(h)(3)(i)(1)² should be modified so as to be consistent with the consensus achieved in the Interim Guidelines Working Group. The OCA proposed that the definition be modified to "Service for essential human needs and any other residential use." The OCA was of the opinion that this modification ensured that all residential customers are on par with other essential human needs customers.

In response to the OCA's comments, the Association stated that the OCA's comments were nothing more than a reargument on the matters that were previously settled in the collaborative process and, therefore, should be wholly rejected. The Association argued that the OCA's suggestion to reword § 59.73(h) contradicts the Working Group's consensus and incorrectly presumes that a pro rata allocation of methane molecules on a customer-by-customer basis can be accomplished as a practical matter.

The Association asserted that permitting OCA's rewording would, in effect, make pro rata curtailment mandatory. The Association explained that while pro rata curtailment is desirable as an objective, it is impossible to achieve as a practical matter. The Association further explained that given present technology, there is simply no way to ensure that every member of a curtailment priority category (or subcategory) will in fact receive only its pro rated share of available natural gas molecules. Therefore, the Association supports keeping the Working Group language as proposed.

In the alternative, the Association stated that if the Commission believed that some revisions to § 59.73(h) are necessary, the Association suggested the following language:

(h) Upon issuance of an order to initiate priority-based curtailments, [the available gas supplies to] the NGDC should [be prorated among its customers in accordance with] *deliver available supplies to its customers according to the following priorities of use:*

(1) Customers in a higher priority *category* will not be curtailed until all customers falling into a lower *priority* category have been restricted to plant protection use levels, unless operational circumstances or physical limitations warrant a different result.

(2) Where only a partial restriction of a classification is required, implementation should be pro rata *to the extent practical under the circumstances, as set forth in the NGDC's tariff.*

[(3) The pro rata rationing, to the extent practical under the circumstances, will be based on a method set forth in the NGDC's tariff.] (additions in italic, deletions in brackets)

The Association asserted that its previously-referenced changes better reflect the operating realities that motivated the Working Group to draft initially § 59.73(h) as it appears in the proposed rulemaking order, rather than the OCA's proposed revisions.

The Association also asserted that the inclusion of the term "residential use" in the definition of Priority 1 customers, may not be the kind of change that would have been unanimously adopted by the members of the collaborative. The Association further maintained that the OCA failed to explain fully the substantive effect of such

² The OCA inadvertently referred to this section as § 59.73(h)(3)(1) when it appears it should have been referred to as § 59.73(i)(1). We shall refer to this section as § 59.73(i)(1) in the remainder of this document.

an inclusion given the types of consumption already falling within the definition of "essential human needs use."

Discussion

We note the typographical error in § 59.73(a), and will make the appropriate revision to this subsection. Additionally, in accordance with the *Pennsylvania Code & Bulletin Style Manual*, we will replace the term "will" currently in § 59.73(b), (c)(3) and (h)(1) with the term "shall." Subsection 59.73(h)(3) has been deleted from the final-form regulations.

We also conclude that to make the proposed regulations meet the criteria for "binding" regulations, we will replace the word "should" set forth in proposed § 59.73(h) and (h)(2) with the word "shall." Regulations establish "binding" norms and must set forth mandatory language. We, however, take note of the Association's argument that given the present state of technology, pro rata curtailment may be impossible to achieve as a practical matter. Therefore, to reflect accurately the operating realities of NGDCs in today's environment, we adopt the Association's proposed amendment for § 59.73(h) with slight revisions.

Lastly, we decline to adopt the OCA's suggestion to modify § 59.73(i)(1) to read "Service for essential human needs and any other residential use." The definition of "essential human needs" set forth in the proposed regulations already incorporates "residential use." We agree with the Association's statement in its comments that, "OCA does not explain why its suggested wording would add anything to the regulations given the types of consumption already falling within the definition of 'essential human needs use'."

6. Section 59.74 (relating to utility liability)

Proposed § 59.74 deals with the scope of an NGDC's liability for the actions it has taken to respond to a natural gas emergency. IRRC commented that § 59.74(b)(1) also uses the term "will" to describe a required NGDC action. Proposed § 59.74 (b)(1) deals with the compensation an NGDC may have to pay a customer for the loss of firm service during a natural gas emergency. As mentioned earlier, IRRC explained that the *Pennsylvania Code & Bulletin Style Manual* establishes that the term "will" is to be used to describe the actions that an agency undertakes. The term "shall" is used whenever anyone else has a duty.

Additionally, IRRC commented that § 59.74(b)(2) uses the phrase "will have a right to" in describing the NGDC's discretionary authority to discontinue service. Proposed § 59.74(b)(2) deals with the NGDC's ability to discontinue service, during an emergency, to a customer that takes gas in violation of the rules of the subchapter. IRRC explained that according to the *Pennsylvania Code & Bulletin Style Manual*, the term "may" is used to express a right, power, or privilege. Therefore, the phrase "will have a right to" should be replaced with "may."

Discussion

We are in agreement with IRRC's reading of the *Pennsylvania Code & Bulletin Style Manual* and, thus, we will make the appropriate revisions to § 59.74(b)(1) and (2).

Conclusion

Accordingly, under sections 501, 2203 (12) and 2208 of the Public Utility Code, 66 Pa.C.S §§ 501, 2203(12) and 2208, and the Commonwealth Documents Law (45 P. S.

§ 1201 et seq.), and regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.4, we amend the regulations in Chapter 59 as noted in this Preamble as set forth in Annex A; *Therefore,*

It Is Ordered That:

(1) The regulations of the Commission, 52 Pa. Code Chapters 59 and 69, are amended by amending § 59.63; deleting §§ 69.21—69.27; and adding §§ 59.71 and 59.75 to read as set forth at 31 Pa.B. 805; and by adding §§ 59.72—59.74 to read as set forth in Annex A.

(2) The Secretary shall submit this order, 31 Pa.B. 805 and Annex A to the Office of Attorney General for approval as to form and legality.

(3) The Secretary shall submit a copy of this order, 31 Pa.B. 805 and Annex A, to the Governor's Office of Budget for review of fiscal impact.

(4) The Secretary shall submit this order, 31 Pa.B. 805 and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review and approval by the IRRC.

(5) The Secretary shall certify this order, 31 Pa.B. 805 and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(6) This final rulemaking shall be come effective upon publication in the *Pennsylvania Bulletin*.

(7) Alternate forms of the this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Review Coordinator, Law Bureau at (717) 772-4597.

JAMES J. MCNULTY,
Secretary

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

Fiscal Note: Fiscal Note 57-218 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

Chapter 59. GAS SERVICE

GAS EMERGENCY PLANS

§ 59.72. Natural gas emergency planning.

(a) By March 15, 2002, each NGDC shall file with the Commission a natural gas emergency plan reflecting its unique operational characteristics and design criteria. Each plan shall contain simplified and understandable rules and regulations so that all of the NGDC's customers and all NGSs licensed to provide services to their customers can have a responsive action plan in place to protect themselves and their property in the event of a crisis. NGDCs shall file revisions to their plans when and as appropriate, or as directed by the Commission.

(b) As part of their emergency planning, NGDCs shall attempt to make every reasonable effort to make contractual or informal arrangements with their transportation customers, sales customers and others to obtain supplies or, as an alternative, to implement usage reductions, so that resorting to firm service reductions under § 59.73 (relating to emergency action) can be avoided, or the severity of supply or capacity disruption can be mitigated.

The purpose of these arrangements is to provide a means to minimize the potential of supply shortfalls that threaten public health and safety, and not to make up for inadequate performance by individual parties.

(c) Each natural gas emergency plan shall include provisions addressing:

- (1) Emergency load shedding.
- (2) Voluntary usage reductions, for example, reducing space or water heating temperatures to levels specified by the NGDC.
- (3) Mandatory usage reductions for certain customers consistent with § 59.73(c).
- (4) Issuance of periodic reports to the media concerning the existing natural gas emergency.
- (5) Notice to affected customers and NGSs of the expected initiation of emergency actions under § 59.73.
- (6) Customer and NGS delivery requirements that apply during the term of emergency action under § 59.73, regardless of customer-specific usage reductions that arise or may arise from end-use curtailments.
- (7) A procedure for focusing emergency measures to confined geographic or operational portions, segments or zones of the NGDC system where a natural gas emergency exists.
- (8) Procedures for establishing communications with electric system control area operators, if the NGDC provides gas service to electric generation stations.

(d) Each natural gas emergency plan shall specify the procedures the NGDC shall use to provide notices to affected customers, their NGSs and NGDCs. After the NGDC determines the appropriate response, the NGDC shall issue notices to affected customers, their NGSs and NGDCs as soon as reasonably possible. All notices shall be prepared consistent with the Commission's plain language policy. Notice to the public concerning usage reductions shall be designed to avoid confusion in geographical areas served by more than one NGDC.

§ 59.73. Emergency action.

(a) An emergency exists whenever the aggregate demand of firm service customers on an NGDC's system or confined segment of the system exceeds or threatens to exceed the gas supply or capacity that is actually and lawfully available to the NGDC to meet the demands, and the actual or threatened excess creates an immediate threat to the NGDC's system operating integrity with respect to Priority 1 customers as defined in subsection (i).

(b) If, in the sole judgement of the NGDC, there is sufficient time, the NGDC shall use reasonable business and operational efforts to: interrupt all interruptible services, issue operational flow orders, and call for voluntary usage reductions by all customers before taking any action under subsection (c). The NGDC shall take these three actions sequentially to the extent feasible.

(c) In the event of an emergency under subsection (a), the NGDC may require each commercial and industrial retail and transportation customer that is not a Priority 1 customer under subsection (i) to reduce its consumption of gas.

(1) The reduction required shall be determined by the utility without regard to priorities of use, as necessary to minimize the potential threat to public health and safety.

(2) The minimum authorized usage may not be lower than the minimum usage of firm service necessary for plant protection use.

(3) When all other service has been curtailed except for Priority 1 service and the NGDC continues to be unable to meet Priority 1 requirements, the NGDC shall exercise its judgment as to any further curtailment that may be necessary and shall utilize measures designed to minimize harm to customers if curtailments to plant protection use are found to be necessary.

(4) Consistent with its responsibility to maintain system integrity at all times, the NGDC shall restore service as soon as practicable to any gas-fired electric generation facility that is deemed critical to electric system reliability by the electrical system's control area operator.

(d) Mandatory reductions under subsection (c) shall be for a period specified by the NGDC until further notice. The NGDC may change a customer's authorized usage, upon notice, at any time during an emergency.

(e) Mandatory reductions under subsection (c) shall be for a maximum duration of 5 business days unless extended by Commission order. As an alternative to extending mandatory reductions under subsection (c), the Commission may order the NGDC to initiate priority-based curtailments under subsection (f).

(f) In determining whether to order the NGDC to initiate priority-based curtailments, the Commission will examine whether the NGDC did the following:

- (1) Interrupted all interruptible services.
- (2) Issued operational flow orders.
- (3) Called for voluntary usage reductions by all customers.

(g) Upon issuance of an order to initiate priority-based curtailments, the NGDC shall provide all affected customers the maximum notice possible, by means of telephone, fax or electronic data interchange, specifying the curtailment percentage of the customer's firm gas service and resulting allowance as may be the case.

(h) Upon issuance of an order to initiate priority-based curtailments, the available gas supplies to the NGDC shall be prorated, if practicable, among its customers according to the following priorities of use:

(1) Customers in a higher priority category will not be curtailed until all customers falling into a lower priority category have been restricted to plant protection use levels, unless operational circumstances or physical limitations warrant a different result.

(2) Where only a partial restriction of a classification is required, implementation shall be pro rata, to the extent practical under the circumstances, as set forth in the NGDC's tariff.

(i) Following are the priority categories, listed in descending order, pertaining to the curtailment of firm services:

- (1) *Priority 1.* Service for essential human needs use.
- (2) *Priority 2.* Firm services not included in essential human needs use.

(j) As part of its natural gas emergency plan, an NGDC may divide any or all of the priority of use categories in subsection (i) into subcategories.

§ 59.74. Utility liability.

(a) Each NGDC may restrict or discontinue service in accordance with this section and §§ 59.71—59.73 and

59.75 without thereby incurring any penalty or liability for any loss, injury or expense that may be sustained by the customer except when the restriction or discontinuation of service is as a result of the NGDC's willful or wanton misconduct.

(b) NGDC liability for actions taken under § 59.73 (relating to emergency action), or to a regulation, policy statement, directive or order issued by the Commission or an emergency order issued by the Governor shall be governed by the following principles:

(1) If an NGDC appropriates natural gas during an emergency action, the NGDC shall compensate the applicable entity, whether the customer or the customer's NGS, for the cost of lost, firm gas service. The compensa-

tion, in the aggregate, shall equal but not exceed the greater of: the city gate cost of the appropriated natural gas, including transportation charges up to the NGDC's city gate, or the reasonable cost actually paid by the customer for delivered substitute energy, as documented to the NGDC. NGDCs may provide compensation in kind only at the discretion of the affected customer or NGS.

(2) The NGDC may discontinue service, for the duration of an emergency, to a customer that continues to take gas in violation of the rules found in this subchapter.

[Pa.B. Doc. No. 01-1282-7. Filed for public inspection December 14, 2001, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 130]

Architectural and Industrial Maintenance Coatings

The Environmental Quality Board (Board) proposes to establish Chapter 130, Subchapter C (relating to architectural and industrial maintenance coatings) to read as set forth in Annex A.

The amendments propose to add definitions in § 130.302 for terms that are used in the substantive sections of Chapter 130 (relating to standards for products). Section 130.301 (relating to applicability) will apply to any person who supplies, sells, offers for sale, or manufactures architectural and industrial maintenance coatings for use in this Commonwealth. Section 130.303 (relating to standards) establishes volatile organic compound (VOC) content limits for those coatings. Section 130.304 (relating to container labeling requirements) establishes requirements related to labeling of coatings subject to this rule. Section 130.305 (relating to reporting requirements) establishes reporting requirements for products subject to this proposed rulemaking. Section 130.306 (relating to compliance provisions and test methods) provides for established test methods for coatings to determine compliance with this proposed rulemaking.

This notice is given under Board order at its meeting of October 16, 2001.

A. *Effective Date*

This proposed rulemaking will be effective immediately upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-1663, or Bo Reiley, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

C. *Statutory Authority*

This proposed rulemaking is being made under the authority of section 5 of the Air Pollution Control Act (35 P. S. § 4005), which grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. *Background and Purpose*

When ground-level ozone is present in concentrations in excess of the Federal health-based standard, public health is adversely affected. The Environmental Protection Agency (EPA) has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to

ambient ozone while engaged in activity that involves physical exertion. Though the symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health.

The purpose of this proposed rulemaking is to reduce the VOCs emitted from architectural and industrial maintenance (AIM) coatings. This proposed rulemaking is part of the Commonwealth's strategy to achieve and maintain the ozone standard throughout this Commonwealth. A Federal AIM coatings rule was promulgated in 1998. However, the Federal rule did not provide the expected cost-effective and creditable VOC emission reductions originally anticipated by this Commonwealth and many other states. To capture additional emission reductions, the Commonwealth is proposing to adopt this rulemaking, which is based on the Ozone Transport Commission (OTC) model rule, to reduce the allowable VOC content of AIM coatings. The Commonwealth has used the California Air Resources Board (CARB) regulations, the OTC model rule, and background material as a starting point and reviewed those documents, including specific emission reductions, for applicability in this Commonwealth. As a result, the Commonwealth's proposed rulemaking includes most, if not all, of the product categories covered in California, with limits effective at a later date than California. To maximize consistency, emission limits for specific product categories in many cases are identical to those used in California.

This proposed rulemaking sets specific VOC content limits, in grams per liter, for 46 AIM coating categories and requires more stringent VOC content limits than the Federal rule. Some of the limits are currently in effect in California and are known to be technologically feasible. Other limits in California have future effective dates. The proposed compliance date for the Commonwealth limits is January 1, 2005. Manufacturers would ensure compliance with the limits by reformulating coatings and substituting coatings with compliant coatings that are already on the market.

Manufacturers producing AIM coatings would be responsible for developing and distributing compliant coatings for sale at the retail and wholesale levels. In addition, any person who sells, supplies or offers for sale AIM coatings would also be held accountable. Consumers would not be affected by this proposed rulemaking in that, they should not notice any changes in the AIM coatings performance or quality. However, consumers may experience a cost increase for certain paint products. Cost data developed by E.H. Pechan & Associates indicate the cost per ton of VOC reductions under the proposed AIM regulation to be approximately \$6,400 per ton of reductions. Based on this estimate of cost and estimated average emission reductions of approximately 1.7 pounds of VOC per person, the average consumer could experience cost increases of approximately \$5.50 per year for AIM coatings. However, an analysis conducted by Aberdeen Proving Grounds indicates that low VOC coatings are available that will result in average savings of approximately \$1.76 per gallon compared with higher VOC coatings.

The proposed rulemaking contains VOC content requirements for a wide variety of AIM coatings, including graphic arts coatings, lacquers, primers and stains, to

name a few. It also contains administrative requirements for labeling and reporting. There is a reporting requirement, such that manufacturers may be required to submit information to the Commonwealth upon request. There are a number of test methods that would be used to demonstrate compliance with this proposed rulemaking. Some of these test methods include those promulgated by the EPA and South Coast Air Quality Management District of California. Enforcement of the coatings' VOC content limits and other requirements would be done by the Commonwealth. Because the Commonwealth in conjunction with other northeastern states has met over the past 18 months with representatives of National trade associations and related industries, it is important that these regulations be implemented consistently and uniformly. Any deviation from the regulations by altering the limits set forth in the proposed rulemaking may hinder the ability of manufacturers to comply with the regulations.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its July 26, 2001, meeting, the AQTAC recommended adoption of the proposed rulemaking. The AQTAC also recommends that the Department continue aggressive efforts with other states to support National standards for these coatings. In addition, the AQTAC is specifically seeking comments on whether the coating limits are achievable, whether the anticipated emission reductions are achievable, the increased costs to citizens of this Commonwealth, and whether averaging can be a compliance option.

The proposal was also reviewed by the Small Business Assistance Program Compliance Advisory Committee on July 25, 2001.

E. Summary of Regulatory Requirements

This proposed adoption of Chapter 130, Subchapter C, includes the following definitions of terms that will be used in the substantive provisions of the regulations. The new definitions include: "antifouling coating," "architectural coating," "bitumens," "bituminous roof coating," "bituminous roof primer," "bond breaker," "coating," "concrete curing compound," "dry fog coating," "exempt compound," "fire-retardant coating," "flat coating," "high-temperature coating," "industrial maintenance coating," "low-solids coating," "magnesite cement coating," "mastic texture coating," "metallic pigmented coating," "nonflat coating," "nonflat high-gloss coating," "pretreatment wash primer," "quick-dry enamel," "quick-dry primer, sealer, and undercoater," "recycled coating," "roof coating," "rust-preventive coating," "specialty primer, sealer and undercoater," "temperature-indicator safety coating," "VOC—volatile organic compound," "VOC content" and "wood preservative."

Proposed § 130.301 requires that persons who supply, sell, offer for sale or manufacture an architectural or industrial maintenance coating for use within this Commonwealth sell compliant coatings as required under this subchapter. Proposed § 130.303 sets forth the quantity of VOC per liter that cannot be exceeded for coatings that are sold, supplied, offered for sale or manufactured for sale in this Commonwealth. VOC content limits are established for nonspecialty coating categories and specialty coatings. The number of coating categories that are regulated under this rule is approximately 46. Proposed § 130.304 requires that each manufacturer of coatings subject to this rule shall supply specific information on the coating container in which the coating is sold or distributed. Some of the information that must be dis-

played includes date-code, VOC content and thinning recommendations, to name a few. Proposed § 130.305 requires that manufacturers shall submit annual reports to the Department, upon request by the Department, that specify the number of gallons sold in the State and the methods used by the manufacturer to calculate State sales. Proposed § 130.306 sets forth the method for calculating the VOC content of the coatings and the test methods, which are incorporated by reference, that are subject to the provisions of this proposed rulemaking.

This proposed rulemaking, if approved, will be submitted to the EPA as an amendment to the State Implementation Plan (SIP).

F. Benefits and Costs

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

Benefits

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will result in improved air quality by reducing ozone precursor emissions and encourage new technologies and practices, which will reduce emissions. The proposed rulemaking will also result in reduced levels of hazardous air pollutants (HAPs) throughout this Commonwealth. In addition, the proposed rulemaking will reduce citizen exposure to a variety of VOCs, including HAPs that are used in a variety of AIM coatings.

Compliance Costs

Under this proposed rulemaking it is estimated that the reduction of VOC content of the affected AIM coatings will cost approximately \$6,400 per ton of VOC emissions reduced. Based on this cost data and an average per capita AIM coating VOC emissions estimate, it is estimated that the average per capita coating cost increase under this proposed rulemaking will be approximately \$5.50 per year.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community with understanding the new requirements and how to comply with them. This will be accomplished through the Department's compliance assistance program.

Paperwork Requirements

The regulatory revisions will not increase the paperwork that is already generated by the normal course of business practices.

G. Sunset Review

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 29, 2001, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

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

I. *Public Comments.*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding this proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by February 22, 2002. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by February 22, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by February 22, 2002.

J. *Public Hearings.*

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held at 1 p.m. as follows:

January 15, 2002, Department of Environmental Protection, Southwest Regional Office, Waterfront A & B Conference Room, 400 Waterfront Drive, Pittsburgh, PA.

January 18, 2002, Department of Environmental Protection, Southcentral Regional Office, Susquehanna River Conference Room, 909 Elmerton Avenue, Harrisburg, PA.

January 23, 2002, Department of Environmental Protection, Southeast Regional Office, Main Conference Room, Lee Park, 555 North Lane, Conshohocken, PA.

Persons wishing to present testimony at a hearing are requested to contact Debra Failor at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons with a disability who wish to attend a hearing and require an auxiliary aide, service or other accommodation in order to participate should contact Debra Failor at (717) 787-4526, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

DAVID E. HESS,
Chairperson

Fiscal Note: 7-371. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 130. STANDARDS FOR PRODUCTS

Subchapter C. ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

Sec.

- 130.301. Applicability.
- 130.302. Definitions.
- 130.303. Standards.
- 130.304. Container labeling requirements.
- 130.305. Reporting requirements.
- 130.306. Compliance provisions and test methods.

§ 130.301. Applicability.

This subchapter applies to a person who supplies, sells, offers for sale or manufactures an architectural or industrial maintenance coating for use within this Commonwealth, as well as a person who applies or solicits the application of an architectural or industrial maintenance coating within this Commonwealth except for:

- (1) An architectural or industrial maintenance coating that is sold or manufactured for use outside of this Commonwealth or for shipment to other manufacturers for reformulation or repackaging.
- (2) An aerosol coating product.
- (3) An architectural or industrial maintenance coating that is sold in a container with a volume of 1 liter (1.057 quart) or less.

§ 130.302. Definitions.

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

Antifouling coating—A coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating shall be registered with the EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C.A. §§ 136—136y).

Architectural coating—A coating to be applied to stationary structures or their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars and automobiles, and adhesives are not considered architectural coatings for the purposes of this rule.

Bitumens—Black or brown materials including, but not limited to, asphalt, tar, pitch and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

Bituminous roof coating—A coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

Bituminous roof primer—A primer that incorporates bitumens that is labeled and formulated exclusively for roofing.

Bond breaker—A coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

Coating—An architectural or industrial maintenance coating or a material applied onto or impregnated into a substrate for protective, decorative or functional purposes. The materials include, but are not limited to, paints, varnishes, sealers and stains.

Concrete curing compound—A coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

Dry fog coating—A coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

Exempt compound—A compound identified as exempt under the definition of VOC that is applicable to this section. Exempt compounds content of a coating shall be determined by EPA Reference Method 24 or South Coast Air Quality Management District (SCAQMD) Method 303-91 (revised February 1993), incorporated by reference in § 130.306(e)(10) (relating to compliance provisions and test methods).

Fire-retardant coating—A coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency approved by building code officials for use in bringing building and construction materials into compliance with Federal, State and local building code requirements.

(i) The fire-retardant coating and the testing agency shall be approved by building code officials.

(ii) The fire-retardant coating shall be tested in accordance with ASTM E 84-99, incorporated by reference in § 130.306(e)(7).

Flat coating—A coating that is not defined under any other definition in this subchapter and that registers gloss less than 15 on an 85-degree meter or less than 5 on a 60° meter according to ASTM D 523-89 (1999), incorporated by reference in § 130.306(e)(3).

High-temperature coating—A high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

Industrial maintenance coating—A high performance architectural coating, including primers, sealers, undercoaters, intermediate coats and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions and labeled as specified in § 130.304(a)(4) (relating to container labeling requirements):

(i) Immersion in water, wastewater or chemical solutions (aqueous and nonaqueous solutions), or chronic exposure of interior surfaces to moisture condensation.

(ii) Acute or chronic exposure to corrosive, caustic or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions.

(iii) Repeated exposure to temperatures above 121°C (250°F).

(iv) Repeated (frequent) heavy abrasion, including mechanical wear and repeated scrubbing with industrial solvents, cleansers or scouring agents.

(v) Exterior exposure of metal structures and structural components.

Low-solids coating—A coating containing 0.12 kilogram or less of solids per liter (1 pound or less of solids per gallon) of coating material.

Magnesite cement coating—A coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

Mastic texture coating—A coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

Metallic pigmented coating—A coating containing at least 48 grams of elemental metallic pigment per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with SCAQMD Method 318-95, incorporated by reference in § 130.306(e)(4).

Nonflat coating—A coating that is not defined under any other definition in this subchapter and that registers a gloss of 15 or greater on an 85-degree meter and 5 or greater on a 60-degree meter according to ASTM D 523-89 (1999), incorporated by reference in § 130.306(e)(3).

Nonflat high gloss coating—A nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM D 523-89 (1999), incorporated by reference in § 130.306(e)(3).

Pretreatment wash primer—A primer that contains a minimum of 0.5% acid, by weight, when tested in accordance with ASTM D 1613-96, incorporated by reference in § 130.306(e)(5), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

Quick-dry enamel—A nonflat coating that is labeled as specified in § 130.304(a)(8) and that is formulated to have the following characteristics:

(i) Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 and 27°C (60° and 80°F).

(ii) When tested in accordance with ASTM D 1640-95, incorporated by reference in § 130.306(e)(6), sets to touch in 2 hours or less, is tack-free in 4 hours or less, and dries hard in 8 hours or less by the mechanical test method.

(iii) Has a dried film gloss of 70 or above on a 60-degree meter according to ASTM D523-89.

Quick-dry primer, sealer and undercoater—A primer, sealer or undercoater that is dry to the touch in 30 minutes and can be recoated in 2 hours when tested in accordance with ASTM D 1640-95, incorporated by reference in § 130.306(e)(6).

Recycled coating—An architectural coating formulated so that at least 50% of the total weight consists of secondary and postconsumer coating, with at least 10% of the total weight consisting of postconsumer coating.

Roof coating—A nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radia-

tion. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, will not be considered in this category, but will be considered to be in the metallic pigmented coatings category.

Rust-preventive coating—A coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in § 130.304(a)(6).

Specialty primer, sealer and undercoater—A coating labeled as specified in § 130.304(a)(7) and that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM D 4214-98, incorporated by reference in § 130.306(e)(7).

Temperature-indicator safety coating—A coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).

VOC—Volatile organic compound—For the purposes of this subchapter, the term means any volatile compound containing at least one atom of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates and ammonium carbonate, and:

(i) Excluding the following:

- (A) Methane.
- (B) Methylene chloride (dichloromethane).
- (C) 1,1,1-trichloroethane (methyl chloroform).
- (D) trichlorofluoromethane (CFC-11).
- (E) Dichlorodifluoromethane (CFC-12).
- (F) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113).
- (G) 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114).
- (H) Chloropentafluoroethane (CFC-115).
- (I) Chlorodifluoromethane (HCFC-22).
- (J) 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123).
- (K) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124).
- (L) 1,1-dichloro-1-fluoroethane (HCFC-141b).
- (M) 1-chloro-1,1-difluoroethane (HCFC-142b).
- (N) Trifluoromethane (HFC-23).
- (O) Pentafluoroethane (HFC-125).
- (P) 1,1,2,2-tetrafluoroethane (HFC-134).
- (Q) 1,1,1,2-tetrafluoroethane (HFC-134a).
- (R) 1,1,1-trifluoroethane (HFC-143a).
- (S) 1,1-difluoroethane (HFC-152a).

(T) Cyclic, branched or linear, completely methylated siloxanes.

(ii) Excluding the following classes of perfluorocarbons:

- (A) Cyclic, branched or linear, completely fluorinated alkanes.
- (B) Cyclic, branched or linear, completely fluorinated ethers with no unsaturations.
- (C) Cyclic, branched or linear, completely fluorinated tertiary amines with no unsaturations.

(D) Sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds only to carbon and fluorine.

(iii) Excluding the following low-reactive organic compounds which have been exempted by the U.S. EPA:

- (A) Acetone.
- (B) Ethane.
- (C) Parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).
- (D) Perchloroethylene.
- (E) Methyl acetate.

VOC content—The weight of VOC per volume of coating, calculated according to the procedures specified in § 130.306(a).

Wood preservative—A coating labeled and formulated to protect exposed wood from decay or insect attack, that is registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act.

§ 130.303. Standards.

(a) *VOC content limits.* Except as provided in subsections (b), (c) and (h), a person after January 1, 2005, may not:

(1) Manufacture, blend or repackage for sale within this Commonwealth a coating subject to this subchapter.

(2) Supply, sell or offer for sale within this Commonwealth a coating subject to this subchapter.

(3) Solicit for application or apply within this Commonwealth, an architectural or industrial maintenance coating with a VOC content in excess of the corresponding limit specified in Table 1.

(b) *Most restrictive VOC limit.* If on the container of an architectural or industrial maintenance coating, or a label or sticker affixed to the container, or in sales, advertising or technical literature supplied by a manufacturer or a person acting on their behalf, a representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 1, then the most restrictive VOC content limit applies. This provision does not apply to the following coating categories:

- (1) Lacquer coatings (including lacquer sanding sealers).
- (2) Metallic pigmented coatings.
- (3) Shellacs.
- (4) Fire-retardant coatings.
- (5) Pretreatment wash primers.
- (6) Industrial maintenance coatings.
- (7) Low-solids coatings.
- (8) Wood preservatives.
- (9) High-temperature coatings.
- (10) Temperature-indicator safety coatings.
- (11) Antenna coatings.
- (12) Antifouling coatings.
- (13) Flow coatings.
- (14) Bituminous roof primers.
- (15) Specialty primers, sealers and undercoaters.

(c) *Sell-through of architectural or industrial maintenance coatings.* An architectural or industrial maintenance coating manufactured prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) may be sold, supplied or offered for sale until _____ (*Editor's Note:* The blank refers to a date 3 years after the effective date of adoption of this proposal.). In addition, an architectural or industrial maintenance coating manufactured before _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) may be applied, both before and after _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.) so long as the architectural or industrial maintenance coating complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to an architectural or industrial maintenance coating that does not display the date or date code required by § 130.304(a) (relating to container labeling requirements).

(d) *Painting practices.* Architectural or industrial maintenance coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging or other means, shall be closed when not in use. These containers include, but are not limited to, drums, buckets, cans, pails, trays or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

(e) *Thinning.* A person who applies or solicits the application of an architectural or industrial maintenance coating may not apply a coating that is thinned to exceed the applicable VOC limit specified in Table 1.

(f) *Rust-preventive coatings.* A person may not apply or solicit the application of a rust-preventive coating for industrial use, unless the rust-preventive coating complies with the industrial maintenance coating VOC limit specified in Table 1.

(g) *Coatings not listed in Table 1.* For an architectural or industrial maintenance coating that does not meet the definitions for the specialty coatings categories listed in Table 1, the VOC content limit shall be determined by classifying the coating as a flat coating or a nonflat coating, based on its gloss as defined in § 130.302 (relating to definitions), and the corresponding flat or nonflat coating limit applies.

(h) *Lacquers.* Notwithstanding the provisions of subsection (a), a person or facility may add up to 10% by volume of VOC to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65°F, at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

Table 1

VOC Content Limits for Architectural and Industrial Maintenance Coatings

The VOC content limits are effective on January 1, 2005, and are expressed in grams of VOC per liter¹ of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. "Manufacturers' maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

¹ Conversion factor: 1 pound VOC per gallon (U.S.) = 119.95 grams per liter.

<i>Coating Category</i>	<i>VOC Content Limit</i>
<i>Nonspecialty Coatings</i>	
Flat Coatings	100
Nonflat Coatings	150
Non-flat-High-Gloss Coatings	250
<i>Specialty Coatings</i>	
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
Clear Wood Coatings	
• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
• Varnishes	350
Concrete Curing Compounds	350
Dry Fog Coatings	400
Faux Finishing Coatings	350
Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350
Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
Industrial Maintenance Coatings	340
Low-Solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
Pretreatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust-Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

§ 130.304. Container labeling requirements.

(a) Effective January 1, 2005, each manufacturer of architectural or industrial maintenance coatings subject to this subchapter shall display the information listed in paragraphs (1)—(8) on the coating container (or label) in which the coating is sold or distributed.

(1) *Date code.* The date the architectural or industrial maintenance coating was manufactured, or a date code

representing the date, shall be indicated on the label, lid or bottom of the container. If the manufacturer uses a date code for a coating, the manufacturer shall file an explanation of each code with the Department upon _____. (*Editor's Note:* The blank refers to the effective date of adoption of this proposal.)

(2) *Thinning recommendations.* A statement of the manufacturer's recommendation regarding thinning of the architectural or industrial maintenance coating shall be indicated on the label or lid of the container. This requirement does not apply to the thinning of architectural or industrial maintenance coatings with water. If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

(3) *VOC content.* Each container of a coating subject to this subchapter shall display either the maximum or the actual VOC content of the coating, as supplied, including the maximum thinning as recommended by the manufacturer. VOC content shall be displayed in grams of VOC per liter of coating. VOC content displayed shall be calculated using product formulation data, or shall be determined using the test methods in § 130.306 (relating to compliance provisions and test methods). The equations in § 130.306(a)(1) and (2) shall be used to calculate VOC content.

(4) *Industrial maintenance coatings.* In addition to the information specified in paragraphs (1)–(3), each manufacturer of an industrial maintenance coating subject to this subchapter shall display on the label or the lid of the container in which the coating is sold or distributed one or more of the following descriptions:

- (i) "For industrial use only."
- (ii) "For professional use only."
- (iii) "Not for residential use."
- (iv) "Not intended for residential use."

(5) *Clear brushing lacquers.* The labels of clear brushing lacquers shall prominently display the statements "For brush application only," and "This product must not be thinned or sprayed."

(6) *Rust-preventive coatings.* The labels of rust-preventive coatings shall prominently display the statement "For Metal Substrates Only."

(7) *Specialty primers, sealers and undercoaters.* The labels of specialty primers, sealers and undercoaters shall prominently display one or more of the following descriptions:

- (i) "For blocking stains."
- (ii) "For fire-damaged substrates."
- (iii) "For smoke-damaged substrates."
- (iv) "For water-damaged substrates."
- (v) "For excessively chalky substrates."

(8) *Quick-dry enamel.* The labels of quick-dry enamels shall prominently display the words "Quick Dry" and the dry-hard time.

(9) *Nonflat high gloss coatings.* The labels of nonflat high gloss coatings shall prominently display the words "High Gloss."

§ 130.305. Reporting requirements.

Upon request by the Department, each manufacturer of an architectural or industrial maintenance coating subject to this subchapter shall, on or before April 1 of each

calendar year beginning in the year 2006, submit an annual report to the Department. The report shall specify the number of gallons of coating sold in the State during the preceding calendar year and shall describe the method used by the manufacturer to calculate State sales.

§ 130.306. Compliance provisions and test methods.

(a) *Calculation of VOC content.* For the purpose of determining compliance with the VOC content limits in § 130.303 Table 1 (relating to VOC content limits for architectural and industrial maintenance coatings), the VOC content of a coating shall be determined by using the procedures described in this subsection or subsection (b), as appropriate. The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

(1) With the exception of low solids coatings, determine the VOC content in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of water and exempt compounds. Determine the VOC content using Equation 1 as follows:

$$\text{Equation 1: VOC Content} = \frac{(Ws - Ww - Wec)}{(Vm - Vw - Vec)}$$

Where:

- VOC content = grams of VOC per liter of coating
- Ws = weight of volatiles, in grams
- Ww = weight of water, in grams
- Wec = weight of exempt compounds, in grams
- Vm = volume of coating, in liters
- Vw = volume of water, in liters
- Vec = volume of exempt compounds, in liters

(2) For low solids coatings, determine the VOC content in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds. Determine the VOC content using Equation 2 as follows:

$$\text{Equation 2: VOC Content (ls)} = \frac{(Ws - Ww - Wec)}{(Vm)}$$

Where:

- VOC Content (ls) = the VOC content of a low solids coating in grams per liter of coating
- Ws = weight of volatile, in grams
- Ww = weight of water, in grams
- Wec = weight of exempt compounds, in grams
- Vm = volume of coating, in liters

(b) *VOC content of coatings.* To determine the physical properties of a coating in order to perform the calculations in subsections (a) and (b), the reference method for VOC content is EPA Reference Method 24, incorporated by reference in this section, except as provided in subsections (c) and (d). An alternative method to determine the VOC content of coatings is SCAQMD Method 304-91 (revised February 1996), incorporated by reference in this section. The exempt compounds content shall be determined by SCAQMD Method 303-91 (revised August 1996), incorporated by reference in subsection (d)(10). To determine the VOC content of a coating, the manufacturer may use EPA Reference Method 24, or an alternative method, as provided in subsection (c), formulation data, or another reasonable means for predicting that the coating has been formulated as intended—for example, quality assurance checks and recordkeeping. If there are inconsistencies between the results of a Reference Method 24 test and another means for determining VOC content, the Reference Method 24 results will govern, except when

an alternative method is approved as specified in § 130.306(c). The Department may require the manufacturer to conduct a Reference Method 24 analysis.

(c) *Alternative test methods.* Other test methods demonstrated to provide results that are acceptable for purposes of determining compliance with subsection (b) may be used if approved in writing by the Department and the EPA.

(d) *Methacrylate traffic coating markings.* Analysis of methacrylate multi-component coatings used as traffic marking coatings shall be conducted according to a modification of EPA Reference Method 24 (found at 40 CFR 59, Subpart D, Appendix A), incorporated by reference in subsection (e)(13)). This method has not been approved for methacrylate multicomponent coatings used for other purposes than as traffic marking coatings or for other classes of multicomponent coatings.

(e) *Test methods.* The following test methods are incorporated herein by reference and shall be used to test coatings subject to the provisions of this rule:

(1) *Flame spread index.* The flame spread index of a fire-retardant coating shall be determined by ASTM E 84-99, "Standard Test Method for Surface Burning Characteristics of Building Materials."

(2) *Fire-resistance rating.* The fire-resistance rating of a fire-resistive coating shall be determined by ASTM E 119-98, "Standard Test Methods for Fire Tests of Building Construction Materials."

(3) *Gloss determination.* The gloss of a coating shall be determined by ASTM D 523-89 (1999), "Standard Test Method for Specular Gloss."

(4) *Metal content of coatings.* The metallic content of a coating shall be determined by SCAQMD Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," SCAQMD "Laboratory Methods of Analysis for Enforcement Samples."

(5) *Acid content of coatings.* The acid content of a coating shall be determined by ASTM D 1613-96, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products."

(6) *Drying times.* The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM D 1640-95, "Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature," (see section § 130.302, QuickDry Enamel and Quick-Dry Primer, Sealer, and Undercoater). The tack-free time of a quick-dry enamel coating shall be determined by the mechanical test method of ASTM D 1640-95.

(7) *Surface chalkiness.* The chalkiness of a surface shall be determined using ASTM D 4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films."

(8) *Exempt compounds—siloxanes.* Exempt compounds that are cyclic, branched or linear, completely methylated siloxanes, shall be analyzed as exempt compounds for compliance with this section by BAAQMD Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials," Bay Area Air Quality Management District (BAAQMD) Manual of Procedures, Volume III, adopted November 6, 1996.

(9) *Exempt compounds—parachlorobenzotrifluoride (PCBTF).* The exempt compound parachlorobenzotrifluoride shall be analyzed as an exempt compound for

compliance with this section by BAAQMD Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride," found in BAAQMD Manual of Procedures, Volume III, adopted December 20, 1995.

(10) *Exempt compounds.* The content of compounds exempt under EPA Method 24 shall be analyzed by SCAQMD Method 303-91 (Revised 1993), "Determination of Exempt Compounds," found in SCAQMD "Laboratory Methods of Analysis for Enforcement Samples."

(11) *VOC content of coatings.* The VOC content of a coating shall be determined by EPA Method 24 found in "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings."

(12) *Alternative VOC content of coatings.* The VOC content of coatings may be analyzed by either EPA Reference Method 24 or SCAQMD Method 304-91 (Revised 1996), "Determination of Volatile Organic Compounds (VOC) in Various Materials, found in "SCAQMD Laboratory Methods of Analysis for Enforcement Samples."

(13) *Methacrylate traffic marking coatings.* The VOC content of methacrylate multicomponent coatings used as traffic marking coatings shall be analyzed by the procedures in 40 CFR Part 59, Subpart D, Appendix A, "Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings," (September 11, 1998).

[Pa.B. Doc. No. 01-2226. Filed for public inspection December 14, 2001, 9:00 a.m.]

[25 PA. CODE CHS. 260a—265a AND 270a] Hazardous Waste Management

The Environmental Quality Board (Board) proposes to amend Chapters 260a—265a and 270a to update the hazardous waste management program. These amendments are proposed to read as set forth in Annex A.

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

A. Effective Date

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

B. Contact Persons

For further information contact Rick Shipman, Division of Hazardous Waste Management, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-6239; or Kurt Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments to the proposed rulemaking appears in Section I. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The proposed amendments are available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of sections 105, 401—403 and 501 of the Solid

Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.401—6018.403 and 6018.501); sections 105, 402 and 501 of The Clean Streams Law (35 P. S. §§ 691.105, 691.402 and 691.501); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20). Under sections 105, 401—403 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety and welfare, and the environment of this Commonwealth. Sections 105, 402 and 501 of The Clean Streams Law grant the Board the authority to adopt regulations that are necessary to protect the waters of this Commonwealth from pollution. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

D. Background and Purpose

The hazardous waste management regulations were amended at 29 Pa.B. 2367 (May 1, 1999) in accordance with the Regulatory Basics Initiative (RBI) and Executive Order 1996-1. Since that time, the Commonwealth's hazardous waste management program received final authorization for changes made to its hazardous waste program under the Resource Conservation and Recovery Act from the United States Environmental Protection Agency (EPA) (65 CFR 57734). This proposed rulemaking provides the opportunity to make any changes necessary to update that program authorization.

In addition, the Department now has over 2 years experience implementing these regulations. Several of the changes contained in this proposed rulemaking were developed to address issues raised since the RBI rulemaking and correct problems identified over the past 2 years.

E. Summary of Regulatory Requirements

The proposed amendments generally fall into one of five categories: codification of a SWMA requirement that is different than or broader than the Federal requirements incorporated by reference; restoration of a regulatory provision that was deleted in the RBI rulemaking; clarification of an ambiguous requirement; clarification of a manifesting requirement; and correction of a typographical error. The specific changes in these categories are summarized as follows.

1. Codification of a statutory requirement.

The Department has a general policy not to duplicate statutory definitions or provisions in regulations unless a compelling reason exists to do so. The hazardous waste regulations contain provisions that incorporate by reference large portions of the Federal hazardous waste regulations. The controlling statutory authority in the Commonwealth is the SWMA. However, when the SWMA and the Federal regulations touch on the same subject, the SWMA governs that subject in this Commonwealth. As a result, the Commonwealth hazardous waste regulations contain some provisions that duplicate SWMA requirements where the Federal regulations vary from the commands of the SWMA. In addition, there are some subjects that the SWMA explicitly regulates, and on which the Federal regulations are silent. The proposed rulemaking duplicates SWMA provisions in two instances. This duplication is necessary to eliminate confusion over the incorporation by reference of contradictory Federal regulations and to establish requirements when the Federal regulations are silent. The first is in § 260a.10 (relating to definitions) where the proposed rulemaking

adds the definition of "treatment." The term has different definitions in section 103 of the SWMA (35 P. S. § 6018.103) and 40 CFR 260.10 (relating to definitions). Although the substance of the two definitions is very similar, the actual wording is different, primarily in terms of word order. The proposed definition follows the SWMA language.

The second is in § 263a.13(b)(4) and (j) (relating to licensing). In accordance with section 403(b) of the SWMA, the proposed rulemaking adds the requirement that a transporter of hazardous waste prepare and carry a preparedness, prevention and contingency (PPC) plan to address potential discharges or spills of hazardous waste. The incorporated Federal regulations do not contain that requirement.

2. Restoration of provisions that were deleted in the May 1999 RBI rulemaking.

Several of the changes in the proposed rulemaking reinstate requirements that were part of the Commonwealth hazardous waste program prior to the May 1999 RBI rulemaking. Because of the general approach of broadly incorporating the Federal hazardous waste regulations by reference, some existing regulations that helped to clarify how the program operates were inadvertently deleted. Generally speaking, these requirements remain in effect based on the requirements of the SWMA and the Department's interpretation of the hazardous waste regulations. Having them reinstated in the regulations serves to clarify the Department's approach to the hazardous waste program and inform the regulated community of proper compliance methods. In several cases, the regulated community and regional Department staff have noted the problems caused by the absence of these long-standing provisions.

An example of this category of changes is in § 261a.3 (relating to definition of "hazardous waste"). The proposed amendments reinstate the requirement to manage waste as hazardous until waste determination is completed. The requirement for generators of solid waste to make a determination as to whether or not the waste is hazardous is found at 40 CFR 262.11 (relating to hazardous waste generation). It is silent, however, on the issue of management of the waste until the determination is complete. Reinstating this requirement in the regulation establishes a firm position to what would otherwise be an ambiguous provision in the regulations.

There have been many inquiries from the regulated community and questions from Department personnel about when spills must be reported. The proposed § 262a.43 (relating to additional reporting) reestablishes the conditions, amounts, standards and procedures for reporting spills and discharges of hazardous waste and hazardous materials. This section also restores the provision that a Department official may authorize immediate removal of spilled hazardous wastes or materials if necessary to protect the health and safety of the public and the environment.

Reinstating the following provisions accomplishes similar goals: § 262a.11 (relating to hazardous waste determination) clarifies that the Department retains the independent authority to make a waste determination; § 262a.12(b)(1)(iv) (relating to EPA identification numbers) requires subsequent notification when a generator's facility class changes; § 262a.12(b)(2) explicitly states that a generator is only allowed to offer hazardous waste to a Department-licensed transporter; § 263a.13(j) requires a copy of the contingency plan to be on a hazard-

ous waste transport vehicle; § 263a.26(c) (relating to assessment of penalties) notes that the penalty for falsification is a minimum of \$1,000 (rather than a flat \$1,000); § 265a.13 (relating to general and generic waste analysis) clarifies that the report that must be submitted is a "Module 1" report; and § 270a.60(a) (relating to permits by rule) notes that an owner or operator must give notice to the Department prior to operating under a permit by rule.

3. *Clarification of ambiguous requirements.*

The third broad category of proposed amendments addresses ambiguous requirements identified during the implementation of the RBI regulations over the past 2 years. These changes do not, however, have pre-RBI counterparts that the Department can reinstate in the proposed amendments.

Several of the proposed amendments in this category relate to containment and contingency plans. Section 403(b) of the SWMA states:

(b) It shall be unlawful for any person or municipality who generates, transports, stores, treats or disposes of hazardous waste to fail to:

* * * * *

(10) Develop and implement contingency plans for effective action to minimize and abate hazards from any treatment, storage, transportation or disposal of any hazardous waste.

(11) Maintain such operation, train personnel, and assure financial responsibility for such storage, treatment or disposal operations to prevent adverse effects to the public health, safety and welfare and to the environment and to prevent public nuisances.

(12) Immediately notify the department and the affected municipality or municipalities of any spill or accidental discharge of such waste in accordance with a contingency plan approved by the department and take immediate steps to contain and clean up the spill or discharge.

The Department has received several inquiries from regulated entities regarding compliance with these requirements. Therefore, this proposed rulemaking contains new language that clarifies how a person can comply with the containment and contingency plan requirements of the SWMA.

First, proposed § 262a.34 (relating to accumulation time) requires secondary containment for generator storage of hazardous waste in containers. Second, § 263a.12 (relating to transfer facility requirements) adds proposed requirements for secondary containment and PPC plan preparation for hazardous waste transfer facilities. The proposed amendments accomplish this through reference to § 263a.13(b)(4).

The proposed amendment to § 264a.97 (relating to general groundwater monitoring requirements) specifies the frequency of the analyses required by that section. The proposed amendment eliminates setback requirements contained in § 264a.173(2) (relating to management of containers) for reactive or ignitable waste. This provision, which is not mandated, created an arbitrary distance requirement where safe management could allow a closer storage distance, and duplicated certain fire safety requirements (For example, see 37 Pa. Code § 13.1 (relating to relative location to property)).

The proposed rulemaking deletes § 265a.175 (relating to containment and collection system). This section is

redundant since the Federal containment and collection system requirements are already incorporated by reference for interim status facilities in § 265a.179 (relating to containment).

The proposed rulemaking adjusts the fee schedule for permit modifications by amending § 270a.3 (relating to payment of fees). The amendment is proposed because Class 2 permit modifications are generally much less complex than Class 3 modifications, which demand less time and resources from the Department for review. Appendix I to 40 CFR 270.42 (relating to permit modification at the request of the permittee) contains tables classifying the various types of permit modifications as Class 1, 2 or 3. These tables are incorporated by reference in § 270a.1(a) (relating to incorporation by reference, scope and applicability).

Proposed amendments to § 270a.51 (relating to continuation of existing permits) clarify when an expired permit continues in effect. This language is needed since the Federal counterpart in 40 CFR 270.51 (relating to continuation of expired permits) explicitly applies only to permits issued by the EPA. The proposed amendment matches the Federal regulation and will clarify this issue.

The proposed amendments to § 270a.60 eliminate the application of siting criteria for permit-by-rule facilities. These proposed amendments are contained in § 270a.60(b)(2)(ii), (3)(ii), (4)(ii) and (5)(ii). Permits-by-rule are generally intended to assure proper management of hazardous waste without causing overly burdensome regulation. If an issue arises regarding siting of a particular permit-by-rule facility, the Department retains the authority in § 270a.60(a) to require an owner or operator to obtain an individual permit for the facility. Under § 264a.18 (relating to location standards), the siting criteria would apply to that permit.

Finally, the proposed rulemaking eliminates the separate exceptions to the "blanket substitution of terms" contained in §§ 262a.55, 262a.56 and 262a.57 (relating to exception report; annual reports; and recordkeeping) by deleting those sections and replacing them with a new § 262a.50 (relating to applicability) that contains the "blanket exclusion of terms."

4. *Manifest completion requirements or clarifications.*

The fourth category of changes in the proposed rulemaking are changes addressing the administration of the manifest program for tracking the movement of hazardous waste in this Commonwealth. This series of proposed amendments is designed to clarify ambiguous requirements for all parties involved, streamline the manifesting process and ensure that the Department receives proper notification in a timely fashion.

First, the proposed change to § 262a.20(1) (relating to general requirements) clarifies that a generator does not need to send a generator copy of the manifest to the Department unless specifically required to do so. Section 262a.21 (relating to acquisition of manifests) requires Commonwealth generators of hazardous waste to use a Commonwealth manifest if the destination state for the hazardous waste does not require use of a manifest. This proposed amendment is important for tracking the waste while it remains within this Commonwealth. Several amendments are proposed to § 262a.23 (relating to use of the manifest). These proposed amendments require legible information on the manifest, clarify submission requirements for Commonwealth generators when the destination facility is out-of-State and prohibit alteration of the Manifest Tracking Number.

The proposed amendment to § 263a.12(4) clarifies the responsibilities of hazardous waste transporters when a shipment is transferred from one transporter to another at a transfer facility. This is another proposed amendment identified by Department staff as necessary to implement the hazardous waste program.

The proposed amendments to § 263a.20 (relating to manifest system) give specific manifest handling guidance to subsequent transporters of hazardous waste. The proposed amendment to § 263a.21 (relating to compliance with the manifest) requires a transporter to accept only complete manifests from a hazardous waste generator and prohibits alteration of the Manifest Tracking Number. Finally, the proposed amendment to § 264a.71 (relating to use of the manifest system) requires use of a Commonwealth manifest, accounts for bulk shipment discrepancies and requires legible information by a permitted facility; the proposed amendment to § 265a.71 (relating to use of the manifest system) contains the same requirements for an interim status facility.

5. *Typographical errors*

Several sections of the May 1999 RBI rulemaking contained minor typographical errors or omissions. Rather than submit a separate rulemaking for minor corrections, the Department decided to wait to make these minor changes until a broader rulemaking package was developed to update the hazardous waste program. These errors or omissions are corrected by this proposed rulemaking. The proposed rulemaking contains corrections to §§ 263a.24(b), 264a.83(a)(2) and (3), 270a.42, 270a.60(b)(1)(iv) and (5), 270a.62, 270a.66, 270a.81 and 270a.83.

F. *Benefits, Costs and Compliance*

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

Benefits

The proposed amendments will clarify some ambiguous provisions, eliminate redundant provisions and eliminate typographical errors. The proposed amendments will also provide a basis to solicit formal comment from the EPA for changes required for approval of the regulations in an update application for State authorization of the hazardous waste program.

Compliance Costs

The proposed amendments are clarifications and corrections; there are no new requirements being proposed. As a result, there are no additional costs imposed. In some cases, such as the clarification that certain manifest copies do not need to be submitted to the Department, there may be cost savings to the regulated community.

Compliance Assistance Plan

As with previous hazardous waste management regulations, the Department's compliance assistance efforts will take three forms. Following promulgation as final-form rulemaking, the Department will prepare a fact sheet specifically addressing certain changes made by the proposed amendments. The Department will also continue to work with the regulated community to explain impacts from the proposed rulemaking and necessary operational changes to remain in compliance. Information concerning these proposed amendments and necessary technical guidance documents will also be available on the Department's website.

Paperwork Requirements

The proposed amendments will result in a net reduction in paperwork requirements because the clarifying provision included states that a hazardous waste generator is no longer required to submit generator copies of manifests to the Department. Other proposed amendments do not affect paperwork requirements.

G. *Sunset Review*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 29, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

I. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17105-2301). Comments received by facsimile will not be accepted. Comments, suggestions or objections must be received by January 14, 2002. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by January 14, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal shall be included in each transmission. Comments submitted electronically shall be received by the Board by January 14, 2002.

DAVID E. HESS,
Chairperson

Fiscal Note: 7-364. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 260a. HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

Subchapter B. DEFINITIONS

§ 260a.10. Definitions.

A term defined in this section replaces the definition of the term in 40 CFR 260.10, or, in situations for which no term exists in 40 CFR 260.10, the term shall be defined in accordance with this section.

* * * * *

Treatment—A method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of waste to neutralize the waste or to render the waste nonhazardous, safer for transport, suitable for recovery, suitable for storage, or reduced in volume.

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 261a.3. Definition of "hazardous waste."

(a) 40 CFR 261.3(c)(2)(ii)(C) (relating to certain non-wastewater residues such as slag resulting from HTMR processing of K061, K062 or F006 waste) is not incorporated by reference.

(b) In addition to the requirements incorporated by reference, when it is not immediately possible to determine if a material will be a hazardous waste, the material shall be managed as a hazardous waste until the determination is made that indicates it is not a hazardous waste.

§ 261a.5. Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

* * * * *

(b) In addition to the requirements incorporated by reference, a conditionally exempt small quantity generator may not dispose of hazardous waste in a municipal or residual waste landfill in this Commonwealth.

* * * * *

CHAPTER 262a. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 262a.11. Hazardous waste determination.

In addition to the requirements incorporated by reference, a determination that a waste is not

hazardous under 40 CFR 262.11 (relating to hazardous waste determination) does not preclude the Department from determining the waste to be hazardous, using the characteristics and testing methods set forth in 40 CFR Part 261 (relating to identification and listing of hazardous waste).

§ 262a.12. EPA identification numbers.

* * * * *

(b) In addition to the requirements incorporated by reference [,]:

[(a)] (1) A generator shall submit a subsequent notification to the Department if:

[(1)] (i) * * *

[(2)] (ii) * * *

[(3)] (iii) * * *

[(4)] (iv) The type of regulated activity that takes place at the generator facility changes, or the generator's facility class changes.

(2) A generator shall offer a shipment of hazardous waste only to a transporter with a valid license issued by the Department.

Subchapter B. MANIFEST

§ 262a.20. General requirements.

40 CFR 262.20 [(a)—] (b) and (c) (relating to general requirements) is not incorporated by reference. In addition to the requirements incorporated by reference, a generator shall:

(1) Complete the manifest form in its entirety and distribute manifest copies in accordance with the instructions [included with] for the manifest [.], except that generators need not submit copies of manifests to the Department unless required by § 262a.23(a)(2) (relating to use of the manifest).

* * * * *

§ 262a.21. Acquisition of manifests.

(a) The substitution of terms in § 260a.3(a)(5) (relating to terminology and citations related to Federal regulations) does not apply to 40 CFR 262.21 (relating to acquisition of manifests).

(b) In addition to the requirements incorporated by reference, a generator shipping hazardous waste to a facility in a state that does not require use of its own state manifest shall use the Department's manifest.

§ 262a.23. Use of the manifest.

(a) In addition to the requirements incorporated by reference:

(1) The generator shall print or type his name and enter the date of shipment in the designated space on the manifest.

(2) If the out-of-state manifest does not include a generator-state [copies which would] copy to be submitted to the Department by the out-of-State designated facility, the generator shall submit [copies] a complete, legible copy, such as [photocopies] a photocopy, of the manifest as signed by the generator [and first transporter], all transporters and [as signed upon receipt by] the designated facility. This

copy shall be sent within 10 days of the generator's receipt of its signed copy from the designated facility.

(3) The generator shall obtain the printed or typed name of the transporter on the manifest.

(4) A generator may not use a hazardous waste manifest which has a preprinted Manifest Document Number or Manifest Tracking Number that has been altered by anyone other than the printer of the manifest.

* * * * *

Subchapter C. PRETRANSPORT REQUIREMENTS

§ 262a.34. Accumulation time.

In addition to the requirements incorporated by reference, a generator who accumulates hazardous waste onsite as specified in 40 CFR 262.34(a)(1)(i) (relating to accumulation time) shall also comply with Chapter 265a, Subchapter I (relating to use and management of containers).

Subchapter D. RECORDKEEPING AND REPORTING

§ 262a.43. Additional reporting.

In addition to the requirements incorporated by reference:

(1) Spills and discharges which are in amounts less than the reportable quantities, which do not result in discharges into surface or groundwater, and which are managed according to an approved contingency plan, need not be reported. The reportable quantities of the hazardous materials spilled or discharged onsite are set forth in Table 1. For any material with more than one hazard code, the most stringent reportable quantity applies. A discharge or spill into surface water or groundwater shall be reported regardless of quantity spilled or discharged.

TABLE 1

<i>Physical Form</i>	<i>Hazard Codes</i>			
	<i>Unit</i>	<i>H</i>	<i>T</i>	<i>I, C, R and E</i>
Liquids*	Gal	5	5	10
Solid	Lbs	10	100	1,000

*Liquids are flowable substances which contain less than 20% solids by dry weight. Flowable refers to fluid in the sense of pourable as a liquid.

(2) In the event of a discharge or spill equal to or greater than the reportable quantity of hazardous material, the generator shall take appropriate immediate action to protect the health and safety of the public and the environment and immediately notify the Department by telephone at (800) 541-2050 with the following information:

- (i) The name of the person reporting the spill.
- (ii) The name and identification number of the generator.
- (iii) The phone number where the person reporting the spill can be reached.
- (iv) The date, time and location of the spill.
- (v) A brief description of the incident.
- (vi) For each material involved in the spill:

(A) The shipping name, hazard class and U.N. Number.

(B) The estimated quantity of material spilled.

(vii) The extent of contamination of land, water or air, if known.

(3) If a discharge or spill of hazardous material occurs during onsite unloading, loading, storage or plan operation, and a Departmental official acting within the scope of his official responsibilities determines that immediate removal of the material is necessary to protect the health and safety of the public and the environment, that official may authorize in writing the removal of the material by transporters who do not have identification numbers or license and without the preparation of a manifest.

(4) A generator shall clean up a hazardous material discharge or spill that occurs during onsite unloading, loading, storage or plan operation, and take actions that may be required or approved by the Department so that the discharge or spill no longer presents a hazard to the health and safety of the public or environment.

(5) In addition, the generator shall file a written report on a reportable hazardous material discharge or spill with the Department within 15 days after the incident, and supply the Department with other information it may require or request that pertains to the discharge. The report on the hazardous material spill or discharge shall be entitled "Hazardous Waste Spill Report" and shall contain the following information:

- (i) The name, address and identification number of the generator and the date, time and location of the incident.
- (ii) A brief description of the circumstances causing the incident.
- (iii) A description of each of the hazardous materials involved in the incident, including the estimated quantity spilled by weight or volume.
- (iv) A legible copy of the manifest document, if applicable.
- (v) A description of a contamination of land, water or air that has occurred due to the incident.
- (vi) A description of the actions the generator intends to take to prevent a similar occurrence in the future.

Subchapter E. EXPORTS OF HAZARDOUS WASTE

§ 262a.50. Applicability.

Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262, Subpart E (relating to exports of hazardous waste).

§ 262a.55. [Exception report] (Reserved).

[Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262, Subpart E (relating to exports of hazardous waste).]

§ 262a.56. [Annual reports] (Reserved).

[Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262 (relating to standards applicable to generators of hazardous waste).]

§ 262a.57. [Recordkeeping] (Reserved).

[Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply to the incorporation by reference of 40 CFR Part 262 (relating to standards applicable to generators of hazardous waste).]

CHAPTER 263a. TRANSPORTERS OF HAZARDOUS WASTE

Subchapter A. GENERAL

§ 263a.12. Transfer facility requirements.

In addition to the requirements incorporated by reference:

(1) A transporter storing hazardous waste at a transfer facility for periods of not more than 10 days but greater than 3 days shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4) (relating to licensing). This plan shall be submitted under section 403(b)(10) of the act (35 P. S. § 6018.403(b)(10)) and approved in writing by the Department prior to the initiation of the storage.

(2) A transporter transferring hazardous waste from one vehicle to another at a transfer facility shall prepare an in-transit storage preparedness, prevention and contingency plan in addition to the transporter contingency plan as required by § 263a.13(b)(4). This plan shall be submitted under section 403(b)(10) of the act and shall be approved in writing by the Department.

(3) A transporter transferring hazardous waste from one transport vehicle to another, or from a transport vehicle to a loading dock or other area for temporary off-vehicle intransit storage shall do so only in areas protected by secondary containment.

(4) A transporter delivering hazardous waste to another transporter at a transfer facility shall do the following:

(i) Obtain the printed or typed name and signature of the subsequent transporter and the date of the transfer in the designated location on the manifest.

(ii) If the subsequent transporter is not present at the transfer facility while the delivering transporter is at the transfer facility, obtain the location address of the transfer facility, the printed or typed name and signature of the transfer facility operator, and the date of delivery to the transfer facility, assuring the information is entered in Item 15 of the manifest.

(iii) If neither the subsequent transporter nor a representative of the transfer facility is present, enter the location address of the transfer facility,

his printed or typed name and signature, and the date of delivery to the transfer facility in Item 15 of the manifest.

(iv) Assure all the information required by subparagraphs (i)—(iii) is legible on remaining copies of the manifest.

§ 263a.13. Licensing.

(a) Except as otherwise provided in subsection (b), § 263a.30, § 261a.5 [(d)] (c), § 266a.70(1) or § 266b.50, a person or municipality may not transport hazardous waste within this Commonwealth without first obtaining a license from the Department.

(b) A person or municipality desiring to obtain a license to transport hazardous waste within this Commonwealth shall:

* * * * *

(4) In accordance with the Department's guidelines for contingency plans, submit a transporter contingency plan for effective action to minimize and abate discharges or spills of hazardous waste from an incident while transporting hazardous waste.

(5) ***

* * * * *

(j) A copy of the transporter contingency plan approved at licensure or approved as amended shall be carried on the transport vehicle while transporting hazardous waste.

Subchapter B. COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

§ 263a.20. Manifest system.

[(1)] (a) Relative to the requirements incorporated by reference, the substitution of terms in § 260a.3 (relating to terminology and citations related to Federal regulations) does not apply in 40 CFR 263.20 (relating to manifest system), as incorporated by reference into this chapter.

[(2)] (b) In addition to the requirements incorporated by reference [, a]:

(1) A transporter shall print or type [his] the transporter's name.

(2) The second and any subsequent highway transporter shall print or type their name, and sign and date the manifest or continuation sheet in the designated location.

(3) A transporter shall obtain the printed or typed name of the subsequent transporter or representative of the designated facility.

§ 263a.21. Compliance with the manifest.

In addition to the requirements incorporated by reference:

* * * * *

(2) A transporter [shall assure the manifest is properly completed] may not accept a manifest from a generator unless it is completed in accordance with 40 CFR 262.20 and § 262a.20 (relating to general requirements).

(3) A transporter may not accept a hazardous waste manifest which has a preprinted Manifest

Document Number or Manifest Tracking Number that has been altered by anyone other than the printer of the manifest.

§ 263a.24. Documentation of hazardous waste transporter fee submission.

* * * * *

(b) The required forms shall be completed by the [applicant] transporter in conformance with instructions provided.

* * * * *

§ 263a.26. Assessment of penalties.

* * * * *

(c) If a person or municipality falsifies information relating to hazardous waste transportation fees required by this chapter and the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305), the Department may assess a minimum civil penalty of \$1,000.

* * * * *

CHAPTER 264a. OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

§ 264a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) An owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by [a] the Department's manifest [approved by the Department], unless a manifest is not required by 40 CFR 262.20(e) (relating to the manifest general requirements).

* * * * *

(3) The owner or operator or other agent of the designated facility shall state in the Discrepancy Indication Space on the respective manifest and continuation sheet the actual quantity received in bulk shipment.

(4) The name of the designated facility representative signing the manifest shall be printed or typed on the manifest.

§ 264a.83. Administration fees during closure.

(a) The owner or operator shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes. The Department may approve a longer closure period if the owner or operator demonstrates that:

* * * * *

(2) [He] The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but inactive facility. Under [§ 264a.112(d)] 40 CFR 264.112(d) (relating to closure plan; amendment of plan) and paragraph (1)(i), if operation of the site is recommenced, the Department may defer completion of closure activities until the new operation is terminated. The deferral shall be in writing.

(3) The demonstrations referred to in [§ 264a.112(d)] 40 CFR 264.112(d) and this section shall be made as follows:

(i) The demonstrations in [§ 264a.112(d)] 40 CFR 264.112(d) shall be made at least 30 days prior to the expiration of the 60-day period.

* * * * *

Subchapter F. RELEASES FROM SOLID WASTE MANAGEMENT UNITS

§ 264a.97. General groundwater monitoring requirements.

In addition to the requirements incorporated by reference:

(1) The owner or operator shall keep records of analyses and evaluations of groundwater quality[,] and surface elevations, which shall be conducted quarterly, and flow rate and direction determinations, which shall be conducted annually. These evaluations and determinations shall be conducted as required under 40 CFR Part 264, Subpart F (relating to releases from solid waste management units).

* * * * *

Subchapter I. USE AND MANAGEMENT OF CONTAINERS

§ 264a.173. Management of containers.

In addition to the requirements incorporated by reference:

* * * * *

(2) For outdoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application. [In addition, a 40-foot setback from a building shall be maintained for all outdoor container storage of reactive or ignitable hazardous waste.]

* * * * *

CHAPTER 265a. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Subchapter B. GENERAL FACILITY STANDARDS

§ 265a.13. General and generic waste analysis.

In addition to the requirements incorporated by reference:

(1) Except as provided in paragraphs (4) and (5), before an owner or operator treats, stores or disposes of a specific hazardous waste from a specific generator for the first time, the owner or operator shall submit to the Department for approval, on a form provided by the Department, or on a form approved by the Department, a Module 1 report which the owner or operator shall retain for 3 years. The report shall include the following information:

* * * * *

Subchapter E. MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

§ 265a.71. Use of the manifest system.

In addition to the requirements incorporated by reference:

(1) An owner or operator, or the agent of the owner or operator, may not accept hazardous waste for treatment, storage or disposal unless it is accompanied by [a] the Department's manifest [approved by the Department], unless a manifest is not required by 40 CFR 262.20(e) (relating to general requirements).

* * * * *

(3) The owner or operator or other agent of the designated facility shall state in the Discrepancy Indication Space on the respective manifest and continuation sheet the actual quantity received in bulk shipment.

(4) The name of the designated facility representative signing the manifest shall be printed or typed on the manifest.

Subchapter I. USE AND MANAGEMENT OF CONTAINERS

§ 265a.173. Management of containers.

In addition to the requirements incorporated by reference:

* * * * *

(2) For outdoor storage of reactive or ignitable hazardous waste, the container height, width and depth of a group of containers shall provide a configuration and aisle spacing which insures safe management and access for purposes of inspection, containment and remedial action with emergency vehicles. [In addition, a 40-foot setback from a building shall be maintained for all outdoor container storage or reactive or ignitable hazardous waste.]

* * * * *

§ 265a.175. [Containment and collection system] (Reserved).

[(a) Container storage areas shall have a containment system capable of collecting and holding spills, leaks and precipitation. The containment system shall:

(1) Have an impervious base underlying the containers which is free of cracks or gaps so as to contain leaks, spills and accumulated rainfall. All joints in an impervious base shall be sealed with appropriate sealants.

(2) Provide efficient drainage from the base to a sump or collection system.

(3) Have sufficient capacity to contain the entire volume of the largest container, or 10% of the total volume of all the containers, whichever is greater.

(b) Run-on into the containment system shall be prevented.

(c) Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection system with sufficient frequency to prevent overflow.

(d) At closure, all hazardous waste and hazardous waste residues shall be removed from the containment and collection systems. Remaining containers, liners, bases and soil containing or contaminated with hazardous waste or hazardous waste residues shall be decontaminated or removed.

(e) Storage of flowable liquid wastes—less than 20% solids by dry weight and flowable—in contain-

ers of less than 110 gallons capacity shall be in accordance with the following criteria, unless otherwise approved by the Department:

(1) For indoor storage of reactive or ignitable hazardous waste, the total maximum container height shall not exceed 6 feet. The containers shall be grouped so that the maximum width and depth of a group is no greater than the area that would contain four 55-gallon drums wide by four 55-gallon drums deep—approximately 8 feet by 8 feet—or the containers shall be grouped so that the maximum width of a group is no greater than the area that would contain two 55-gallon drums deep, with the length of the group so limited that at least a 5 foot wide aisle surrounds the group. Each 8 foot by 8 foot group shall be separated by at least a 5 foot wide aisle.

(2) For outdoor storage of reactive or ignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of containers may not exceed the equivalent of eight 55-gallon drums wide by eight 55-gallon drums deep. Each group shall be separated by at least a 5 foot wide aisle from any adjacent group. A main aisle or accessway at least 12 feet wide shall be maintained through a container storage area. A minimum 40-foot setback from a building shall be maintained for all outdoor container storage of reactive or ignitable hazardous wastes.

(3) For indoor or outdoor storage of nonreactive or nonignitable hazardous waste, the total container height may not exceed 9 feet. The maximum width and depth of a group of containers shall provide a configuration and aisle space which insures access for purposes of inspection, containment and remedial action with emergency vehicles. The configuration shall be specified in the permit application and shall be approved in writing by the Department.]

CHAPTER 270a. HAZARDOUS WASTE PERMIT PROGRAM

Subchapter A. GENERAL INFORMATION

§ 270a.3. Payment of fees.

40 CFR 270.3 is not incorporated by reference, and the following fees are established:

* * * * *

(3) Module I applications and permit modification applications for a permit for hazardous waste storage, treatment and disposal facilities shall be accompanied by a nonrefundable permit application fee in the form of a check payable to the "Commonwealth of Pennsylvania" according to the following schedule:

* * * * *

(ii) [Class 2 and] Class 3 permit modifications—50% of fees listed in [subsection] paragraph (1).

(iii) Class 1 and Class 2 permit modifications—\$700.

Subchapter D. CHANGES TO PERMITS

§ 270a.42. Permit modification at the request of the permittee.

* * * * *

(b) Instead of the appeal procedure in 40 CFR [245.19] 124.19 (relating to appeal of RCRA, UIC,

NPDES permits)[. The], the Department's decision to grant or deny permit modifications may be appealed to the EHB under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514).

(c) [Applications] Applicants seeking a Class [2 and] 3 permit [modifications] modification shall comply with § 270a.83 (relating to preapplication public meeting and notice).

Subchapter E. EXPIRATION AND CONTINUATION OF PERMITS

§ 270a.51. Continuation of existing permits.

(a) 40 CFR 270.51 (relating to continuance of expiring permits) is not incorporated by reference.

(b) The conditions of an expired permit continue in force until the effective date of a new permit if the following conditions are met:

(1) The permittee has submitted a timely application which is a complete application for a new permit.

(2) The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(c) Permits continued under this section remain fully effective and enforceable.

(d) When the permittee is not in compliance with the conditions of the expiring or expired permit, the Department may choose to do one or more of the following:

(1) Initiate enforcement action based upon the permit which has been continued.

(2) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would be required to cease activities authorized by the continued permit or be subject to enforcement action for operating without a permit.

(3) Issue a new permit with appropriate conditions.

(4) Take other actions authorized by these regulations.

Subchapter F. SPECIAL FORMS OF PERMITS

§ 270a.60. Permits-by-rule.

(a) Relative to the requirements incorporated by reference, the following are substituted for the introductory paragraph in 40 CFR 270.60 (relating to permits by rule):

(1) In addition to other provisions of this chapter, the activities listed in this section are deemed to have a hazardous waste management permit if the owner or operator gives prior notification to the Department on a form provided by the Department and the conditions listed are met.

(2) The Department may require an owner or operator with a permit-by-rule under this section to apply for, and obtain, an individual permit when the facility is not in compliance with the applicable requirements or is engaged in an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(b) In addition to the requirements incorporated by reference, the following requirements apply:

(1) The owner or operator of an elementary neutralization unit or a wastewater treatment unit is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

* * * * *

(iv) Chapter 264a, Subchapter D and 40 CFR Part 264 Subparts C and D (relating to preparedness and prevention and contingency plan and emergency procedures[; permit conditions; and changes to permit]).

* * * * *

(2) A generator that treats its own hazardous waste in containers, tanks or containment buildings is deemed to have a permit-by-rule, if the owner or operator complies with the following requirements:

* * * * *

(ii) The notification requirements of 40 CFR 264.11 (relating to notification of hazardous waste activities) and the applicable requirements of 40 CFR Part 264, Subparts A—D, I, J and DD and Chapter 264a, Subchapters A, B, D, I, J and DD, except for § 264a.18 (relating to location standards).

* * * * *

(3) The owner or operator of a battery manufacturing facility reclaiming spent, lead-acid batteries is deemed to have a permit-by-rule for treatment prior to the reclamation of the spent, lead-acid batteries, if the owner or operator complies with the following requirements:

* * * * *

(ii) The applicable requirements of 40 CFR Part 264, Subparts A—E, I—L and DD and Chapter 264a, Subchapters A, B, D, E, I—L and DD, except for § 264a.18.

(4) The owner or operator of a facility that reclaims hazardous waste onsite, at the site where it is generated is deemed to have a permit-by-rule for treatment prior to the reclamation, if the owner or operator complies with the following requirements:

* * * * *

(ii) The applicable requirements of Chapter 262a and Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Parts 262 and 264, Subparts A—E and I, J and DD.

* * * * *

[(6)] (5) The owner or operator of a facility that treats recyclable materials to make the materials suitable for reclamation of economically significant amounts of the precious metals identified in 40 CFR Part 266, Subpart F (relating to recyclable materials utilized for precious metal recovery) is deemed to have a permit-by-rule if the owner or operator complies with the following:

* * * * *

(ii) The applicable requirements of Chapter 264a, Subchapters A, B, D, E, I, J and DD, except for § 264a.18, and 40 CFR Part 264, Subparts A—D, I, J and DD.

* * * * *

§ 270a.62. Hazardous waste incinerator permits.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all

persons listed in § 270a.80 [(4)(i)(D)(E) and (F)] (d)(1) (relating to public notice and comment requirements).

§ 270a.66. Permits for boilers and industrial furnaces burning hazardous waste.

Instead of the notification required by 40 CFR 124.10 (relating to public notice of permit actions and public comment period), the Department sends notice to all persons listed in § 270a.80 [(4)(i)(D)—(F)] (d)(1) (relating to public notice and comment requirements).

Subchapter H. PUBLIC NOTICE AND HEARINGS

§ 270a.81. Public hearings.

* * * * *

(b) The Department follows the following procedures in a public hearing held under this subchapter:

* * * * *

(5) The Department gives public notice of the hearing under [**subsection (a)**] § 270a.80 (relating to public notice and comment requirements).

* * * * *

§ 270a.83. Preapplication public meeting and notice.

(a) *Applicability.*

* * * * *

(4) This section does not apply to **Class 1 or Class 2** permit modifications under 40 CFR 270.42 and § 270a.42 or to applications that are submitted for the sole purpose of conducting postclosure activities or postclosure activities and corrective action at a facility.

* * * * *

[Pa.B. Doc. No. 01-2227. Filed for public inspection December 14, 2001, 9:00 a.m.]

STATEMENTS OF POLICY

Title 31—INSURANCE

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

[31 PA. CODE CH. 242]

Allowable Time Periods for Application to Fund for Surcharge Credits as a Result of Policy Cancellations

The Medical Professional Liability Catastrophe Loss Fund (Fund) has adopted a statement of policy concerning the allowable time frame within which basic coverage insurance carriers and self-insured health care providers may report and request Fund surcharge credits in the event of policy cancellations.

As a practical matter, time constraints must be imposed upon the time period within which basic coverage insurance carriers and self-insured providers may take surcharge credits. Basic coverage insurance carriers and self-insured health care providers should not be permitted to report and request surcharge credits for an indefinite period of time after a surcharge is submitted, especially since they are (or should be) in the best position to know of the activity on the particular account and report and request a credit. The impact of permitting an unlimited time period within which to report credits after cancellation would be difficult to gauge and account for, and has the potential to jeopardize the Fund's fiscal integrity and its ability to pay claims in a given year and track compliance status of providers, to the detriment of health care providers. Parties should be interested in clarifying available coverage as soon as possible following a change in circumstance to avoid potential coverage disputes and permit timely credits for an unused surcharge payments. Accordingly, it should not be permissible to report and request surcharge credits for an indefinitely long period of time after the effective date of policy cancellation.

The time frames set forth in this statement of policy are reasonable time periods within which providers and carriers may determine necessary adjustments, do not disrupt the Fund's fiscal soundness, provide for timely issuance of credits and lessen the potential for coverage disputes and do not unduly penalize other contributing health care providers.

Effective Date

This statement of policy shall take effect upon publication in the *Pennsylvania Bulletin*.

(*Editor's Note:* The regulations of the Fund, 31 Pa. Code Chapter 242, are amended by adding a statement of policy in § 242.7a to read as set forth in Annex A.)

JOHN H. REED,
Director

Fiscal Note: 20-004. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART IX. MEDICAL CATASTROPHE LOSS FUND

CHAPTER 242. MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

§ 242.7a. Allowable time periods for application to fund for surcharge credits as a result of policy cancellations.

(a) For all policies issued or renewed in 2001, the Fund should be notified of any cancellation of a health care provider's basic coverage insurance policy, or self-insured arrangement, and should receive any corresponding application for credit, no later than 1 year from the date of the cancellation. For example, if a policy or coverage period on a particular health care provider runs from January 1, 2001, to December 31, 2001, and there is a cancellation of the policy effective September 1, 2001, notification of the cancellation and any corresponding application for credit shall be reported to the Fund by September 1, 2002, if not sooner. A basic coverage insurance carrier or self-insured health care provider will have at least 60 days to notify the Fund of a cancellation and provide the Fund with the corresponding application for credit.

(b) For policies issued or renewed in 2002, and every year thereafter, the Fund should be notified of any cancellation of a provider's basic coverage insurance policy, or self-insured arrangement, and should receive any corresponding application for credit, within 60 days from the date of the cancellation.

(c) On a going forward basis, the Fund will not accept applications for surcharge credits for policies issued or renewed before January 1, 2001.

[Pa.B. Doc. No. 01-2228. Filed for public inspection December 14, 2001, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Tuesday, December 18, 2001. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission offices at 25 State Police Drive, West Trenton, NJ.

The conference among the Commissioners and staff will begin at 10 a.m. Topics of discussion will include the status of the Comprehensive Plan process; an update on PCB characterization studies and PCB and VOC point source monitoring data submissions; summaries of the Flow Management Technical Advisory Committee meeting of November 16, 2001, and a 2-day meeting of the Commission and HydroQual staff and Peer Review Panel members on November 29-30, 2001; a proposal to release for public comment the Commission's proposed Integrated Resource Plan guidance; a proposal to fund a pilot Internet GIS interactive mapping application; a proposal to adopt revised FOIA provisions; and a report on the Commission's rulemaking agenda for 2002.

The subjects of the public hearing to be held during the 1 p.m. business meeting include, in addition to the following dockets, a resolution under Articles 3.3 and 10.4 of the Delaware Basin Compact declaring a Water Supply Emergency and directing measures to preserve water supplies; a resolution adopting the Commission's annual budgets for the fiscal year ending June 30, 2003, and apportioning among the signatory parties the amount required for the support of the current expense and capital budgets; and a resolution adopting the 2002 Water Resources Program.

The dockets scheduled for public hearing are as follows:

1. *Agere Systems D-86-79 Renewal*. A ground water withdrawal renewal project with an increase from 22.3 million gallons (mg)/30 days to 27.88 mg/30 days to supply the applicant's manufacturing facility from existing Well No. PW-1 in the Richland formation. The project is located in the Bernhart Creek watershed in Muhlenberg Township, Berks County, PA.

2. *Warrington Township Municipal Authority D-90-19 CP Renewal*. A ground water withdrawal renewal project to continue withdrawal of 43.68 mg/30 days of water to supply the applicant's public distribution system from existing Wells Nos. 1-6, 8, 9 and 11 in the Stockton formation. The project is located in Warrington Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

3. *Philadelphia Suburban Water Company D-98-11 CP*. A project to withdraw up to 4.0 million gallons per day (mgd) from the East Branch Brandywine Creek for public water supply when stream flow exceeds 25% of the average daily flow and is greater than 90 mgd for the Brandywine River at Chadds Ford. The applicant proposes to serve West Brandywine Township and portions of East Brandywine Township and to include capacity for future service to a portion of Wallace Township, all in Chester County, PA. The intake will be situated on the

east bank of the East Branch Brandywine Creek just south of Marshall Road in Wallace Township. When available, the raw water will be conveyed for storage in a nearby abandoned quarry (known as Cornog Quarry) with an estimated storage capacity of approximately 100 mg. Withdrawals ranging from 0.5 mgd to 1.0 mgd will then be made from the quarry, treated by a proposed new filter plant and distributed to the project service area.

4. *Borough of Woodstown D-99-4 CP*. A ground water withdrawal project to supply up to 8.1 mg/30 days of water to the applicant's distribution system from new Well No. 5, located in the Middle Potomac-Raritan-Magothy Aquifer, and to increase the existing combined withdrawal limit from all wells from 18.1 mg/30 days to 26.2 mg/30 days. The project is located in Woodstown Borough, Salem County, NJ.

5. *Mallinckrodt Baker, Inc. D-99-35*. A ground water withdrawal project to continue to provide 92.82 mg/30 days of water to the applicant's industrial facility and remediation system from 15 existing wells; to permit an additional 2.32 mg/30 days from four new wells located in the Kittatinny Aquifer; and to limit the withdrawal from all wells to 95.14 mg/30 days. The project is located in the Town of Phillipsburg, Warren County, NJ.

6. *Reliant Energy Mid-Atlantic Holdings, LLC D-2000-8 (Revised)*. A project to construct a 560 megawatt natural gas-fired electric power generating plant at the applicant's existing Portland Generating Station (previously owned by Sithe Portland LLC) in Portland Borough and Upper Mount Bethel Township, Northampton County, PA. No increase in surface water allocation is proposed, and the applicant's existing intake on the Delaware River has the capacity to provide the 5.13 mgd of cooling and process water required by the plant. Of this amount, approximately 4.12 mgd will be consumptively used due to evaporation and drift. The electric power generated will be conveyed via local transmission lines to the PA-NJ-MD power grid for sale. Approximately 1 mgd of process wastewater will be discharged via the existing outfall to a portion of the Delaware River in DRBC Water Quality Zone 1D.

7. *Thomas H. Draper D-2000-69*. A ground water withdrawal project to supply up to 21.2 mg/30 days of water to irrigate approximately 130 acres of corn crops from Wells Nos. 1-3 in the Columbia Aquifer. The applicant's farm is located near the Town of Milton, Sussex County, DE.

8. *Village of Monticello D-2001-5 CP*. An application for approval of a ground water withdrawal project to supply up to 9.72 mg/30 days of water to the applicant's public distribution system from new Well No. 3, and to maintain the total combined allocation from existing Wells Nos. 1 and 2 and new Well No. 3 at 27 mg/30 days. The project well is located in gravel formation in the Village of Monticello, Sullivan County, NY and will continue to supply the Village of Monticello service area.

9. *Leesport Borough Authority D-2001-21 CP*. A project to expand a 0.2 mgd contact stabilization sewage treatment plant (STP) to treat 0.5 mgd, while maintaining secondary level of treatment via the sequencing batch reactor process. The plant is located 1,800 feet south of the intersection of State Routes 61 and 383 in Leesport Borough, Berks County, PA. The project will continue to serve Leesport Borough and discharge to the Schuylkill River via a new outfall line.

10. *Montgomery County Sewer Authority D-2001-42 CP.* A project to rerate the Oaks STP from 9.17 mgd to 9.5 mgd as an annual average flow. The plant will continue to provide advanced secondary treatment via an anoxic/oxic process. The Oaks STP is located at the confluence of the Perkiomen Creek and the Schuylkill River in Upper Providence Township, Montgomery County, PA. The project will continue to serve portions of Upper Providence, Lower Providence, Perkiomen, and Skippack Townships, plus Collegeville and Trappe Boroughs, all in Montgomery County. STP effluent will continue to be discharged to the Schuylkill River through the existing outfall.

11. *Tredyffrin Township D-2001-44.* A ground water withdrawal project to supply up to 1.71 mg/30 days of water to the applicant's park irrigation system from new Well No. WP-1 in the Limestone and Quartzite Formation. The project is located in the Valley Creek watershed in Tredyffrin Township, Chester County in the Southeastern Pennsylvania Ground Water Protected Area.

12. *Little Washington Wastewater Co. D-2001-54.* A project to expand a 93,000 gpd STP to process an average flow of 115,133 gpd, while maintaining a tertiary level of treatment. The plant is located just south of Little Washington-Lyndell Road and about 3,000 feet east of Route 322 in East Brandywine Township, Chester County, PA. Currently, up to 53,000 gpd of STP effluent is discharged to Culbertson Run, a tributary of East Branch Brandywine Creek, and 40,000 gpd is discharged to nearby effluent disposal beds that recharge the ground water table. The proposed expanded flow will be treated and discharged to additional effluent disposal beds. The proposed expansion will enable the applicant to serve additional residential developments in East Brandywine Township.

In addition to the public hearing items, the Commission will address the following at its 1 p.m. business meeting:

minutes of the October 31, 2001, business meeting; announcements; a report on basin hydrologic conditions; reports by the Executive Director and General Counsel; a directed appearance by six Delaware Estuary point source dischargers to explain their failure to provide PCB monitoring data required by the Commission; a resolution to fund a pilot internet GIS interactive mapping application; a resolution adopting the 2002 Water Resources Program; a resolution for the minutes expanding the Watershed Advisory Council to include as many as 40 members; and public dialogue.

Documents relating to the dockets and other items may be examined at the Commission's offices. Preliminary dockets, with the exception of number D-98-11 CP, are available in single copies upon request and will be posted on the Commission's website at <http://www.state.nj.us/drbc/commeet.htm> on or about December 6, 2001. Docket D-98-11 CP will not be available before the close of business on December 13, 2001. Contact Thomas L. Brand at (609) 883-9500 ext. 221 with docket-related questions. Persons wishing to testify at this hearing are requested to register in advance with the Secretary at (609) 883-9500 ext. 203.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the hearing should contact the Commission Secretary, Pamela M. Bush, directly at (609) 883-9500 ext. 203 or through the New Jersey Relay Service at (800) 852-7899 (TTY), to discuss how the Commission may accommodate their needs.

PAMELA M. BUSH,
Secretary

[Pa.B. Doc. No. 01-2229. Filed for public inspection December 14, 2001, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 4, 2001.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
12-3-01	Citizens Financial Group, Inc., Providence, Rhode Island, to acquire 100% of the voting shares of Citizens Bank of Pennsylvania, Philadelphia	Providence, RI	Effective

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-3-01	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1735 Market St. Philadelphia Philadelphia County	Commenced Operations

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-3-01	Citizens Bank of Pennsylvania Philadelphia Philadelphia County Purchase of assets/assumption of liabilities of 326 branch offices of Mellon Bank, N.A., Pittsburgh, located in Pennsylvania (320); New Jersey (4); and Maryland (2)	Philadelphia	Effective

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-3-01	Firsttrust Savings Bank Conshohocken Montgomery County	Cathedral Village 600 Cathedral Road Philadelphia Philadelphia County (Limited Service Facility)	Approved
12-3-01	Pennsylvania Business Bank Philadelphia Philadelphia County	30 Elm Avenue Woodbury Heights Gloucester County, NJ	Approved

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-3-01	Fulton Bank Lancaster Lancaster County	Weaver's Market Rtes. 272 and 897 Adamstown Lancaster County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
11-30-01	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Amendment to Article VII provides for a reduction in the number of original trustees.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2230. Filed for public inspection December 14, 2001, 9:00 a.m.]

Maximum Lawful Rates of Interest for Residential Mortgages for the Month of January 2002

The Department of Banking under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of January 2002, is 7 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 5.03 to which was added 2.50 percentage points for a total of 7.53 that by law is rounded off to the nearest quarter at 7 1/2%.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2231. Filed for public inspection December 14, 2001, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Eisenhower Postsecondary Grant Application Guidelines for Professional Development Pro- grams for Reading

Applications from Commonwealth nonprofit organizations, which have previously conducted successful reading professional development activities, and Commonwealth institutions of higher education will be accepted for professional development programs specially-designed to improve reading in this Commonwealth. Grant awards will be funded with higher education money authorized by Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (Pub. L. No. 103-382). Awards are contingent upon receipt of the Federal appropriation for the Dwight D. Eisenhower Professional Development Program. The Commonwealth has approximately \$300,000 available for competition.

Copies of the Eisenhower Postsecondary Grant Application (EPGA) guidelines are available on the Department

of Education's (Department) website at <http://www.pde.psu.edu> or from the Issuing Office, which is the sole point of contact for the guidelines: Division of Program Services, Bureau of Postsecondary Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333; (717) 772-3623; TDD (717) 783-8445.

A preproposal conference is scheduled for Friday, January 4, 2002, at 10 a.m. in the Honors Suite, 1st Floor, 333 Market Street, Harrisburg. Attendance by a representative or regional site is a prerequisite to submitting an application. If special accommodations are required to participate in the preproposal conference, contact the Division of Program Services. Written questions are to be submitted by January 2, 2002, on PDE-4658 available on the Department's website at <http://www.pde.psu.edu>.

Applications submitted in response to the EPGA guidelines are due in the Division of Program Services no later than 5 p.m., Thursday, January 31, 2002.

CHARLES B. ZOGBY,
Secretary

[Pa.B. Doc. No. 01-2232. Filed for public inspection December 14, 2001, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0087581	Maiden Creek Associates, Inc. 1112 Mountain Road Kempton, PA 19529	Berks County Cumru Township	UNT to Irish Creek/3B	Y
PA0024457	Halifax Municipal Authority P. O. Box 443 Halifax, PA 17032-0443	Dauphin County Halifax Township	Susquehanna River/6C	Y

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

PA0222208, Sewage. **Frank Fiamella Subdivision**, 3949 Knoyle Road, Erie, PA 16510. This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Activity: treatment of sanitary waste from a five-lot subdivision.

The receiving stream, unnamed tributary to Four Mile Creek, is in watershed 15FM and classified for: WWF and MF. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to be considered during the evaluation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0015 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10		20
Total Suspended Solids	20		40
Phosphorus as "P"	1.0		
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
Total Residual Chlorine	0.5		1.2
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

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

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

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

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

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		15
Phosphorus as "P"	1.0		
Dissolved Oxygen		minimum of 4.0 mg/l at all times	
Total Residual Chlorine	0.5		1.6
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		34,500/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0103373, Sewage. **Foxburg Area Water and Sewer Authority**, P. O. Box 2, Foxburg, PA 16036-0002. This proposed facility is located in Foxburg Borough, **Clarion County**.

Description of Proposed Activity: discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Allegheny River and the Parker City Municipal Authority located at Parker City, 3 miles below point of discharge.

The receiving stream, the Allegheny River, is in watershed 17B and classified for: warm water fishes, water supply and recreation

The proposed effluent limits for Outfall 001 based on a design flow of 0.085 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		100,000/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

The EPA Waiver is in effect.

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

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

PA#0028576, Sewage, **Clarks-Summit—S. Abington Joint Sewer Authority**. This proposed facility is located in S. Abington Township, **Lackawanna County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, Leggett Creek, is in the State Water Plan watershed #5A and is classified for: cold water fishery, water supply and recreation. The nearest downstream public water supply intake for Danville Water Supply is located on Susquehanna is approximately 75 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.5 MGD (Dry Weather Flow).

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	2.9		5.8
(11-1 to 4-30)	8.7		17.4
Dissolved Oxygen	A minimum of 3 mg/l at all times.		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	.17		.39
Copper	Monitor & Report		
Lead	Monitor & Report		
Zinc	Monitor & Report		

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

Application No. PA 008541, SIC Code 3585, Industrial Waste, **York International**, 631 Richland Avenue, York, PA 17403. This facility is located in Spring Garden Township, **York County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Codorus Creek, is in Watershed 7-H and classified for warm water fishery, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Co. is located on the Susquehanna River, approximately 20 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 (process wastewater) based on a design flow of 0.096 MGD are:

<i>Parameter</i>	<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		6.0 to 9.0 S.U. at all times	
TSS	31	60	75
CBOD ₅	XXX	Monitor & Report	XXX
Total Phosphorus	2.0	4.0	5.0
Total Cadmium	0.16	0.25	0.4
Total Chromium	1.7	2.8	4.2
Total Copper	0.75	1.5	1.9
Total Lead	0.43	0.69	1.1
Total Nickel	2.4	4.0	6.0
Total Silver	0.24	0.48	0.6
Total Zinc	1.5	2.6	3.8
Total Cyanide	0.65	1.2	1.6
Oil and Grease	15	XXX	30
Total Toxic Organics	XXX	2.13	XXX
Total Aluminum	XXX	Monitor and Report	XXX
Trichloroethylene	XXX	Monitor and Report	XXX

The proposed effluent limits for Outfalls 003, 005, 006, 008, 011 and 012 (noncontact cooling water and stormwater) are:

<i>Parameter</i>	<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		6.0 to 9.0 S.U. at all times	
Discharge Temperature (°F)	XXX	Monitor and Report	XXX

In addition, the following parameters are proposed for monitoring: Total Cadmium, Total Chromium, Total Copper, Total Lead, Total Nickel, Total Silver, Total Zinc, Total Cyanide, Total Toxic Organics, Total Suspended Solids, Oil and Grease, Total Aluminum, Trichloroethylene, Trichlorofluoromethane, Chloro-difluoromethane and 1,1,2,2-Tetrafluoroethane.

The proposed monitoring parameters for Outfalls 002, 004, 007, 009 and 010 (stormwater outfalls) are Total Cadmium, Total Chromium, Total Copper, Total Lead, Total Nickel, Total Silver, Total Zinc, Total Cyanide, Total Toxic Organics, Total Suspended Solids, Oil and Grease, pH, Total Aluminum, Trichloroethylene, Trichlorofluoromethane, Chlorodifluoromethane and 1,1,2,2-Tetrafluoroethane.

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

The EPA waiver is in effect.

Application No. PA 0029106, Sewage, **Greenfield Township Municipal Authority**, R. D. 1, Box 948, Claysburg, PA 16625-9737. This facility is located in Greenfield Township, **Blair County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Frankstown Branch Juniata River, is in Watershed 11-A and classified for trout stocking, water supply and recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Susquehanna River, approximately 150 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.800 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
	CBOD ₅	25	40
Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	8.0	XXX	16
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		7,600/100 ml as a geometric average	

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

The EPA waiver is in effect.

Application No. PA 0088820, SIC Code 4911, Industrial Waste, **Conectiv Mid-Merit, Inc.**, 113 Pencader Drive, Suite 100, Newark, DE 19714-6066. This application is for issuance of an NPDES permit for a new discharge of treated industrial waste to the Susquehanna River, in East Donegal Township, **Lancaster County**.

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

The proposed effluent limits for Outfall 001 for a design flow of 8.18 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH		6—9	
Temperature		110°F	
Heat Rejection Rate		Monitor	
Free Available Chlorine	XXX	0.2	0.5

The proposed effluent limits for Outfall 100 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	100	125
Oil and Grease	15	20	30

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

The EPA waiver is in effect.

Application No. PAS603503, Stormwater, **Royal Green Corporation**, P. O. Box 9, Temple, PA 19560. This facility is located in Ontelaunee Township, **Berks County**.

Description of activity: The application is for issuance of an NPDES permit for an existing discharge of stormwater.

The receiving stream, Schuylkill River, is in Watershed 3-C and classified for warm water fishes, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Pottstown Borough is located on the Schuylkill River, approximately 28 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfalls 001, 002, 003 and 004 are:

<i>Parameter</i>	<i>Monitoring Requirements</i>	
	<i>Composite Sample (mg/l)</i>	<i>Monitor Frequency</i>
Total Iron	Monitor and Report	1/6 months
Total Copper	Monitor and Report	1/6 months
Total Lead	Monitor and Report	1/6 months
Total Zinc	Monitor and Report	1/6 months
Total Aluminum	Monitor and Report	1/6 months
Chromium, VI	Monitor and Report	1/6 months
Total Suspended Solids	Monitor and Report	1/6 months
Benzene	Monitor and Report	1/6 months
Toluene	Monitor and Report	1/6 months
Ethyl Benzene	Monitor and Report	1/6 months
Naphthalene	XXXX	1/6 months

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

The EPA waiver is in effect.

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

PA0000914, Industrial Waste, SIC, 8731, **U. S. Department of Energy**, Pittsburgh Naval Reactors Office, 814 Pittsburgh-McKeesport Road, West Mifflin, PA 15122-0109. This application is for renewal of an NPDES permit to discharge treated process water from Bettis Atomic Power Laboratory in West Mifflin, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, NorthEast Stream—002 and 007; Thompson Run—006; Bull Run—001, 002, 003, 004, 005, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Western Pennsylvania Water Company, located at Pittsburgh, 9 miles below the discharge point.

Outfall 001 and 002: existing discharge, design flow of 0.06 and 0.008 resp. mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Suspended Solids			25		50
Oil and Grease			15		30
Temperature					110°
Zinc			0.271	0.54	0.68
pH	not less than 6.0 nor greater than 9.0				

Outfall 007: existing discharge, design flow of 0.036 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Suspended Solids			30		75
Tetrachloroethylene			0.0022		0.0055
Trichloroethylene			0.005		0.0125
1,2-trans-Dichloroethylene			0.005		0.0125
Dissolved Iron					7
pH	not less than 6.0 nor greater than 9.0				

Outfall 006: existing discharge, design flow of N/A mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Fecal Coliform	Monitor and Report				

Outfall 003—005: existing discharge, design flow of N/A mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
	Discharge consists of uncontaminated stormwater runoff.				

The EPA waiver is in effect.

PA0205061, Sewage, **Hopewell Area School District**, 2354 Broadhead Road, Aliquippa, PA 15000-4501. This application is for renewal of an NPDES permit to discharge treated sewage from Raccoon Elementary School STP in Raccoon Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as tributary of Gum Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Midland Borough Water Authority.

Outfall 001: existing discharge, design flow of 0.00854 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.02			0.04
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**WATER QUALITY MANAGEMENT
PERMITS**

**CONTROLLED INDUSTRIAL WASTE
AND SEWAGE WASTEWATER**

**APPLICATIONS UNDER THE CLEAN
STREAMS LAW**

PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department). The applications are listed in two categories. Section I lists all municipal and industrial permits.

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

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

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

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

WQM Permit No. 4501408, Sewerage, **Pinecrest Development Corporation**, P. O. Box 760, Pocono Pines, PA 18350. This proposed facility is located in Tobyhanna Township, **Monroe County**.

Description of Proposed Action/Activity: Facility upgrade for existing wastewater treatment plant. Work to include: addition of a 35,000 gallon influent equalization tank, a tertiary filter in the existing control building and piping modifications.

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

Application No. 0278408-A6, Sewerage, **Upper Allegheny Joint Sanitary Authority**, 320 Fourth Avenue, Tarentum, PA 15084. Application for the Modification of a Sewage Treatment Plant to serve the Upper Allegheny Joint Sanitary Authority located in East Deer Township, **Allegheny County**.

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

WQM Permit No 2001422, Sewerage, **Gary Galford**, 16019 State Highway 86, Meadville, PA 16335. This proposed facility is located in Woodcock Township, **Crawford County**.

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

WQM Permit No 2501426, Sewerage, **Thomas J. Steele**, 1013 Broad Street, Conneaut, OH 44030. This proposed facility is located in Franklin Township, **Erie County**.

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

WQM Permit No 6201410, Sewerage, **Diane M. and Steven C. Pondel**, 240 Seminole Avenue, Corry, PA 16407. This proposed facility is located in Columbus Township, **Warren County**.

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

WQM Permit No. 1601405, Sewerage, **Rimersburg Borough Municipal Authority**, P. O. Box 413, Rimersburg, PA 16248. This proposed facility is located in Rimersburg, Borough, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and installation of a chlorine contact tank and control building at the Rimersburg Sewage Treatment Plant.

NPDES Stormwater Individual Permit

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate DEP Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in

the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

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

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the

30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10S056-2	Aventis Pasteur, Inc. Discovery Drive Swiftwater, PA 18370	Monroe County Pocono Township	Swiftwater Creek HQ-CWF

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10U162	Richard Bartolacci, Pres. Fairfield Development 3864 Courtney Street Suite 140 Bethlehem, PA 18017	Northampton County Lower Nazareth and Bethlehem Townships	Bushkill Creek HQ-CWF

Wayne County Conservation District: Ag Service Center, 470 Sunrise Ave., Honesdale, PA 18431, (570) 253-0930.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS107424	James A. Forti Lobilito, Inc. Route 507 P. O. Box 225 Gouldsboro, PA 18424	Wayne County Lehigh Township	Lehigh River HQ-CWF

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

NPDES Permit PAS104112, Stormwater. **Catalyst Energy, Inc.**, 117 Radcliff Drive, Pittsburgh, PA 15237-3384 has applied to discharge stormwater associated with a construction activity located in Lafayette Township, **McKean County** to Thundershower Run (HQ-CWF) and Turnup Run (HQ-CWF).

PUBLIC WATER SUPPLY (PWS) PERMIT

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

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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

SAFE DRINKING WATER

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

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

Application No. 3501503, Public Water Supply.

Applicant **PA-American Water Company**
Township or Borough **Jessup Borough**

Responsible Official David Kaufman
Northeast Regional Manager
PA-American Water Company
20 East Union Street
Wilkes-Barre, PA 18701-1397

Type of Facility PWS

Consulting Engineer Richard B. Kresge, Jr., P.E.
Quad Three Group, Inc.
37 North Washington Street
Wilkes-Barre, PA 18701

Application Received Date November 8, 2001

Description of Action Approval is requested for the construction of two new booster pump stations and one elevated water storage tank for the Jessup Small Business Center.

Application No. 3501508, Public Water Supply.

Applicant **Mountain Spring Water, Inc.**

Township or Borough West Penn Township

Responsible Official Gregory Jones, President
Mountain Spring Water, Inc.
Columbia and Bern Streets
Schuylkill Haven, PA 17972

Type of Facility Bulk Water Hauling System

Consulting Engineer Daniel James Becker, P.E.
RETTEW Associates, Inc.
3020 Columbia Avenue
Lancaster, PA 17603

Application Received Date November 27, 2001

Description of Action Mountain Spring Water, Inc. currently provides water service to the Village of South Tamaqua, Schuylkill County under DEP Public Water Supply Permit Facility I. D. No. 3540048. The system currently serves approximately 32 customers. Mountain Spring Water, Inc. has made provisions with the Tamaqua Water Authority to take over the existing distribution system and service Mountain Spring Water, Inc.'s existing customers. At that time, Mountain Spring Water, Inc. intends to disconnect from the system and begin operation as a bulk water hauling system.

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

Permit No. 4401501 MA, Public Water Supply.

Applicant **Municipal Authority of the Borough of Lewistown**

Municipality Derry Township

County **Mifflin**

Responsible Official Harris Layton
70 Chestnut St.
Lewistown, PA 17044

Type of Facility Public Water Supply

Consulting Engineer Eric A Casanave, P.E.
Gwin Dobson & Foreman Inc
3121 Fairway Drive
Altoona, PA 16602-4475

Application Received Date November 9, 2001

Description of Action Construction of a 250,000 gallon finished water storage tank and 8,4000 feet of pipe.

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

Permit No. 0401505, Public Water Supply.

Applicant **Marion Township**
485 Hartzell School Road
Fombell, PA 16123

Township or Borough Marion Township

Responsible Official Jeff Kording, Chairperson
Marion Township
485 Hartzell School Road
Fombell, PA 16123

Type of Facility Tank

Consulting Engineer Widmer Engineering, Inc.
806 Lincoln Place
Beaver Falls, PA 15010

Application Received Date November 26, 2001

Description of Action Installation of 209,000 gallon above ground water storage tank.

MINOR AMENDMENT

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

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

Application No. NA, Minor Amendment.

Applicant **Mahoning Manor Estates Home Owners Association**

Township or Borough Mahoning Township, **Carbon County**

Responsible Official Dennis Daubenspeck, Operator
59 White Pine Lane
Lehighton, PA 18235

Type of Facility Public Water System

Consulting Engineer Jack A. Raudenbush, P.E.
29 South Union Street
Middletown, PA 17057

Application Received Date November 20, 2001

Description of Action The addition of well source #2, a storage tank and treatment to disinfect and sequester manganese.

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.

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

WA56-808A, Water Allocations. **Municipal Authority of the Borough of Seven Springs**, 290 Lagoon Lane, Champion, PA 15622-9602, **Somerset County**. The applicant is requesting 415,000 gallons per day, peak day, from Trout Run Springs Nos. 1, 2, 3 and 4; and 55,000 gallons per day, peak day, from the Hemlock Lodge Spring.

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

WA 10-913B, Water Allocations. **Connoquenessing Borough Authority**, Connoquenessing Borough, **Butler County**. The Connoquenessing Borough Authority is requesting a subsidiary water allocation permit to increase purchase to 254,500 gpd from the Pennsylvania American Water Company-Butler (PAWC). This proposed increased allocation will provide adequate supply for current number of services and the projected growth over the 25-year request.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may

request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

Bloomer Residence, Bristol Township, **Bucks County**. Richard F. Spafford, P.E., Hydro Environmental Technologies, Inc., Brielle Hills, Bldg. 7, Suite 301A, 2640 Highway 70, Manasquan, NJ 08736 on behalf of Christine Bloomer, 229 Blue Ridge Dr., Levittown, PA, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with BTEX and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on November 18, 2001.

World Savings Property, Bensalem Township, **Bucks County**. Andrew K. Markoski, P.G., Onesky Engineering, Inc., 210 Carter Dr., Suite 8, West Chester, PA 19382 on behalf of World Savings, 198 Washington Valley Rd., Warren NJ 07059, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on November 9, 2001.

Indian Springs Day Camp, West Pikeland Township, **Chester County**. Craig Herr, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Indian Springs Day Camp, Inc., 23 Roberts Rd., Newtown Square, PA 19073, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Phoenix Evening News* on November 6, 2001.

Blue Rock Subdivision Property, Elverson Borough, **Chester County**. John Jacobs, Blue Rock Subdivision Property, 119 S. Chestnut St., Elverson, PA 19520, has submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet Background Standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Local News* on November 14, 2001.

Former Chari-Stan Property, Upper Chichester Township, **Delaware County**. John P. Mihalich, P.G., RMT, Inc., 527 Plymouth Rd., Suite 406, Plymouth Meeting, PA 19462, on behalf of Stephen J. Lewicki, Peter S. Lewicki, Gregory D. Lewicki and Virginia Lewicki, Successor Trustees under the Residuary Trust under Revocable Trust of Stephen Lewicki dated March 26, 1999, P. O. Box 2129, Aston, PA 19014-0129, has submitted a Notice of Intent to Remediate site soil contaminated with lead and heavy metals. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *Delaware County Daily Times* on November 23, 2001.

LHTW Corp., City of Philadelphia, **Philadelphia County**. Steven F. Coe, Brown Environmental Services, 42 Sequoia Dr., Newtown, PA 18940, on behalf of LHTW Corp., 32 Lockerman Square, Suite L-100, Dover DE 19904, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with petroleum hydrocarbons. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on November 27, 2001.

Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Schuylkill County Housing Authority—Coaldale Family Housing Development, Coaldale Borough, **Schuylkill County**. Jennifer Risser, Project Manager, Alternative Environmental Solutions, 930 Pointview Avenue, Suite B, Ephrata, PA 17522 has submitted a Notice of Intent to Remediate (on behalf of her client, Schuylkill County Housing Authority, 245 Parkway, Schuylkill Haven, PA 17972) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil constituents. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was published in the *Pottsville Republican & Evening Herald* on October 25, 2001.

Former Dalton Shell Station, City of Bethlehem, **Northampton County**. Jon English, Senior Environmental Scientist, Skelly and Loy, Inc., 2601 North Front Street, Harrisburg, PA 17110 has submitted a Notice of Intent to Remediate (on behalf of her client, Byler Management Company, 1821 Oregon Pike, Lancaster, PA 17601) concerning the remediation of soils found or suspected to have been contaminated with naphthalene. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reportedly published in Allentown's *The Morning Call* on October 29, 2001.

Former Blue Ridge Winkler Wastewater Treatment Plant, Washington Township, **Northampton County**. Dr. William K. Ahlert, Manager, Lawler, Matusky & Skelly Engineers, LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Notice of Intent to Remediate (on behalf of his client, Northampton County, 669 Washington Street, Easton, PA 18042) concerning the remediation of soils and onsite surface water found or suspected to have been contaminated with metals and polynuclear aromatic hydrocarbons. The applicant proposes to remediate the site to meet both the Statewide health and site-specific standards. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the

Notice of Intent to Remediate was published in *The Express-Times* on November 12, 2001.

AIR QUALITY

NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

Notice is hereby given that DEP has received applications for plan approvals and/or operating permits from the following facilities.

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

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

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

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

PLAN APPROVALS

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

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

67-05066A: Surtech Industries, Inc. (125 Derry Court, York, PA 17402) for relocation of four paint booths, three screen printing presses and a burn off oven from its industrial manufacturing site in Manchester Township, **York County** to a new facility in the City of York, York County.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

24-120B: Dominion Transmission Corp.—Ardell Compressor Station (State Route 2004, Benezette, PA 15821) for a Minor Modification of Plan Approval 24-120A to install two smaller gas compressor engines with proportional less emissions in Benezette Township, **Elk County**. The facility is a Title V Facility.

25-395A: ErieZ Manufacturing Co., Inc. (2200 Asbury Road, Erie, PA 16514) for installation of an HVLP spray gun in each of the two existing paint booths in Erie, **Erie County**.

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

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

23-0063A: Department of Correction—SCI Chester (500 East Fourth Street, Chester, PA 19013) for the amendment of fuel usage of natural gas used by a Model D-34, Cleaver Brooks boiler, covered under Plan Approval PA-23-0063, at their facility in the City of Chester, **Delaware County**. The amendment is to correct a fuel usage of 7.76 MM scf of natural gas per year to 70.2 MM scf of natural gas per year. The Model D-34, Cleaver Brooks boiler is already subject to emission limitations, which it will continue to meet with the amended fuel usage rate. There are no increases in potential emissions.

23-0077A: County of Delaware (340 North Middletown Road, Lima, PA 19037) for the installation of a cogeneration process at their Fair Acres Complex facility in Middletown Township, **Delaware County**. This Plan Approval is for the installation of a cogeneration process that was to be originally installed under Plan Approval PA-23-0077; The County of Delaware did not begin construction by the expiration date of Plan Approval PA-23-0077; therefore, the County of Delaware is re-applying for approval. The facility is a synthetic minor facility. The proposed cogeneration process will be used to create electricity as a partial supply for the facility and steam for both heating and cooling purposes at the facility. The natural gas-fired engine associated with the cogeneration process is equipped with turbocharger, aftercooler and automatic electronic air/fuel ratio controller. Potential emissions of nitrogen oxides shall be less than 7.5 tons per year. Potential emissions of carbon monoxide shall be less than 11.0 tons per year. Potential emissions of volatile organic compounds, particulate matter and sulfur oxides will each be less than 2 tons per year. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

22-03051: Buse Funeral Home (9066 Jonestown Road, Grantville, PA 17028) for construction of a human cremation chamber controlled by an afterburner in East Hanover Township, **Dauphin County**. The potential to emit nitrogen oxides and particulate matter is about 1.1 and .75 tons per year, respectively. The plan approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

36-05019E: Anvil International Inc. (1411 Lancaster Avenue, Columbia, PA 17512) for installation of a fabric filter collector and a cartridge collector at the Columbia Plant located in Columbia Borough, **Lancaster County**. These collectors will replace existing collectors. The particulate emissions are unchanged. The plan approval will include provisions for emission testing, monitoring, recordkeeping and reporting designed to ensure compliance with the applicable requirements.

67-03041B: County Line Quarry, Inc. (740 South Front Street, Wrightsville, PA 17368) for construction of a cone crusher, quad deck screen and associated conveyors controlled by a fabric filter and water suppression at the Wrightsville Quarry in Hellam Township, **York County**. The potential-to-emit particulate matter is about 5 tons per year. The modification to the stone crushing facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The plan approval will include emission restrictions, monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements.

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

59-00005D: Dominion Transmission Corp. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) for installation of an air cleaning device, a "screw-in prechamber," on a 2000 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine 7) at the Sabinsville Compressor Station in Clymer Township, **Tioga County**. The Sabinsville Compressor Station is a major facility which has been issued a Title V Operating Permit (59-00005).

The proposed air cleaning device will replace an existing air cleaning device and is intended to better assure compliance with the nitrogen oxides emission limitations previously established for the respective engine under the reasonably available control technology requirements of 25 Pa. Code §§ 129.91—129.95. This installation will not result in any change in the amount of nitrogen oxides or any other air contaminant allowed to be emitted from the engine but may result in a reduction in the emission rate of one or more air contaminants from the levels now actually occurring.

The following is a summary of the conditions the Department of Environmental Protection proposes to place in the plan approval to ensure compliance with all applicable air quality regulatory requirements:

1. Following the installation of the screw-in prechamber (SIP) system on Engine 7, the nitrogen oxides (NO_x, expressed as NO₂) emissions from the respective engine shall not exceed 13.23 pounds per hour at full load/full speed and 26.4 pounds per hour at any time. Additionally, the emission of volatile organic compounds

and carbon monoxide from the engine shall not exceed 3.5 and 11.96 pounds per hour, respectively.

2. Within 120 days of the completion of installation of the SIP system, stack testing shall be performed for nitrogen oxides (NO_x, expressed as NO₂), volatile organic compounds and carbon monoxide.

3. Semi-annual nitrogen oxides portable analyzer testing shall be performed on the engine.

4. Records shall be maintained of the number of hours per month that the engine is operated and the amount of fuel used per month.

5. The engine shall only be fired on pipeline quality natural gas.

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

26-00540A: Carbon Fuel Resources, Inc. (200 College Drive Suite 300, Lemont Furnace, PA 15456) for operation of coal processing at Ronco II Mine Plant in German Township, **Fayette County**.

03-00228A: Rosebud Mining Co. (R. D. 9, Box 379A, Kittanning, PA 16201) for construction of coal stockpiling/screening at the Stitt Mine in Rayburn Township, **Armstrong County**.

04-00695A: Norfolk Southern Railway Co. (425 Holiday Drive, Pittsburgh, PA 15220) for construction of Boilers 1, 2 and 3 fuel change at Conway Yard in Conway Borough, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-027A: Penreco (138 Petrolia Street, Karns City, PA 16041) for air permitting associated with the replacement of an existing tank that is used to store spent sulfuric acid sludge in the Borough of Karns City, **Butler County**. The vent will be connected to a scrubber system that serves Penreco's oleum and acid sludge storage tanks. The scrubber system is permitted under an existing Plan Approval No. 10-312-001 and the facility's existing Title V permit. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. This source is subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. Particulate emissions from the exhaust of the scrubber shall not exceed 0.04 grain/dscf.

3. A pressure gauge shall be permanently installed and maintained at a conveniently readable location to indicate the vacuum drawing vapors from all sources. Readings shall be recorded daily and the records kept for a minimum of 2 years.

4. The facility shall monitor and record the pressure that is induced into the scrubber jets. Readings shall be recorded daily and the records kept for a minimum of 2 years.

5. The facility shall comply with 25 Pa. Code § 127.25 as follows:

a. No person shall cause or permit the operation of the sources unless the source and air cleaning devices are

operated and maintained in accordance with specifications in the Plan Approval application and Condition Nos. 1—6. A person may not cause or permit the operation of this source in a manner inconsistent with good operating practices

6. Issuance of an operating permit is contingent upon satisfactory compliance with previous conditions, upon the source being constructed and operated as stated on the application and upon the satisfactory demonstration that the emissions from the source will not be in violation of applicable Rules and Regulations of the Department of Environmental Protection.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Safko, Facilities Permitting Chief, (570) 826-2531.

48-307-059: Lehigh Heavy Forge Corporation (1275 Daly Avenue, Bethlehem, PA 18015) for operation of two furnaces (No. 6 and No. 4) in Bethlehem, **Northampton County**.

40-303-020: Pikes Creek Asphalt (Division of Reading Materials, Inc., 2052 Lucon Road, P. O. Box 1467, Skip-pack, PA 19474-0079) for operation of a batch asphalt plant and associated air cleaning device along Trojan Road in Lehman Township, **Luzerne County**.

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

21-03021: ASF—Keystone (3420 Simpson Ferry Road, Camp Hill, PA 17001-0456) for operation of a railroad equipment manufacturing facility in Lower Allen Township, **Cumberland County**. There is a potential to emit less than 1 pound of chromate, about 3 tons of VOCs and a little over a ton of NO_x per year. The hard chromeplating operation is subject to 40 CFR 63, Subpart N—Chromium Electroplating and Anodizing, National Emission Standards for Hazardous Air Pollutants. This Natural Minor Operating Permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

21-03027: Lafferty and Co., Inc. (1100 Hummel Avenue, Lemoyne, PA 17043-1700) for operation of a wood fired boiler, 2.5 mmBtu/hr and wood working dust collection system silo in Lemoyne Borough, **Cumberland County**. The particulate matter emission from the operation is less than a ton per year. The Natural Minor Operating Permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

21-05021: Arnold Fuel Oil Inc. (P. O. Box 2621, Harrisburg, PA 17105) for the administrative amendment to synthetic minor operating permit No. 21-05021 for the facility's Mechanicsburg North Terminal to incorporate the backup Vapor Recovery Unit installed as per Plan Approval 21-05021B and Tank 127 and Tank 128, Storage Tank for gasoline and distillate, installed as per Plan Approval 21-05021C, located in Silver Spring Township, **Cumberland County**. The facility's major sources of emissions include loading racks and storage tanks that primarily emit VOC. This installation will result in facility's potential to emit VOC emissions increase of 7.1 tpy and the actual VOC emissions limit of 50 tons per

year shall not change. The synthetic minor operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-03004: Homette Corp. (P. O. Box 743, Elkhart, IN 46515) for operation of the Nomad/Layton Travel Trailers facility in Upper Leacock Township, **Lancaster County**. Recreational vehicles are assembled at this facility. There is a potential to emit less than 1 ton /year of the following pollutants: nitrogen oxides, particulate matter, sulfur oxides and carbon monoxide. There is a potential to emit less than 5 tons/year of volatile organic compounds and less than 2 tons/year of hazardous air pollutants. The natural minor operating permit shall contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

36-05064: Homette Corp. (P. O. Box 743, Elkhart, IN 46515) for operation of the Skyline Homes facility in Ephrata Borough, **Lancaster County**. Mobile homes are manufactured at this facility. There is a potential to emit less than 1 ton/year of the following pollutants: nitrogen oxides, particulate matter, sulfur oxides and carbon monoxide. Facility emissions will be limited to less than 50 tons/year of volatile organic compounds, less than 10 tons/year of any single hazardous air pollutant and less than 25 tons of any combination of hazardous air pollutants. The synthetic minor operating permit shall also contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

36-05065: Homette Corp. (P. O. Box 743, Elkhart, IN 46515) for operation of the Skyline Homes facility in Upper Leacock Township, **Lancaster County**. Mobile homes are manufactured at this facility. There is a potential to emit less than 1 ton /year of the following pollutants: nitrogen oxides, particulate matter, sulfur oxides and carbon monoxide. Facility emissions will be limited to less than 50 tons/year of volatile organic compounds, less than 10 tons/year of any single hazardous air pollutant and less than 25 tons of any combination of hazardous air pollutants. The synthetic minor operating permit shall also contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

67-03100: Iris Energy, LLC (100 Nyala Farm, Westport, CT 06880) for a natural minor operating permit for a synthetic fuel processing facility in East Manchester Township, **York County**. The potential-to-emit volatile organic compounds (VOCs) are about 37 tons per year. The natural minor operating permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

11-00414: Senate Coal Mines, Inc. (One Energy Place, Suite 5100, Latrobe, PA 15650) for operation of Coal Refuse Reprocessing at St. Michael Pile in Adams Township, **Cambria County**.

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

25-00918: Medical Manufacturing Corp. (2205 East 33rd Street, Erie, PA 16510) for a Natural Minor Operat-

ing Permit for operation of an ethylene oxide sterilization facility in the City of Erie, **Erie County**.

10-00011: Castle Rubber Co. (Railroad Street, P. O. Box 589, Butler, PA 16003) for a Natural Minor Operating Permit for the manufacture of custom rubber components in East Butler Borough, **Butler County**.

43-00037: SQP Industries (2 North Sixth Street, Sharpsville, PA 15150) for a Natural Minor Operating Permit to operate a malleable iron foundry in Sharpsville, **Mercer County**.

MINING ACTIVITY APPLICATIONS

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

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

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

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

Written comments or objections should contain the name, address and telephone number of persons submit-

ting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

13010202. Northampton Fuel Supply Co., Inc. (7500 Old Georgetown Road, Suite 13, Bethesda, MD 20814), commencement, operation and restoration of an anthracite coal refuse reprocessing and fly ash disposal operation in Banks Township, **Carbon County** affecting 111.85 acres, receiving stream—none (no discharge). Application received: November 20, 2001.

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

17950116 and NPDES Permit No. PA0220183. Hilltop Coal Company, R. R. 1, Box 347, Houtzdale, PA 16651. Renewal of an existing bituminous surface mine permit in Bigler Township, **Clearfield County** affecting 14 acres. Receiving streams: unnamed tributaries of Upper Morgan Run to Upper Morgan Run; Upper Morgan Run to Clearfield Creek; and Alexander Run to Clearfield Creek; Clearfield Creek to West Branch Susquehanna River. Application received: October 26, 2001.

17900107 and NPDES Permit No. PA0116963. Hilltop Coal Company, R. R. 1, Box 347, Houtzdale, PA 16651. Renewal of an existing bituminous surface mine permit in Bigler Township, **Clearfield County** affecting 18.2 acres. Receiving streams: Alexander Run, Upper Morgan Run. Application received: October 26, 2001.

14960101 and NPDES Permit No. PA0220388. River Hill Coal Company, Inc., Box 141, Kylertown, PA 16847. Renewal of an existing bituminous surface mine permit in Snow Shoe Township, **Centre County** affecting 48.5 acres. Receiving streams: North Fork Beech Creek to Beech Creek, Beech Creek to Bald Eagle Creek; Bald Eagle Creek to West Branch Susquehanna River. Application received: November 19, 2001.

17960116 and NPDES Permit No. PA0220469. T D K Coal Sales, Inc., P. O. Box 259, Brockway, PA 15824-0259. Transfer of an existing bituminous surface mine permit from E. P. Bender Coal Co., Inc., located in Jordan Township, **Clearfield County** affecting 154 acres. Receiving streams: unnamed tributaries to Comfort Run and Comfort Run. Application received: November 7, 2001.

17840126 and NPDES Permit No. PA0609781. T D K Coal Sales, Inc., P. O. Box 259, Brockway, PA 15824-0259. Transfer of an existing bituminous surface mine permit from E. P. Bender Coal Co., Inc., located in Jordan Township, **Clearfield County** affecting 341.7 acres. Receiving streams: Hunter Run and unnamed tributaries to Comfort Run and Comfort Run, to North Witmer Run to Clearfield Creek. Application received: November 7, 2001.

14820103 and NPDES Permit No. PA0611719. American Compliance Coal, Inc., P. O. Box 260, Brockway, PA 15824. Transfer of an existing bituminous surface mine-auger permit from Al Hamilton Contracting Company, located in Rush Township, **Centre County** affecting 379.7 acres. Receiving streams: unnamed tribu-

taries to Trout Run and Moshannon Creek to Moshannon Creek, to the West Branch Susquehanna River, to the Susquehanna River. Application received: November 8, 2001.

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

03910102. T. C. Mining (R. R. 2, Box 301B, Kittanning, PA 16201). Renewal application received for reclamation only of a bituminous surface mine located in Valley Township, **Armstrong County**, affecting 72.6 acres. Receiving stream: unnamed tributary to Long Run and Long Run, classified for the following use: warm water fishery. The first downstream potable water supply intake from the point of discharge is PA American Water Company. Renewal application received: November 27, 2001.

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

32960103 and NPDES Permit No. PA021331. Kraynak Coal Company, 3124 Firetower Road, Mahaffey, PA 15757. Permit renewal for continued operation of a bituminous surface and auger mine and for existing discharge of treated mine drainage in Grant and Green Townships, **Indiana County**, affecting 329.7 acres. Receiving streams: unnamed tributary to East Run and Little Mahoning Creek to Mahoning Creek and unnamed tributaries of North Branch of Two Lick Creek classified for the following uses: High Quality—Cold Water Fishery; High Quality—Cold Water Fishery; Cold Water Fishery and Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 26, 2001.

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

32841317. NPDES Permit # PA0037109, Helvetia Coal Company (P. O. Box 219, Sheloceta, PA 15774), to revise the permit for the Lucerne No. 9 deep mine in Conemaugh Township, **Indiana County** to add a treatment pond and 2.5 surface acres to the existing surface area of Lucerne 9 Mine/No. 2 portal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A, The first downstream potable water supply intake from the point of discharge is N/A, Application received: November 19, 2001.

30831303. NPDES Permit # PA0013511, RAG Cumberland Resources, L.P., 158 Portal Rd., P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County** to add three vent boreholes and a stream crossing, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A, The first downstream potable water supply intake from the point of discharge is N/A, Application received: November 28, 2001.

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

33970111. Falls Creek Energy Co., Inc. (R. D. 6, Box 231, Kittanning, PA 16201). Revision to an existing bituminous surface strip operation in McCalmont and Winslow Townships, **Jefferson County** affecting 94.3

acres. Receiving streams: Laurel Run and Big Run, classified for the following uses: Statewide water uses: CWF. No public water supplies are within 10 miles downstream of this proposed operation. Revision to include a post mining land use change from forestland to unmanaged natural habitat on lands of Falls Creek Energy Co., Inc. Application received: October 9, 2001.

Coal Applications Returned

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54850207T2. Phoenix Contract Mining, Inc. (243 Pine Street, Tremont, PA 17981), transfer of an existing anthracite coal refuse reprocessing and preparation plant operation from Harriman Coal Corporation in Hegins Township, **Schuylkill County** affecting 39.1 acres. Application received: August 7, 2001. Application returned: November 27, 2001.

54930102T2. Phoenix Contract Mining, Inc. (243 Pine Street, Tremont, PA 17981), transfer of an existing anthracite surface mine operation from Harriman Coal Corporation in Porter Township, **Schuylkill County** affecting 460.0 acres. Application received: August 7, 2001. Application returned: November 27, 2001.

54803203T3. Phoenix Contract Mining, Inc. (243 Pine Street, Tremont, PA 17981), transfer of an existing anthracite surface mine and coal refuse reprocessing operation from Harriman Coal Corporation in Hegins Township, **Schuylkill County** affecting 76.0 acres. Application received: August 13, 2001. Application returned: November 27, 2001.

54820203T2. Phoenix Contract Mining, Inc. (243 Pine Street, Tremont, PA 17981), transfer of an existing anthracite surface mine and coal refuse reprocessing operation from Harriman Coal Corporation in Hegins and Porter Townships, **Schuylkill County** affecting 200.0 acres. Application received: August 13, 2001. Application returned: November 27, 2001.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

67960301C3. Codorus Stone & Supply Co., Inc. (135 Mundis Race Road, York, PA 17402-9723), renewal of NPDES Permit #PA0223701 in East Manchester Township, **York County**, receiving stream—Codorus Creek, warm water fishery. Application received: November 21, 2001.

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

05920301 and NPDES Permit No. PA0212261. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, Church Street, New Enterprise, PA 16664, for continued operation of a noncoal surface mine and to add 20.7 acres to the permit. Total acres goes from 351.5 to 372.2 in Snake Spring Valley Township, **Bedford County**. Receiving streams: Cove Creek and Raystown Branch of the Juniata River classified for the following uses: Exceptional Value, Trout Stock Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: November 28, 2001.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection. Section 401 of

the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E15-678. West Whiteland Township, 222 North Pottstown Pike, Exton, PA 19341, West Whiteland Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a 6-foot wide bridge pedestrian and elevated boardwalk spanning Lionville Run, a tributary to West Valley Creek (WWF-MF) and 0.064 acre of adjacent wetlands (PEM) located in Miller Park. Concrete piers will support the boardwalk. The site is located approximately 1,500 feet southwest of the intersection of Pottstown Pike and Swedesford Road (Downingtown, PA Quadrangle N: 5.7 inches; W: 1.5 inches).

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

E64-224. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Damascus Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a stream enclosure of Hollister Creek (HQ-

CWF), consisting of a 12.0-foot by 9.0-foot concrete box culvert with its invert depressed 1.0-foot below streambed elevation. The project will also temporarily impact .034 acre of PEM Wetlands. The project is located along S.R. 1016, Section 670, Segment 0050, approximately 0.8 mile downstream of Snyder Pond. (Long Eddy, NY-PA, Quadrangle N: 2.9 inches; W: 3.0 inches).

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

E36-720. Darrell Lovelette, Manheim Township, 1840 Municipal Drive, Lancaster, PA 17601 in Manheim Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a pedestrian footbridge approximately 10-foot by 6-foot wide with a span of 25-foot across the West Branch of Backman Run (WWF) at a point approximately 2,800 feet north of the intersection of Fruitville Road and Stonehenge Road (Lancaster, PA Quadrangle N: 21.9 inches; W: 11.8 inches) in Manheim Township, Lancaster County.

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

E18-289 Amendment. East Nittany Valley Joint Municipal Authority, P. O. Box 314, Lamar, PA 16848. East Nittany Sewer Extension, in Porter Township, **Clinton County**, ACOE Baltimore District (Beech Creek, PA Quadrangle N: 5.65 inches; W: 2.69 inches).

The original permit was authorized to construct and maintain a total of 19 sewer line crossings and 6 pump stations. The crossings will consist of one 10-inch line, eleven 8-inch lines, one 4-inch line, three 3-inch lines and three 2-inch lines. There are three methods of crossing consisting of boring at a minimum of 3 feet under the stream, hanging the line from an existing bridge or using an open trench. If an open trench method was utilized the work will be completed when the stream is dry. The crossings will be through Fishing Creek (HQ-CWF), Little Fishing Creek (HQ-CWF), Cedar Run (HQ-CWF), Long Run (HQ-CWF), Roaring Run (HQ-CWF) and Axe Factory Hollow (CWF).

Currently an amendment request has been presented to change the method of crossing from a bore crossing to an open cut crossing. The crossings shall be constructed in the dry by utilizing stream diversion methods. All dewatering is proposed to be passed through sediment removal system prior to any infiltration to the stream. The two crossings are both on the main branch of Fishing Creek.

E41-493: Montgomery Water and Sewer Authority, 35 South Main Street, Montgomery, PA 17752. Small Projects Water Obstruction and Encroachment Joint Permit Application, in Clinton Township, **Lycoming County**, ACOE Susquehanna River Basin District (Muncy, PA Quadrangle N: 10.5 inches; W: 15.4 inches).

To remove an existing concrete pipe culvert and construct and maintain two 7.92-foot by 5.7-foot arch culverts in an unnamed tributary to the West Branch of the Susquehanna River. This project proposes to have a minimal impact on the Susquehanna River, which is, designated a Warm Water Fishery and does not propose to impact any jurisdictional wetlands.

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

E02-1359. Michael and Erin Joyce, 403 Mt. Nebo Road, Pittsburgh, PA 15237. Borough of Emsworth, **Allegheny County**, ACOE Pittsburgh District.

To rehabilitate and maintain a bridge across Lowries Run (TSF) by replacing the bridge deck. The bridge will provide access to a proposed multi self-storage unit development. The bridge is located on the east side of Camp Horne Road approximately 3/4 mile from its intersection with Route 65 (Ohio River Boulevard) (Emsworth, PA Quadrangle N: 2.1 inches; W: 12.9 inches).

E32-420 A3. Reliant Energy Mid-Atlantic Power Holdings, LLC, 1001 Broad Street, Johnstown, PA 15907-1050. East Wheatfield Township, **Indiana County**, ACOE Pittsburgh District.

To amend Permit E32-420 to include the construction and maintenance of an access roadway along the Conemaugh River (WWF) and a four span bridge having spans of 96.0 feet, 139.0 feet, 115.0 feet, 115.0 feet and an underclearance of 42.5 feet across an unnamed tributary to the Conemaugh River (WWF). The proposed work will impact 0.62 acre of wetlands. The project is located at the Seward Power Plant off of Power Plant Road (New Florence, PA Quadrangle N: 4.5 inches; W: 5.3 inches).

E56-309. Ogle Township, 212 Summit Drive, Windber, PA 15963. Ogle Township, **Somerset County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a 36-inch HDPE culvert in Piney Run (EV) for the purpose of improving roadway standards and transportation safety. The project is located on Roman Road, approximately 200-feet from its intersection with Mount Carmel Drive (Ogletown, PA Quadrangle N: 6.12 inches; W: 12.55 inches).

ENVIRONMENTAL ASSESSMENTS

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

EA52-001NE. Saw Creek Estates Community Association. Lehman Township, **Pike County**, ACOE Philadelphia District.

To remove an existing stream enclosure and restore approximately 380 linear feet of a tributary to Saw Creek, in conjunction with permit waiver provision § 105.12(a)(16), Dam Safety and Waterway Management Regulations. The overall project will also include replacement of a minor road crossing (Decker Road), approximately 50 feet downstream of the restored channel section, under the authorization of General Permit BDWM-GP-7. The project is located between Decker Road and Southport Drive in Saw Creek Estates (Bushkill, PA-NJ Quadrangle N: 21.8 inches; W: 7.4 inches).

EROSION AND SEDIMENT CONTROL

The following parties have applied for an Erosion and Sediment Control Permit for an earth disturbance activity associated with either a road maintenance or timber harvesting operation.

Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office listed before the application within 30 days of this public notice. Comments reviewed

within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

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

The application and related documents, including the erosion and sediment control plan for the earth distur-

bance activity are on file and may be inspected at the office identified in this notice.

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

Applications received under sections 5 and 402 of The Clean Streams Law (35 P.S. §§ 691.5 and 691.402).

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

Venango Conservation District, (814) 676-2832.

<i>ESCP No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCP6101801	Industrial Timber and Land Company P. O. Box 67 Endeavor, PA 16322	Venango Conservation District (814) 676-2832	Allegheny and President Townships	Stewart Run (CWF)

ACTIONS

FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval. The actions are listed in two categories. Section I lists all municipal and industrial permits and Section II lists oil and gas related permits.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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

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

NPDES Permit No. PA0051284, Industrial Waste, **Springfield Township**, 50 Powell Road, Springfield, PA 19064. This proposed facility is located in Springfield Township, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Crum Creek-3G.

NPDES Permit No. PA0058378, Sewage, **Upper Uwchlan Township Municipal Authority**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Issuance of a NPDES Permit to discharge into Black Horse Creek-3H.

NPDES Permit No. PA0050466, Sewage, **East Vincent Municipal Authority**, 262 Ridge Road, Spring City, PA 19475. This proposed facility is located in East Vincent Township, **Chester County**.

Description of Proposed Action/Activity: Renewal of a NPDES Permit to discharge into the Schuylkill Canal to Schuylkill River-3D.

WQM Permit No. 4601414, Sewerage, **Limerick Township Municipal Authority**, P. O. Box 29, Royersford, PA 19468. This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation to upgrade existing sewer line.

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

NPDES Permit No. PA-0062481, Sewage, **Rico Carisch**, 20 Canal Road, Easton, PA 18042. This proposed facility is located in Williams Township, **Northampton County**.

Description of Proposed Action/Activity: NPDES permit renewal approval to discharge domestic wastewater from a single family residence to the Delaware River.

NPDES Permit No. PA-0032107, Sewage, **Department of Conservation and Natural Resources—Beltzville State Park**, Bureau of State Parks, P. O. Box 8551, Harrisburg, PA 17105. This proposed facility is located in Franklin Township, **Carbon County**.

Description of Proposed Action/Activity: The renewal application for this NPDES permit is approved. Applicant is thus permitted to discharge 0.025 mgd of treated sewage into the Pohopoco Creek.

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

NPDES Permit No. PA0051829, Sewage, **Schuylkill Valley School District**, Administration Center, 929 Lakeshore Drive, Leesport, PA 19533-8631. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Maiden Creek in Watershed 3-B.

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

NPDES Permit No. 4301422, Sewage, **Timothy P. Yesko**, 565 Fredonia Road, Greenville, PA 16125. This proposed facility is located in Perry Township, **Mercer County**.

Description of Proposed Action/Activity: This project is to discharge to tributary to Otter Creek.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10N031	U. S. Army Corps of Engineers Baltimore District P. O. Box 1715 Baltimore, MD 21203-1715	Lackawanna	Dickson City and Olyphant Borough	Lackawanna River HQ-CWF
PAS10U156	Silvercrest Development Corp. 824 8th Ave. Bethlehem, PA 18018	Northampton	Upper Nazareth Township	Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS102806	Pennsylvania Department of Transportation 1620 North Juniata Street Hollidaysburg, PA 16648	Fulton	Brush Creek Township Licking Creek Township	West Fork Roaring Run (HQ-CWF) UNT to Sindeldecker Branch (CWF)

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent (NOIs) for Coverage Under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Luzerne County Hazleton City	PAR10R238	Tri Area Joint Recreation Authority P. O. Box 2153 Hazleton, PA 18201	Beaver Creek, CWF Black Creek, CWF	Luzerne County Conservation District (570) 674-7991
Northampton County Easton	PAR10U168	Shiloh Baptist Church 201 Thomas Bright Ave. Easton, PA 18042	Lehigh River, WWF	Northampton County Conservation District (610) 746-1971
Berwick Township Adams County	PAR 100140	JAB Partnership 6115 York Road New Oxford, PA 17350	UNT to Pine Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Jefferson Township Berks County	PAR10C393	Roy Hetrick 69 Hetrick Road Bernville, PA 19506	UNT to Mill Creek CWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
East Hanover Township Lebanon County	PAR10P166	USPFO for Pennsylvania Department of Military and Veteran Affairs Purchasing and Contracting Room 242 Bldg. S-O-47 Indiantown Gap Annville, PA 17003-5003	Trout Run TSF	Lebanon County Conservation District 2120 Cornwall Rd. Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 3
Lebanon County	PAR10P170	Harry Bowman Woodlea Dev. Corp. 152 W. Main Avenue Myerstown, PA 17067-1095	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Rd. Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 3
Dover Township York County	PAR10Y567	Tower Drive Subdivision Harry Fox 15 Montego Court Dillsburg, PA 17019	UNT to Fox Run TSF	York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
North Codorus Township York County	PAR10Y556	Grace Fellowship Church R. D. 10 Box 311 York, PA 17404	UNT to South Branch Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430

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

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Beaver County Raccoon Township	PAR100291	James Quinn Green Haven Estates 154 Pleasant Drive Aliquippa, PA 15001	UNT Raccoon Creek/ WWF	Beaver County Conservation District (724) 774-7090
Cambria County Carrolltown Borough	PAR101080	Carrolltown Borough P. O. Box 307 Carrolltown, PA 15722	Little Chest Creek CWF	Cambria County Conservation District (814) 472-2120
Butler County Adams Township	PAR10E168	Kenneth Brennan Brennan Builders 120 Brennan Lane Evans City, PA 16033	UNT to Brush Creek	Butler Conservation District (724) 284-5270
Lawrence County Neshannock Township	PAR103723-1	Gale Measel Northgate GEM Opportunities Inc. 3009 Wilmington Road New Castle, PA 16105	UNT to Shenango River (WWF)	Lawrence Conservation District (724) 652-4512
Venango County Barkeyville Borough	PAR10015	Venango Economic Development Corporation National Transit Building P. O. Box 128 Oil City, PA 16301-0128	UNT to Wolf Creek and UNT to North Branch Slippery Rock Creek (CWF)	Venango Conservation District (814) 676-2832

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Lancaster County East Hempfield Township	PAR123514	Purina Mills, LLC 3029 Hempland Road Lancaster, PA 17601	West Branch Little Conestoga	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Adams County Tyronne Township	PAR123534	Zeigler Brothers, Inc. 400 Gardners Station Rd. Gardners, PA 17324-0095	UNT Opossum Creek/TSF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Adams County East Berlin Township	PAR123535	Zeigler Brothers, Inc. 400 Gardners Station Rd. Gardners, PA 17324-0095	W. Conewago Creek/WWF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County East Hempfield Township	PAR323506	Bird In Hand Woodworks Inc. 3031 Industry Dr. Lancaster, PA 17603	Brubaker Run/WWF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Cumru Township	PAR603502	James R. Strunk Strunk & Strunk Used Auto Parts 475 Poplar Neck Rd. Birdsboro, PA 19508	Schuylkill River/WWF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Cumberland County Camp Hill Borough	PAR213510	Atlas Roofing Corp. Camp Hill Facility 802 Highway 19 North Suite 190 Meridian, MS 39307	Cedar Run/CWF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Cumberland County Middlesex Township	PAR803556	ABF Freight System Inc. (Carlisle) P. O. Box 10048 Fort Smith, AR 72917-0048	Hogestown Run/CWF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
York County Springettsbury Township	PAR803561	Overnight Transport Co. (York) 1000 Semmes Ave. Richmond, VA 23224	Mill Creek/WWF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lancaster County East Lampeter Township	PAR203530	Schmitt's Aluminum Foundry P. O. Box 276 Smoketown, PA 17576	Mill Creek/WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lancaster County Elizabethtown Borough	PAR223506	Fleetwood Homes of PA Inc. P. O. Box 350 Elizabethtown, PA 17022-9425	Conewago Creek/TSF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lebanon County Lebanon City	PAR233516	Lebanon Chemical Corp. 1600 E. Cumberland St. Lebanon, PA 17042	Quittapahilla Creek/TSF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Franklin County Southampton Township	PAR123551	Wengers Feed Mill Inc. 101 W. Harrisburg Ave. Rheems, PA 17570	UNT Conodoquinet Creek/WWF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lancaster County Elizabethtown Borough	PAR803531	Newcomer Oil Co. Elizabethtown Bulk Storage Facility 101 E. Cherry St. Elizabethtown, PA 17022	UNT Conoy Creek/TSF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lancaster County Denver Borough	PAR123526	Gehman Feed Mill Inc. 44 N. 3rd St. Denver, PA 17517	Cocalico and Little Cocalico Creek/WWF and TSF	DEP SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
City of Pittsburgh Allegheny County	PAR606139	Keystone Iron & Metal 4903 E. Carson St. Pittsburgh, PA 15207	Monongahela River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Somerset Township Somerset County	PAR216101	New Enterprise Stone & Lime Co. Inc. P. O. Box 77 New Enterprise, PA 16664	Coxes Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

NOTICES

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Somerset Township Somerset County	PAR806135	New Enterprise Stone & Lime Co. Inc. P. O. Box 77 New Enterprise, PA 16664	Coxes Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cambria Township Cambria County	PAR326103	New Enterprise Stone & Lime Co. Inc. P. O. Box 77 New Enterprise, PA 16664	Howells Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Adams Township Butler County	PAR238327	James Austin Company P. O. Box 827 Mars, PA 16046-0827	Breakneck Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Jackson Township Butler County	PAR238302	Advanced Polymer Technology Corporation 109 Conica Lane Harmony, PA 16037	Unnamed tributary to Connoquenessing Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cranberry Township Butler County	PAR208354	Allegheny Metalworking Corp. 17 Leonburg Road Cranberry Township, PA 16066	Unnamed tributary to Brush Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-4</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Amwell Township Washington County	PAG046102	Elisabeth Morris 559 Waynesburg Road Washington, PA 15301	Channel to Little Tenmile Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
East Huntingdon Township Westmoreland County	PAG046117	Samuel C. Davis Route 819 R. D. 2 Box 137A Scottsdale, PA 15683	Jacobs Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
West Deer Township Allegheny County	PAG046237	Joseph A. Norbutt 147 Donaldson Road Gibsonia, PA 15044	Little Deer Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Pine Township Allegheny County	PAG046238	Lloyd Mason 3299 Jackson Road Gibsonia, PA 15044	Tributary of Irwin Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Indiana Township Allegheny County	PAG046239	Michael P. Ferraro R. D. 5 Box 369 Mill Dam Road Cheswick, PA 15024	UNT of Cunningham Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
West Deer Township Allegheny County	PAG046240	Kathleen Kenney 1245 Logan Road Gibsonia, PA 15044	UNT of Dawson Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Lincoln Borough Allegheny County	PAG046241	Dennis J. Southern 4538 Liberty Way Elizabeth, PA 15037	UNT of Wylie Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Pine Grove Township Warren County	PAG048421	Leah R. Bacchetti 139 Stony Road Lancaster, NY 14086	Wiltsie Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Glade Township Warren County	PAG048763	Edward J. and Bonnie A. Abplanalp 108 Chapman Road Warren, PA 16365	Glade Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Perry Township Mercer County	PAG048765	Timothy P. Yesko 565 Fredonia Road Greenville, PA 16125	Tributary to Otter Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Borough Erie County	PAG048433	James L. Hedlund 5410 Frederick Drive Erie, PA 16501-4806	Unnamed tributary of Six Mile Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY PERMITS

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

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

Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days from the date of issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

SAFE DRINKING WATER

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

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

Operations Permit issued to: **Mark Terrace Water Company, Inc., t/a Lynn Water Co.**, 6500 Chapmans Road, Allentown, PA 18106, Lynn Township, **Lehigh County** on November 20, 2001.

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

Permit No. 0601507, Public Water Supply.

Applicant	Philadelphia Suburban Water Company
Municipality	Cumru
County	Berks
Type of Facility	Green Hills Manor water supply well (300 gpm) with disinfection.
Consulting Engineer	Douglas E. Berg, P.E. Entech Engineering Inc. 4 South 4th Street Reading, PA 19603
Permit to Construct Issued:	November 27, 2001

Permit No. 0701502, Public Water Supply.

Applicant	Bellemead Townhouses
Municipality	Antis
County	Blair
Type of Facility	Installation of a direct pressure filtration system and a tank for contact time.
Consulting Engineer	Randolph S. Bailey, P.E. Goodkind & O'Dea Inc. 101 Noble Boulevard Carlisle, PA 17013
Permit to Construct Issued:	November 19, 2001

Permit No. 0601502, Public Water Supply.

Applicant	Borough of Leesport
Municipality	Borough of Leesport
County	Berks
Type of Facility	New well 5 at 200 gpm with disinfection.

Consulting Engineer	David Bright, P.E. Spotts, Stevens & McCoy, Inc. 345 N. Wyomissing Blvd. Reading, PA 19610
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Permit to Construct Issued:	November 27, 2001
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Permit No. 6701506, Public Water Supply.

Applicant	Asbury Pointe LTD
Municipality	East Manchester Township
County	York
Type of Facility	An Operation Permit for Well No. 9 and treatment facilities. The well will be pumped at a maximum rate of 60 gpm. Treatment will include iron and manganese removal by greensand filtration followed by disinfection using sodium hypochlorite.

Consulting Engineer	Jerry T. Stahlman, P.E. Stahlman & Stahlman, Inc. 139 E. Market Street York, PA 17401
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Permit to Operate Issued:	November 16, 2001
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Permit No. 2801509, Public Water Supply.

Applicant	DCNR Bureau of State Parks Caledonia
Municipality	Green Township
County	Franklin
Type of Facility	Installation of lead and copper corrosion control facilities. Revised facilities will include equipment to add soda ash and zinc orthophosphate.

Consulting Engineer	David J. Brenneman, P.E. DCNR Bureau of Facility Design and Construction P. O. Box 8451 Harrisburg, PA 17105-8451
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Permit to Construct Issued:	November 13, 2001
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Permit No. 0601513, Public Water Supply.

Applicant	Specialty Design & Manufacturing Co., Inc.
Municipality	Alsace Township
County	Berks
Type of Facility	Construction of a carbon absorption treatment system for volatile organic compounds on an existing public water supply.

Consulting Engineer	Stephen B. Fulton, P.E. ARM Group Inc. 1129 West Governor Road P. O. Box 797 Hershey, PA 17033-0797
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Permit to Operate Issued:	November 20, 2001
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Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 5601503, Public Water Supply.

Applicant **Somerset Township Municipal Authority**, 2209 North Center Avenue, Somerset, PA 15501-7443
 [Borough or Township] Somerset Township
 County **Somerset**
 Type of Facility Friedens system
 Consulting Engineer Crouse & Company
 Permit to Construct November 26, 2001
 Issued

Operations Permit issued to Indian Lake Borough, 1301 Causeway Drive, Central City, PA 15926, Indian Lake Borough, **Somerset County** on November 27, 2001.

Permit No. 0201502, Minor Amendment. Public Water Supply.

Applicant **Harrison Township Water Authority**, 1705 Rear, Freeport Road, Natrona Heights, PA 15065
 [Borough or Township] Harrison Township
 County **Allegheny**
 Type of Facility Mt. Airy storage tank
 Consulting Engineer NIRA Consulting Engineers, Inc.
 Permit to Construct November 27, 2001
 Issued

STORMWATER MANAGEMENT

Action on plans submitted under the Stormwater Management Act (32 P. S. § 680.9).

Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555.

Plan No. SWMP 321:06, Tulpehocken Creek Stormwater Management Plan, as submitted by **Lebanon County**, was approved on November 30, 2001.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Halifax Township	P. O. Box 405 Halifax, PA 17032	Dauphin

Plan Description: The approved plan revision provides for a new private sewage treatment plant with a treated discharge of 34,475 gpd to an unnamed tributary of the Susquehanna River. The proposed facility will serve the Lenker Estates Subdivision consisting of 105 new single family residential lots and 24 townhouse units. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

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

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Dawson Borough	Mary Jane Winterhalter Secretary P. O. Box A Dawson, PA 15428	Fayette
Dunbar Township	Ron Kellar, Secretary 128 Township Drive Dunbar, PA 15431	Fayette
Franklin Township	George P. Bozek, Secretary Franklin Township 353 Town and Country Road Vanderbilt, PA 15486	Fayette
Lower Tyrone Township	Linda Hiles, Secretary 456 Banning Road Dawson, PA 15428	Fayette
Vanderbilt Borough	Mary Jane Winterhalter, Secretary Vanderbilt Borough P. O. Box 475 Vanderbilt, PA 15468	Fayette

Plan Description: The approved plan provides for a new sewage treatment facility with a discharge to the Youghiogheny River. This project proposes to collect and convey sewage flows from the Boroughs of Dawson and Vanderbilt along with the adjacent portions of Dunbar, Franklin and Lower Tyrone Townships to be treated at a newly constructed sewage treatment plant. 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.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Breakneck Creek Regional Authority	P. O. Box 1180 Mars, PA 16046-1180	Butler

Plan Description: The approved plan provides for construction of modifications to the sewage treatment plant enabling it to handle an additional 1.0 mgd average daily flow basis.

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.

HAZARDOUS SITES CLEANUP ACT UNDER THE ACT OF OCTOBER 18, 1988

NOTICE OF PROMPT INTERIM RESPONSE Yorktowne Special Products, Red Lion Borough, York County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305),

has initiated a prompt interim response at the Yorktowne Special Products site (Yorktowne) at 101 Cherry Street, Red Lion, PA. This response has been undertaken under sections 501(a) and 505(b) of HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)). The site is located at Red Lion Borough, York County, PA.

Yorktowne was a small metal plating business operated on a 0.5 acre property with two buildings. One building contains the plating tanks, rinse baths and drums containing various solutions used in nickel, tin and zinc plating. There are approximately 40 drums inside this building with labels designating the contents as nickel, zinc, acids and/or other electroplating wastes. There are also about 15 vats that were utilized for electroplating. Many of these vats have sludge on the bottom. The second building is used as a storage and treatment facility. There are four cement in-ground settling tanks used for the treatment of wastewater generated from the plating operation. There are approximately 15 drums in the second building containing various wastes including brass activators and caustic materials. There are eight 25-gallon drums labeled muriatic acid between the buildings onsite. The land adjacent to the buildings has large areas that are devoid of plant life.

The Department's Waste Management Program issued an Administrative Order on January 2, 1997. The order required that Yorktowne cease dumping or permitting the dumping of solid waste onto the surface of the ground; conduct hazardous waste determinations on accumulated sludge; if the hazardous waste determination indicate that the sludge is hazardous, apply for a hazardous waste generator identification number; and remove and dispose of all solid waste. Yorktowne has not complied with this order. During a recent inspection of the facility Department personnel collected samples from two of the settling tanks and from two open drums. Results from these samples indicate that the sludge and drums contain elevated levels of cyanide, cadmium, chromium, lead, nickel and zinc.

The Department has considered two alternatives for the remediation of the site. The following are brief descriptions of these alternatives.

1. Institutional Controls—This alternative involves placing controls on the facility to limit the direct contact with the waste there. These controls would include repairing the broken-out windows, repairing the fence around the site and alerting the borough police and requesting additional patrols around the facility. All wastes would remain at the site.

2. Waste Removal—This alternative involves the removal and disposal of the wastes at the site. Under this alternative, waste currently stored at the site would be characterized and sent offsite for proper disposal. This would include the waste in the drums, in the plating and rinse baths and in the cement settling tanks. Further investigation of site soils will be conducted to determine if there has been any soil contamination. Any soils containing site related contaminants in excess of Nonresidential Statewide Health Standards would be removed and disposed.

The Department has implemented Alternative 2. This alternative complies with applicable, relevant and appropriate requirements and will eliminate the threat of potential exposure to the wastes. This alternative is protective of human health and the environment by eliminating the risk from further release of hazardous substances at the site.

This notice is provided under section 506(b) of HSCA (35 P. S. § 6020.506(b)) and publication of this notice starts the administrative record period under HSCA. The administrative record which contains information about this site and which supports the Department's decision to perform this action is available for public review and comment at the Department's Southcentral Regional Office at 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Ruth Bishop at (717) 705-4833. A copy of the administrative record is also available at the Red Lion Borough Office at Center Square, Red Lion, PA.

The administrative record will be open for comment from the date of publication of this notice in the *Pennsylvania Bulletin* and will remain open for 90 days. Persons wishing to submit written comments regarding this action may do so by sending them to Ruth Bishop at the previous address. The public will have an opportunity to present oral comments regarding the action at the public hearing. The hearing has been scheduled for January 24, 2002, at 7 p.m. at the Red Lion Borough Office. Persons wishing to present formal oral comments at that hearing should register by 4 p.m. on January 18, 2002, by calling Charlotte Bonafair at (717) 705-4703.

Persons with a disability, who wish to attend the hearing and require auxiliary aid, service or other accommodation to participate in the proceedings, should contact Charlotte Bonafair at the previous number or through the Pennsylvania Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

SETTLEMENT UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT AND THE HAZARDOUS SITES CLEANUP ACT

**Gettysburg Foundry Specialties Company
Cumberland Township, Adams County**

The Department of Environmental Protection (Department) under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.A. §§ 9601—9675), has entered into a proposed de minimis settlement with: Alcan Cable, Division of Alcan Aluminum Corporation (Alcan) and Hanover Wire Cloth, a Division of CCX, Inc. (Hanover) regarding response costs incurred and to be incurred, by the Department at the Gettysburg Foundry Specialties Co. Site (Site) located in Cumberland Township, Adams County.

Prompt interim response actions were conducted by the Department to secure the facility by repairing the fence and moving piles of dross waste that were exposed to the elements into a large room in the Foundry Building. Later, wastes stored in the Foundry and Ball Mill Buildings were disposed. The Department has determined that further response actions are necessary to abate the release and threatened release of hazardous substances and contaminants at the Site. The Department will initiate a Remedial response action at the site that includes the excavation and offsite disposal of the waste, point source treatment systems to treat affected residential wells and excavation and offsite disposal of contaminated sediments and soils from the wetlands and potentially from the streambeds. This response is necessary to eliminate direct contact threats, ingestion threats and environmental threats.

The Department and Alcan and Hanover entered into a proposed consent order and agreement. Under terms of

the proposed settlement, Alcan and Hanover will pay the Department \$150,000 as reimbursement for response costs.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). This section provides that the settlement will become final upon the filing of the Department's response to any significant written comments. The proposed consent order and agreement that contains the specific terms of the settlement is available for public review and comment. The proposed consent order and agreement can be examined from 8 a.m. to 4 p.m. at the Department's office at 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Ruth Bishop at (717) 705-4705. A public comment period on the proposed consent order and agreement will extend for 60 days from today's date. Persons may submit written comments regarding the proposed consent order and agreement to the Department by February 13, 2002, by submitting them to Ruth Bishop at the previous address.

SETTLEMENT UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT AND THE HAZARDOUS SITES CLEANUP ACT

**Douglasville Disposal Site
Berk County, PA**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a proposed settlement with 137 De Minimis Responsible Parties (Settling Defendants).

The proposed settlement resolves claims of the Department with the Settling Defendants under HSCA and under CERCLA for response costs expended by the Department at the Douglassville Disposal Superfund Site (Site) located in Union Township, Berks County, PA.

All evidence indicates that each of the participating Settling Defendants sent 1% or less of the hazardous substances that were found at the Site. The Department believes that the amount of hazardous substances, as well as their toxic or other hazardous effects, is minimal comparative to that of other hazardous substances contributed to the Site by all known and financially viable persons. The Decree obligates the Settling Defendants, collectively, to reimburse to the Department \$224,024.74 of approximately \$1,635,433 in Department-expended costs and accrued interest.

The Department believes that the Consent Decree is fair, reasonable, practicable, in the public interest and in furtherance of the statutory goals of HSCA and CERCLA.

For a period of 60 days beginning with the December 15, 2001, publication date of this Notice, the public is invited to review the Consent Decree, Monday through Friday, from 8 a.m. to 4 p.m., at the Department's Office at 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Crystal Snook at (717) 705-6645. The Consent Decree can also be reviewed at the Department's Reading District Office, located at 1005 Crossroads Boulevard, Reading, PA 19605, from 8 a.m. to 4 p.m., by contacting Donna Good at (610) 916-0100.

After review, the public may submit written comments on the Consent Decree, before February 15, 2002, by mailing them to Crystal Snook at the Department's Harrisburg Office at the address previously noted. A

person adversely affected by the settlement may also file an appeal from the Consent Decree to the Environmental Hearing Board.

Any questions concerning this Notice should be directed to Crystal Snook at the telephone number and address previously noted.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

Blue Rock Subdivision Property, Elverson Borough, **Chester County**. John Jacobs, Blue Rock Subdivision Property, 119 S. Chestnut St., Elverson, PA 19520, has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet Background Standards.

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

Penn Fuel Gas Inc. Shippensburg, Shippensburg Borough, **Cumberland County**. Key Environmental, Inc., 1200 Arch Street, Suite 200, Carnegie, PA 15106 (on behalf of PFG Gas, Inc., a subsidiary of PPL Gas Utilities, Two North Ninth Street, Allentown, PA 18101) submitted a baseline risk assessment concerning remediation of site soils and groundwater contaminated with lead, BTEX, PAHs and phenolic compounds.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

Schutte & Koerting Facility, Bensalem Township, **Bucks County**. Bruce Middlemann, Jacques Whitford, Inc., 450 S. Graver Rd., Suite 105, Plymouth Meeting, PA 19462, on behalf of Schutte & Koerting, 2215 State Rd., Bensalem, PA 19020, has submitted a Final Report concerning the remediation of site soil contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons and site groundwater contaminated with lead and BTEX. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 3, 2001.

Smith Residence, West Chester Borough, **Chester County**. James P. Gallagher, P.G., Marshall Miller & Associates, 3913 Hartzdale Dr., Suite 1306, Camp Hill, PA 17011, on behalf of Chris Smith, 107 Garfield Ave., West Chester, PA 19380, has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 9, 2001.

PECO Avondale MGP Site, Avondale Borough, **Chester County**. Allan Fernandes, P.G., PECO Energy Co., 300 Front St., Bldg. #1, Conshohocken, PA 19428, on behalf of PECO Energy Co., 2301 Market St., Philadelphia, PA 19101, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with heavy metals, BTEX and polycyclic aromatic hydrocarbons. The Final report demonstrated attainment of Site-Specific Standards and was approved by the Department on October 31, 2001.

1100 East Mermaid Lane Property, Springfield Township, **Montgomery County**. Darryl D. Borrelli, Manko, Gold & Katcher, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of General Atronics Realty Corp., 1200 E. Mermaid Lane, Wyndmoor, PA 19038, has submitted a Final Report concerning the remediation of site soil contaminated with asbestos and site groundwater contaminated with solvents and MTBE. The Final report demonstrated attainment of Statewide Health and Site-Specific Standards and was approved by the Department on October 24, 2001.

1200 East Mermaid Lane Property, Springfield Township, **Montgomery County**. Darryl D. Borrelli, Manko, Gold & Katcher, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of General Atronics Realty Corp., 1200 E. Mermaid Lane, Wyndmoor, PA 19038, has submitted a Final Report concerning the remediation of site soil contaminated with lead, heavy metals, BTEX, solvents and asbestos and site groundwater contaminated with BTEX, solvents and MTBE. The Final report demonstrated attainment of Statewide Health and Site-Specific Standards and was approved by the Department on October 24, 2001.

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

PPL Utilities—Former Penn Fuel Gas Manufactured Gas Plant (Ashland site), Ashland Borough, **Schuylkill County**. KEY Environmental Incorporated, Rosslyn Farms Industrial Park, 1200 Arch Street, Suite 200, Carnegie, PA 15106 submitted a Remedial Investigation Report (on behalf of their client, PPL Utilities, 2 North Ninth Street, Allentown, PA, 18101) concerning the characterization and assessment of site soils and groundwater and adjacent surface water, found or suspected to have been contaminated with metals, phenolic compounds, cyanide, polycyclic aromatic hydrocarbons and BTEX (benzene, toluene, ethylbenzene and xylene) compounds. The report was submitted in partial fulfillment of a combination of the Statewide health and site-specific standards and was approved on November 28, 2001.

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

Harrisburg International Airport/Middletown Airfield, Lower Swatara Township and Middletown Borough, **Dauphin County**. Susquehanna Area Regional Airport Authority, 513 Airport Drive, Middletown, PA 17057

submitted a combined remedial investigation, risk assessment and cleanup plan concerning the remediation of site soils and groundwater contaminated with PCBs, heavy metals, solvents and PAHs. The combined report was approved by the Department on November 28, 2001

Schneider National Terminal, Bedford Township, **Bedford County**. Environmental Products & Services, Inc., P. O. Box 501, Carnegie, PA 15106 (on behalf of Schneider National Terminal, 5906 Business Route 220, Bedford, PA 15522) submitted a final report concerning the remediation of site soils contaminated with PHCs. The final report demonstrated attainment of the State-wide Health standard and was approved by the Department on December 4, 2001.

HAZARDOUS WASTE TRANSPORTER LICENSE

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

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

HAZARDOUS WASTE TRANSPORTER LICENSE RENEWED

Environmental Services Inc., 22153 Country R. D. 5, R. R. 3, Tilbury, ON N0P 2L0. License No. **PA-AH 0643**. Effective November 30, 2001.

The Environmental Service Group (NY), Inc., P. O. Box 242, Tonawanda, NY 14151-0242. License No. **PA-AH S144**. Effective November 28, 2001.

Ryan Environmental, Inc., Rt. 4 Box 260, Bridgeport, WV 26330. License No. **PA-AH 0646**. Effective November 28, 2001.

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

HAZARDOUS WASTE TRANSPORTER LICENSE EXPIRED

TransCom Logistics Corporation, P. O. Box 101178, Irondale, AL 35210. License No. **PA-AH 0635**. Effective November 30, 2001.

Liquid Transporter, Inc., P. O. Box 3500, Calgary, AB T2P 2P9. License No. **PA-AH 0478**. Effective November 30, 2001.

S & C Transport, Inc., 31478 Industrial Road, Suite #100, Livonia, MI 48150. License No. **PA-AH 0446**. Effective November 30, 2001.

Taplin Environmental Contracting Corporation, 5100 W. Michigan Avenue, Kalamazoo, MI 49006. License No. **PA-AH 0637**. Effective November 30, 2001.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

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

6019.6) and regulations to transport infectious and chemotherapeutic waste.

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

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE RENEWED

University of Pittsburgh of the Commonwealth System of Higher Education, 3700 O'Hara Street, B-50 Benedum Hall, Pittsburgh, PA 15261. License No. **PA-HC 0183**. Effective December 3, 2001.

Infectious and Chemotherapeutic Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

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

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE EXPIRED

Carlos' Express, P. O. Box 741, Pine Brook, NJ 07058. License No. **PA-HC 0211**. Effective November 30, 2001.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP-26-00483C: Great Lakes Energy Partners (P. O. Box 235, Yatesboro, PA 16236) permit (GP-5) on November 15, 2001, for construction and operation of one CE Natco, Model No. 250, Natural Gas Glycol Dehydrator, rated at 250 mmBtu/hr at the Rumbaugh Compressor Station in Lower Tyrone, **Fayette County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

GP-10-00011: Castle Rubber (Railroad Street, Butler, PA 16003) on November 30, 2001, for operation of a burn off oven in East Butler Borough, **Butler County**.

GP-10-00011: Castle Rubber (Railroad Street, Butler, PA 16003) on November 30, 2001, for operation of three natural gas fired boilers in East Butler Borough, **Butler County**.

GP-25-00058: VA Medical Center—Erie (135 East 38th Street, Erie, PA 16504) on November 30, 2001, for operation of three natural gas fired boilers in Erie, **Erie County**.

GP-10-00239: Mine Safety Appliances (1000 Cranberry Woods Drive, Cranberry Township, PA 16066) on November 30, 2001, for operation of two natural gas fired boilers in Cranberry Township, **Butler County**.

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

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

15-0014D: Saint Gobian Performance Plastics Corp. (57 Morehall Road, Malvern, PA 19355) on November 28, 2001, for operation of a medical device manufacturing process in East Whiteland Township, **Chester County**.

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

45-318-030A: Custom Design and Manufacturing Co., Inc. (P. O. Box 216, Pocono Summit, PA 18346) on November 27, 2001, for construction of wood working and paint application systems with associated air cleaning devices in Tobyhanna Township, **Monroe County**.

54-399-016C: World Resources Co. (170 Walnut Lane, Pottsville, PA 17901-8559) on November 27, 2001, for modification of a metals reclamation process and associated air cleaning device in Norwegian Township, **Schuylkill County**.

48-302-103: Newstech PA LP (formerly Northampton Pulp LLC, 6 Horwith Drive, Northampton, PA 18067) on November 28, 2001, for reactivation of a natural gas fired boiler in Northampton Borough, **Northampton County**.

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

ER-21-05024: Scranton-Altoona Terminals Corp. (P. O. Box 2621, Harrisburg, PA 17105) on November 28, 2001, for emission reduction credits for loading rack and storage tanks at Mechanicsburg South Terminal in Monroe Township, **Cumberland County**.

38-03035: V and S Lebanon Galvanizing, LLC (1000 Buckeye Park Road, Columbus, OH 43207) on November 26, 2001, for construction of a hot dip galvanizing operation at its Northport Industrial Park facility in Union Township, **Lebanon County**.

67-03107: Hoover Manufacturing Co., Inc. (P. O. Box 146, Glen Rock, PA 17327) on November 27, 2001, for construction of three spray paint booths controlled by dry panel filters at its Commerce Park facility in Springfield Township, **York County**.

67-03109: Bickel's Snack Foods, Inc. (1120 Zinns Quarry Road, York, PA 17405) on November 26, 2001, for installation of a potato fryer controlled by a mist eliminator at its Plant 3 in Manchester Township, **York County**.

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

03-00227A: Rosebud Mining Co. (R. D. 39 Box 379A, Kittanning, PA 16201) on November 6, 2001, for construction of portable coal crusher with screen at Gastown Surface Mine in Plumcreek Township, **Armstrong County**.

04-446C: AES BV Partners (394 Frankfort Road, Monaca, PA 15061) on November 21, 2001, for construction of a CFB Boiler at the Beaver Valley Cogeneration Plant in Potter Township, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-001F: AK Steel—Butler Works (Route 8 South, P. O. Box 832, Butler, PA 16003) on November 20, 2001, for conversion of the #4 Pickle Line in Butler, **Butler County**.

37-023C: Orion Power Midwest—New Castle Plant (State Route 168 South, West Pittsburgh, PA 16160-0325) on November 14, 2001, for installation of Selective Non-Catalytic Reduction (SCNR) on Boilers Nos. 3, 4 and 5 in Taylor Township, **Lawrence County**.

43-040A: AK Steel—Sawhill Tubular Division (200 Clark Street, Sharon, PA 16146) on November 14, 2001, for replacement of dry zinc dust collectors in Sharon, **Mercer County**.

20-175A: Cardinal Home Products, Tel-O-Post Div. (205 North Pymatuning Street, Linesville, PA 16424) on November 27, 2001, to operate a surface coating operation in Linesville Borough, **Crawford County**.

42-195A: Ram Forest Products (Route 44, Ceres Road, Shinglehouse, PA 16748) on November 21, 2001, for construction of a wood fired boiler in Ceres Township, **McKean County**.

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

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

15-0051: Allan A. Myers, Inc./dba Independence Conconstruction Materials (4042 State Road, Devault, PA 19432) on November 26, 2001, for operation of a Rock Crushing Plant in Charlestown Township, **Chester County**.

46-0198C: Blommer Chocolate Company (1101 Blommer Drive, East Greenville, PA 18041) on November 26, 2001, for operation of a W400 Winnower and Baghouse in Upper Hanover Township, **Montgomery County**.

46-0198B: Blommer Chocolate Company (1101 Blommer Drive, East Greenville, PA 18041) on November 26, 2001, for operation of a Jetzone Grinding Unit Mist Eliminator in Upper Hanover Township, **Montgomery County**.

46-0198A: Blommer Chocolate Company (1101 Blommer Drive, East Greenville, PA 18041) on November 26, 2001, for operation of a Cocoa Bean Deshelling Operation in Upper Hanover Township, **Montgomery County**.

46-0198: Blommer Chocolate Company (1101 Blommer Drive, East Greenville, PA 18041) on November 26, 2001, for operation of a Alkalization Reactor in Upper Hanover Township, **Montgomery County**.

23-0001K: Sunoco, Inc. (Delaware Avenue and Green Streets, Marcus Hook, PA 19061) amended November 27, 2001, for organic chemical production in Marcus Hook Borough, **Delaware County**.

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

67-317-033D: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402) on November 27, 2001, for installation of Coffee Roasters 3A and 3B each controlled by a cyclone (Probat) and a catalytic afterburner (Probat) at its York Roasting Plant in East Manchester Township, **York County**. This plan approval was extended.

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

55-302-005B: Wood-Mode, Inc. (One Second Street, Kreamer, PA 17833) on November 21, 2001, to extend the authorization to operate a 10.2 million Btu per hour woodwaste-fired boiler (Boiler 1) and associated air cleaning devices (two multiclones in series) on a temporary basis until March 21, 2002, in Middlecreek Township, **Snyder County**.

55-302-005C: Wood-Mode, Inc. (One Second Street, Kreamer, PA 17833) on November 21, 2001, to extend the authorization to operate a 32 million Btu per hour woodwaste-fired boiler (Boiler 3) and associated air cleaning devices (two multiclones in series) on a temporary basis until March 21, 2002, in Middlecreek Township, **Snyder County**.

19-304-006D: Benton Foundry, Inc. (5297 SR 487, Benton, PA 17814-7641) on November 21, 2001, to extend the authorization to operate various pieces of foundry equipment (induction furnaces, scrap dryer, casting shakeout, and the like) and associated air cleaning devices (three fabric collectors) on a temporary basis until March 21, 2002, in Sugarloaf Township, **Columbia County**.

08-399-031A: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848-0504) on November 27, 2001, to correct an erroneous metal powders maximum spray dryer inlet air temperature limit from 425°F to 425°C in North Towanda Township, **Bradford County**.

18-00006A: Dominion Transmission Corp. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) on November 26, 2001, to extend the authorization to operate five natural gas-fired 2000 horsepower reciprocating internal combustion compressor engines (Engines 1, 2, 3, 7 and 8) on a temporary basis until March 26, 2002, at the Leidy Compressor Station in Leidy Township, **Clinton County**.

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

03-026A: Eljer Plumbingware, Inc. (1301 Eljer Way, Ford City, PA 16226) on November 8, 2001, for construction of Tunnel Kiln No. 1 at the Ford City Plant in Burrell Township, **Armstrong County**. This plan approval was extended.

03-207A: Hanson Aggregates PMA, Inc. (400 Industrial Boulevard, New Kensington, PA 15068) on November 8, 2001, for operation of diesel engine, generator, tanks at Allegheny II Dredge Plant in Gilpin Township, **Armstrong County**. This plan approval was extended.

03-225A: Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001) on November 26, 2001, for operation of portable coal crusher at Jud Surface Mine in Valley Township, **Armstrong County**. This plan approval was extended.

65-302-071: Koppers Industries, Inc. (436 Seventh Avenue, Pittsburgh, PA 15219) on November 12, 2001, for construction of two boilers at Monessen Coke Plant in Monessen Township, **Westmoreland County**. This plan approval was extended.

63-014D: Orion Power Midwest, L.P. (2000 Cliff Mine Road, Suite 200, Pittsburgh, PA 15275) on November 28, 2001, for installation of SNRC on Units 1-3 at Elrama Plant in Union Township, **Washington County**. This plan approval was extended.

65-788L: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) on November 28, 2001, for increase in emission limitations at Sony Technology Center in East Huntingdon Township, **Westmoreland County**. This plan approval was extended.

65-00891B: Firestone Building Products Company (525 Congressional Boulevard, Carmel, IN 46032) on November 28, 2001, for installation of RTO, the pentane bulk storage tank at Youngwood Plant in Youngwood Borough, **Westmoreland County**. This plan approval was extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-021F: Indspec Chemical Corp. (133 Main Street, P. O. Box 307, Petrolia, PA 16050) on November 30, 2001, for the No. 3 and No. 4 Kiln in Petrolia, **Butler County**.

25-035A: Molded Fiber Glass Co. (55 Fourth Avenue, Union City, PA 16438) on November 30, 2001, for a surface coating operation in Union City, **Erie County**.

33-002B: Owens-Brockway Glass Container (Route 219 North, Crenshaw Plant #19, Brockway, PA 15824) on November 30, 2001, for a glass melting furnace in Snyder Township, **Jefferson County**.

42-399-015A: Temple Inland Forest Products Corp.—Mt. Jewett (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on November 30, 2001, for three wood particle dryers and oil heater in Sergeant Township, **McKean County**.

42-176E: Temple Inland Forest Products Corp.—Mt. Jewett (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on November 30, 2001, for a wood chip refiner start up cyclone in Sergeant Township, **McKean County**.

37-307A: Hobel Brothers Co./Slippery Rock Salvage (214 Gardner Avenue, New Castle, PA 16107) on September 30, 2001, for an enclosed steel ingot cutting operation in New Castle, **Lawrence County**.

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

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

09-00015: Rohm and Haas Company (100 PA Route 413, Bristol, PA 19007) on November 29, 2001, for operation of a Facility Title V Operating Permit in Bristol Township, **Bucks County**.

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

30-00099: Allegheny Energy Supply Company, LLC (4350 Northern Pike, Monroeville, PA 15146-2841) on

November 29, 2001, for operation of an electric power generation facility at Hatfield's Ferry Power Station in Cumberland Township, **Greene County**.

30-00072: CONSOL Pennsylvania Coal Co. (1800 Washington Road, Pittsburgh, PA 15241) on November 28, 2001, for operation of their Bailey coal preparation Plant and thermal drying facility in Richhill Township, **Greene County**.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

35-00020: Master Halco (1275 North Keyser Avenue, Scranton, PA 18504) for operation of a galvanizing furnace and galvanizing line and its associated cleaning devices in the City of Scranton, **Lackawanna County**.

35-00034: Humane Society of Lackawanna County (967 Griffin Pond Road, Clarks Summit, PA 18411) for operation of the Crematory Incinerator and its associated air cleaning devices in South Abington Township, **Lackawanna County**.

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

22-03010: East Harrisburg Cemetery, Co. (2260 Herr Street, Harrisburg, PA 17109) on November 26, 2001, for operation of a human crematorium in Susquehanna Township, **Dauphin County**.

36-03038: Evans Eagle Burial Vaults, Inc. (15 Graybill Road, Leola, PA 17540) on November 27, 2001, for operation of a cremation chamber in Upper Leacock Township, **Lancaster County**.

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

33-00168: Miller Welding and Machine Co. (1000 Miller Drive, Brookville, PA 15825) on November 14, 2001, for a Natural Minor Operating Permit to operate a surface coating facility in Rose Township, **Jefferson County**.

37-00234: Praxair Surface Technologies, Inc. (3225 Honeybee Lane, New Castle, PA 16105) on November 27, 2001, for a Natural Minor Operating Permit for surface coating deposition processes in addition to laser welding and cladding services in Wilmington Township, **Lawrence County**.

25-00961: Loger Industries Inc., Erie Plant (10015 Railroad Street, Lake City, PA 16423) on November 28, 2001, for a Synthetic Minor Operating Permit in Lake City Borough, **Erie County**.

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

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

62-00012: Reliant Energy Mid-Atlantic Power Holdings, LLC—Warren Generating Station (1001 Broad Street, Johnstown, PA 15907) in Conewango Township, **Warren County**, will be Administratively Amending their Title V permit issued May 4, 2000 and amended on November 21, 2001, to incorporate the name change from Site Pennsylvania Holdings, LLC.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003.

Coal Permits Actions

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

30010101 and NPDES Permit PA0202975. Patriot Mining Co., Inc. (P. O. Box 4360, Star City, WV 26504). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Perry and Dunkard Townships, **Greene County**, affecting 336 acres. Receiving streams: Dooley Run to Dunkard Creek to the Monongahela River. Application received: June 6, 2001. Permit issued: November 26, 2001.

63010101 and NPDES Permit PA0202959. Kerry Coal Company (R. D. 2, Box 2139, Wampum, PA 16157). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Hanover Township, **Washington County**, affecting 78.6 acres. Receiving streams: unnamed tributaries to Kings Creek to Kings Creek to the Ohio River. Application received: April 12, 2001. Permit issued: November 27, 2001.

26-01-03. Joseph Rostosky Coal Company (2578 Country Lane, Monongahela, PA 15063). Government Financed Construction Contract issued for reclamation of approximately 6.5 acres of abandoned mine lands located in Franklin Township, **Fayette County**. Receiving stream: unnamed tributary to Bolden Run. Application received: July 30, 2001. Contract issued: November 27, 2001.

26000103 and NPDES Permit PA0202878. J. Construction Co. (R. R. 2, Box 626, Farmington, PA 15437). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Fairchance Borough and Georges Township, **Fayette County**, affecting 7.0 acres. Receiving stream: Muddy Run. Application received: November 13, 2000. Permit issued: November 29, 2001.

03970102 and NPDES Permit PA0201855. Seven Sisters Mining Co., Inc. (200 U. S. Route 22, Delmont,

PA 15626). Permit renewal issued for continued reclamation only of a bituminous surface mine located in South Bend Township, **Armstrong County**, affecting 31.3 acres. Receiving streams: unnamed tributary to Fagley Run. Application received: October 11, 2001. Renewal permit issued: December 3, 2001.

30940102 and NPDES Permit PA0200930. Shafer Brothers Construction, Inc. (668 Lower Hildebrand Road, Morgantown, WV 26501). Permit renewal issued for continued reclamation only of a bituminous surface mine located in Greene Township, **Greene County**, affecting 25.5 acres. Receiving streams: unnamed tributary to Whately Creek. Application received: September 11, 2001. Renewal permit issued: December 3, 2001.

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

56960107 and NPDES Permit No. PA0234231. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541. Permit renewal for continued operation of a bituminous surface and auger mine and for existing discharge of treated mine drainage in Jenner Township, **Somerset County**, affecting 129.9 acres. Receiving streams: unnamed tributaries to/and Quemahoning Creek classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is Somerset/Cambria Water Authority Quemahoning Dam. Application received: September 20, 2001. Permit issued: November 29, 2001.

32990107 and NPDES Permit No. PA0235121. Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001. Permit revision to add coal ash placement and for existing discharge of a treated mine drainage in Rayne and Washington Townships, **Indiana County**, affecting 90.0 acres. Receiving streams: McKee Run classified for the following uses: Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received July 18, 2001. Permit issued: November 30, 2001.

Noncoal Permits Actions

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

08990301 and NPDES Permit No. PA0242721. Calvin C. Cole, Inc., 809 N. Elmira Street, Sayre, PA 18840. Commencement, operation and restoration of a Large Industrial Minerals (Gravel) permit in Athens Township, **Bradford County** affecting 20.08 acres. Receiving streams: None. Application received: September 13, 1999. Permit issued: November 15, 2001.

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

37950303. Cemex, Inc. (1200 Smith St., Suite 2400, Houston, TX 77002) Renewal of NPDES# PA0227129, Shenango and Taylor Townships, **Lawrence County**. Receiving streams: unnamed tributaries to McKee Run and McKee Run. Application received: September 25, 2001. NPDES Renewal Permit Issued: November 15, 2001.

3075SM14. James J. Hornyak, d/b/a West Ridge Gravel Co. (3251 Fairplain Road, P. O. Box 181, Girard, PA 16417-0181) Transfer of an existing sand and gravel operation from Joseph Arendash in Girard Township, **Erie County** affecting 257.8 acres. Receiving streams: unnamed tributary to Godfrey Run. Application received: February 13, 2001. Permit Issued: November 19, 2001.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

Permits Issued and Actions on 401 Certifications:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E51-189. City of Philadelphia, Streets Department, 1401 John F. Kennedy Boulevard, Room 830, MSB, Philadelphia, PA 19102-1617, City of Philadelphia, **County of Philadelphia**, ACOE Philadelphia District.

To remove an existing simple span steel truss bridge superstructure and to construct and maintain, in its place, a single span steel truss bridge superstructure across Manayunk Canal (WWF-MF). The proposed structure will have a clear span of 80 feet and an underclearance of 14.9 feet. The existing pier and north abutment substructure units will be reused during this project. This project is associated with the bridge superstructure replacement and roadway improvements for Fountain Street and will serve as a secondary access to Venice Island. The site is located approximately 400 feet south-

west of the intersection of Umbria Street and Fountain Street (Germantown, PA-NJ USGS Quadrangle N: 5.6 inches; W: 15.1 inches).

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

E48-307. Conectiv Bethlehem, Inc., P. O. Box 6066, Newark, DE 19714-6066. Lower Saucon Township and the City of Bethlehem, **Northampton County**, Army Corps of Engineers Philadelphia District.

To place fill in a de minimis area of wetlands equal to 0.02 acre for the purpose of constructing an electrical substation for a combined cycle electric generating facility and to construct and maintain various utility line stream crossings of a tributary to East Branch Saucon Creek and Saucon Creek and an intake and outfall structure in the Lehigh River. The project is located within the Bethlehem Commerce Center, on the south side of S.R. 2012 (Applebutter Road) with utility line work extending to the confluence of Saucon Creek and the Lehigh River (Hellertown, PA Quadrangle N: 21.6 inches; W: 8.0 inches).

E48-313. Brian M. Skurski, 6795 Hanover Street, Bethlehem, PA 18017. East Allen Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To place fill in the floodway of a tributary to Catasauqua Creek for the purpose of expanding the backyard of an existing residential dwelling. The project is located on the west side of Township Road T424 (Hanover Street), approximately 0.1 mile north of Colony Drive (Catasauqua, PA Quadrangle N: 11.0 inches; W: 7.4 inches).

E54-289. Frank J. Krammes, P. O. Box 130, Spring Glen, PA 17978. Eldred Township, **Schuylkill County**, Army Corps of Engineers Baltimore District.

To construct and maintain a single-span bridge, having a clear span of approximately 21 feet and an underclearance of 6.25 feet, across Mahantango Creek. The project is located on the south side of Township Road T-505 (Taylorsville Mountain Road), approximately 1.0 mile east of Creek Road (Tremont, PA Quadrangle N: 16.0 inches; W: 13.7 inches).

E40-474A. TFP Limited, 1140 Route 315, Wilkes-Barre, PA 18711. Wilkes-Barre Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To modify and maintain an existing stream enclosure of Coal Brook, constructed under the authorization of Permit No. E40-474, with work consisting of extending the 66-inch aluminized steel pipe enclosure by approximately 160 linear feet. This permit authorizes an alternative wetland mitigation site, located in Dorrance Township, Luzerne County, versus onsite wetland mitigation as originally permitted. The permittee is required to provide 2.05 acres of replacement wetlands. The project is located at the Arena Hub shopping center, south of Mundy Street and north of Interstate 81 (Wilkes-Barre East, PA Quadrangle N: 21.1 inches; W: 12.5 inches).

E64-226. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Lake Township, **Wayne County**, U.S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of a tributary to Ariel Creek (HQ-CWF), consisting of a 91-inch by 58-inch reinforced concrete elliptical culvert. The project is located along S.R. 3011, Segment 0130, Offset 1600, approximately 1.0

mile upstream of Roaming Wood Lake. (Lakeville, PA, Quadrangle N: 11.5 inches; W: 15.9 inches).

E40-577. Luzerne County Board of Commissioners, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, PA 18711-1001. Ross Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a road crossing of Huntington Creek, consisting of a single-span concrete bridge, having a clear span of approximately 18 feet and an underclearance of approximately 4.2 feet. The structure is known as County Culvert #17007. The project is located along Township Road T-672, approximately 500 feet south of the intersection of T-672 and S.R. 4028 (Sweet Valley, PA Quadrangle N: 13.5 inches; W: 2.0 inches).

E40-579. Luzerne County Flood Protection Authority, Luzerne County Courthouse, 200 N. River Street, Wilkes-Barre, PA 18711-1001, in Wilkes-Barre Township and Wilkes-Barre City, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To remove/modify existing structures and to construct and maintain a stream enclosure of Coal Brook (CWF), consisting of approximately 7,000 linear feet of sections of 84-inch and 90-inch corrugated aluminum steel pipe and 10-foot by 6-foot box culvert. The enclosure will tie into existing enclosed sections and will include numerous stormwater outfall structures along its lengths. Approximately 2,000 linear feet of the existing watercourse (downstream of Spring Street), which consists of enclosed and open channel sections, will remain in place. The upstream portion will be diverted along a new alignment, transitioning to the existing downstream channel along Wilkes-Barre Boulevard via a riprap channel and energy dissipation basin. Approximately 0.1 acre of PEM wetlands will be impacted by the construction of the basis. The project is located between the Arena Hub Plaza and Wilkes-Barre Boulevard. (Wilkes-Barre East, PA, Quadrangle N: 21.7 inches; W: 14.4 inches).

E64-225. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Lake Township, **Wayne County**, U.S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of a tributary to Purdy Creek (HQ-CWF), consisting of an 8.0-foot by 6.0-foot reinforced concrete box culvert with its invert depressed 1.0-foot below stream bed elevation. The project is located along S.R. 3040, Segment 0080, Offset 3170, approximately 0.9 mile downstream of Butler Pond. (Lakeville, PA, Quadrangle N: 12.4 inches; W: 8.0 inches).

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

E21-318. Willis Brubacker, 1815 W. Lisburn Road, Carlisle, PA 17013, in Monroe Township, **Cumberland County**, ACOE Baltimore District.

To re-construct and maintain about 2,400 linear feet of grass lined channel in an unnamed tributary to Hogestown Run (CWF) for the purpose of controlling soil erosion on the Brubacker farm located on the east side of Township Road T-588 about 0.2 mile north of its intersection with LR 21013 (Mechanicsburg, PA Quadrangle N: 10.75 inches; W: 13.70 inches) in Monroe Township, Cumberland County.

E21-329. Southampton Township, 200 Airport Road, Shippensburg, PA 17257 in Southampton Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain about 100 feet of Reno mattress and gabion wall for channel and bank protection in Thompson Creek (CWF) for the purpose of protecting an existing concrete retaining wall and to prevent scouring of the bed of the stream channel located in the vicinity of a single span bridge at the intersection of Gilbert Road (SR 3002) and Whitmer Road (T-314) (Walnut Bottom, PA Quadrangle N: 8.6 inches; W: 11.3 inches) in Southampton Township, Cumberland County.

E22-425. Wayne Township, P. O. Box E, Halifax, PA 17032, in Wayne Township, **Dauphin County**, ACOE Baltimore District.

To replace a failed 26.0-foot wide single span bridge by constructing and maintaining a twin cell reinforced concrete box culvert having a clear span of 18.0 feet and an underclearance of 8.0 feet in Powell Creek (TSF), to be constructed about 25 feet downstream of the existing bridge and to place R-6 size rock riprap in the channel and on the stream banks both upstream and downstream of the bridge to prevent channel scour and bank erosion located on Union Church Road (T-536) about 0.2 mile south of Union Church Cemetery (Enders, PA Quadrangle N: 16.25; W: 16.25 inches) in Wayne Township, **Dauphin County**.

E50-206. Perry County Commissioners, P. O. Box 37, New Bloomfield, PA 17068 in Marysville Borough, **Perry County**, ACOE Baltimore District.

To authorize operation and maintenance which includes the placement of R-8 size rock riprap along the north abutment of the existing Perry County Bridge No. 15 having a clear span of 54.4 feet and an underclearance of 8.4 feet across Fishing Creek (CWF) to prevent scouring at the north abutment located on Kings Highway about 0.75 mile west of its intersection with Route 11 and 15 (Harrisburg, PA Quadrangle N: 15.6 inches; W: 8.4 inches) in Marysville Borough, Perry County.

E67-704. Izaak Walton League of America, York County Chapter 97, 7131 Ironstone Hill Road, Dallastown, PA 17313 in New Hopewell and Springfield Townships, **York County**, ACOE Baltimore District.

To construct and maintain initial phases of a watershed wide stream restoration project in and along the East Branch Codorus Creek (HQ-CWF). The project's purpose is to stabilize severely eroded banks, improve water quality and improve fisheries habitat. The watershed projects will implement a natural stream channel design approach and construction activities will include rock

vanes, log vanes, cross rock vanes, root wads, bank grading, minor floodway fills and excavation, riprap protection, low flow channels, debris jam removal, agricultural crossing and minor stream relocations.

The first restoration site of this multi-phase project is located on Henry and Janice Brown's property. The site involves 1,400 linear feet of channel restoration and an agricultural crossing (Glen Rock, PA Quadrangle N: 19.8 inches; W: 4.8 inches) in New Hopewell and Springfield Townships, York County.

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

E32-431. Indiana University of Pennsylvania, Robertshaw Complex, 650 South 13th Street, Indiana, PA 15705. White Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a bridge having a clear span of 56 feet and an underclearance of 12 feet across Stoney Run (CWF) located on a proposed bike trail at a point approximately 600 feet west of S.R. 119 and approximately 2,830 feet north of Indiana Springs Road (Indiana, PA Quadrangle N: 18.6 inches; W: 5.67 inches).

E32-433. Green Township Supervisors, 4192 Route 240 Highway, Commodore, PA 15749. Green Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a con/span bridge (with scour protection), having a clear span of 10.97 m and an underclearance of 2 m on T-678 (Leroy Street) across Dixon Run (CWF). The project includes construction and maintenance of a low flow channel. The project is located approximately 90 feet east of S.R. 0403 (Clymer, PA Quadrangle N: 16.6 inches; W: 0.97 inch).

SPECIAL NOTICES

Notice of Suspension of Certification to Perform Radon-Related Activities this Commonwealth

In the month of March 2001, the Department of Environmental Protection, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code § 240.203(b), suspended the certification of the following person or persons to perform radon-related activities in Pennsylvania.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
James Andrews	353 Loveville Road Warriors Mark, PA 16877	Mitigation
Alan Aulson The Aulson Company, Inc.	49 Danton Drive Methuen, MA 01844	Testing
Willis Bortmas Keystone Building Inspectors	370 Red Dog Road Butler, PA 16001	Mitigation
Jeffrey Calta	106 Vensel Lane Chicora, PA 16025	Mitigation
Keith Carpenter	117 Stoneybrook Road Johnstown, PA 15904	Mitigation
Scott Hagan	78 Hamilton Drive Abbottstown, PA 17301	Testing

George Hart	21 Deerfield Drive Pequea, PA 17565	<i>Type of Testing</i>
James Hetrick	766 Magaro Road Enola, PA 17025	Mitigation
Robert Hoffman	218-D West Main Street Leola, PA 17540	Mitigation
John Jenkins, Jr.	37 North Washington Road Wilkes-Barre, PA 18701	Testing
Ludwig Kubli, Jr.	1090 Aerie Drive North Huntingdon, PA 15642	Testing
Thomas Laurito	6006 Forest Drive Monaca, PA 15061	Testing
George Loudon, Jr.	4694 Lower Cherry Valley Road Stroudsburg, PA 18360	Testing
Tuan Nguyen American Radon Solutions	125 Brindle Road Mechanicsburg, PA 17055	Mitigation
Michael Nowicki	414 Manordale Road Pittsburgh, PA 15241	Mitigation
Frederick Reash, Jr.	505 North Broad Street Grove City, PA 16127	Testing
Keith Rutherford	5701 Cricket Lane Harrisburg, PA 17112	Testing
Scott Shenk	3024 Gloucester Street Lancaster, PA 17601	Testing
Chris Willig	675 Estelle Drive Lancaster, PA 17601	Testing

[Pa.B. Doc. No. 01-2233. Filed for public inspection December 14, 2001, 9:00 a.m.]

Alternative Analysis Required for Proposed Major New or Modified Facilities

The Department of Environmental Protection (Department) is hereby providing notice of the availability of the draft technical guidance on the Alternative Analysis Required for Proposed Major New or Modified Facility (Alternative Analysis) for review and comment. An owner or operator of a proposed major new or modified stationary air contamination source subject to 25 Pa. Code Chapter 127, Subchapter E (relating to new source review) must demonstrate compliance with special permitting requirements. These requirements include offsetting the proposed increase in emissions, complying with the lowest achievable emissions rate and conducting an analysis of alternative sites, sizes, production processes and environmental control techniques for the proposed facility. The analysis required under 25 Pa. Code § 127.205(5) (relating to special permit requirements) must demonstrate that the benefits of the proposed facility significantly outweigh the environmental and social costs imposed within this Commonwealth as a result of the location, construction or modification of the project.

A complete copy of the proposed policy pertaining to the Alternative Analysis may be obtained by contacting Kimberly Maneval, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. TDD users may telephone the Department through the AT&T Relay Service, (800) 654-5984. Internet users can access a copy of the guidance document at <http://www.dep.state.pa.us>.

Interested persons may submit written comments to John F. Slade, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468. Written comments on the proposed policy must be submitted to the Department within 30 days of the date of publication of this notice in the *Pennsylvania Bulletin*. Comments received by facsimile will not be accepted.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2234. Filed for public inspection December 14, 2001, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's website (www.dep.state.pa.us) at the Public Participation Center page. The "December 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its nonregulatory documents, as necessary, throughout 2001.

Ordering Paper Copies of DEP Technical Guidance

DEP encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory

or an unbound paper copy of any of the final documents listed on the inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Final Technical Guidance

DEP ID: 150-0200-001 Title: DEP Policy on Professional Work Assignments and Duties Conducted by Licensed Professional Engineers, Professional Land Surveyors and Professional Geologists Description: This policy will provide direction to DEP staff concerning the practice of engineering, land surveying and geology in their work responsibilities. The policy will also assure compliance with the Engineering, Land Surveyor and Geologist Registration Law in DEP's programs, activities and actions. Effective Date: December 15, 2001 Contact: Ken Giffhorn at (717) 787-7116 or e-mail to: kgiffhorn@state.pa.us.

DEP ID: 550-0300-001 Title: Oil and Gas Operators Manual Description: This manual serves as a handbook for oil and gas operators, service companies and landowners which provides an overview of the statutes and regulations of DEP and other agencies, DEP guidance and procedures, and recommended practices for drilling wells and producing crude oil and natural gas in this Commonwealth Pennsylvania Effective Date: December 15, 2001 Contact: Ron Gilius at (717) 772-2199.

Draft Technical Guidance

DEP ID: 275-2101-007 Title: Alternative Analysis Required for Proposed Major New or Modified Facilities Description: This document will establish the criteria that will be considered by DEP during the technical review of the Alternative Analysis submitted for proposed new or modified facilities subject to the new source review special permitting requirements for air quality. The purpose of this document is to provide guidance to DEP staff to ensure Statewide consistency in the implementation of the Alternative Analysis requirement. The policy describes the evaluation process that the DEP will consider during the technical review of Alternative Analysis submitted by the applicant. Anticipated Effective Date: March 2, 2002 Comment Period Ends: January 15, 2001 Contact: John Slade at (717) 787-4325 or e-mail to: jslade@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-2235. Filed for public inspection December 14, 2001, 9:00 a.m.]

DEPARTMENT OF HEALTH

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Transitional Care Unit (Bon Secours)
2500 Seventh Avenue
Altoona, PA 16602-2099

The Franciscan Skilled Care Center
687 North Church Street
Hazelton, PA 18201-3198

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Garvey Manor
128 Logan Boulevard
Hollidaysburg, PA 16648

Presbyterian Health Center
400 East Marshall Street
West Chester, PA 19380

Asbury Health Center
700 Bower Hill Road
Pittsburgh, PA 15243-2040

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.38(a) and (b) (relating to toilet facilities):

St. Luke's Transitional Care Unit
801 Ostrum Street
Bethlehem, PA 18015

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, e-mail address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-2236. Filed for public inspection December 14, 2001, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Valentine's Day Gift Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Valentine's Day Gift.

2. *Price:* The price of a Pennsylvania Valentine's Day Gift instant lottery game ticket is \$5.00.

3. *Play Symbols:*

(a) Each Pennsylvania Valentine's Day Gift instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania Valentine's Day Gift instant lottery game ticket will also contain a "Fast Cash Bonus" area.

(b) The play symbols and their captions located in the play area for "Game 1" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$140,000 (HUNFRYTHO).

(c) The play symbols and their captions located in the play area for "Game 2" are: X Symbol (XXX) and O Symbol (OOO).

(d) The play area for "Game 3" will contain a "Your Numbers" area and a "Winning Number" area. The play symbols and their captions located in the "Your Numbers" area and the "Winning Number" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN) and 12 (TWLV).

4. *Prize Play Symbols:*

(a) The prize play symbols and their captions located in the "Prize" area for "Game 2" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY) and \$140 (ONEHUNFRY).

(b) The prize play symbols and their captions located in the "Your Numbers" area for "Game 3" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$140,000 (HUNFRYTHO).

(c) The prize play symbols and their captions located in the "Fast Cash Bonus" area are: \$14\$ (FORTN) and NO BONUS (TRY AGAIN).

5. *Prizes:* The prizes that can be won in "Game 1" are \$5, \$7, \$10, \$14, \$21, \$28, \$42, \$70, \$140 and \$140,000. The prizes that can be won in "Game 2" are \$5, \$7, \$10, \$14, \$21, \$28, \$42, \$70 and \$140. The prizes that can be won in "Game 3" are \$5, \$7, \$14, \$21, \$28, \$42, \$70, \$140 and \$140,000. The prize that can be won in the "Fast Cash Bonus" area is \$14. The player can win up to seven times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 1,440,000 tickets will be printed for the Pennsylvania Valentine's Day Gift instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching play symbols of \$140,000 (HUNFRYTHO) in the play area, on a single ticket, shall be entitled to a prize of \$140,000.

(2) Holders of tickets with three matching play symbols of \$140 (ONEHUNFRY) in the play area, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets with three matching play symbols of \$70\$ (SEVENTY) in the play area, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets with three matching play symbols of \$42\$ (FRY TWO) in the play area, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets with three matching play symbols of \$28\$ (TWY EGT) in the play area, on a single ticket, shall be entitled to a prize of \$28.

(6) Holders of tickets with three matching play symbols of \$21\$ (TWY ONE) in the play area, on a single ticket, shall be entitled to a prize of \$21.

(7) Holders of tickets with three matching play symbols of \$14\$ (FORTN) in the play area, on a single ticket, shall be entitled to a prize of \$14.

(8) Holders of tickets with three matching play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching play symbols of \$7⁰⁰ (SVN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$140 (ONEHUNFRY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$140.

(2) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$70\$ (SEVENTY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$70.

(3) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$42\$ (FRY TWO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$42.

(4) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$28\$ (TWY EGT) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$28.

(5) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$21\$ (TWY ONE) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$21.

(6) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$14\$ (FORTN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$14.

(7) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$10⁰⁰ (TEN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal,

and a prize play symbol of \$7⁰⁰ (SVN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$7.

(9) Holders of tickets with three matching X Symbol (XXX) play symbols in the same row, column or diagonal, and a prize play symbol of \$5⁰⁰ (FIV DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$140,000 (HUNFRYTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$140,000.

(2) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$140 (ONEHUNFRY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$70\$ (SEVENTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$42\$ (FRY TWO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets where any one of the "Your

Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$28\$ (TWY EGT) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$28.

(6) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$21\$ (TWY ONE) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$21.

(7) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$14\$ (FORTN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$14.

(8) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$7⁰⁰ (SVN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(9) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$5⁰⁰ (FIV DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(d) Holders of tickets with a prize play symbol of \$14\$ (FORTN) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$14.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Fast \$ Bonus</i>	<i>Match 3 Amt's Game 1</i>	<i>Tic-Tac-Toe Game 2</i>	<i>Key # Match Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 1,440,000 Tickets</i>
	\$5			\$5	1:21.43	67,200
		\$5		\$5	1:21.43	67,200
			\$5	\$5	1:21.43	67,200
	\$7			\$7	1:100	14,400
		\$7		\$7	1:200	7,200
			\$7	\$7	1:200	7,200
			\$5 x 2	\$10	1:37.50	38,400
	\$10			\$10	1:300	4,800
		\$10		\$10	1:300	4,800
	\$7		\$7	\$14	1:100	14,400
	\$7	\$7		\$14	1:100	14,400
		\$7	\$7	\$14	1:100	14,400
\$14				\$14	1:13.04	110,400
	\$7	\$7	\$7	\$21	1:600	2,400
			\$7 x 3	\$21	1:600	2,400
\$14	\$7			\$21	1:600	2,400
\$14		\$7		\$21	1:300	4,800
\$14			\$7	\$21	1:300	4,800
	\$21			\$21	1:600	2,400
		\$21		\$21	1:600	2,400
			\$21	\$21	1:600	2,400
\$14	\$14			\$28	1:6,000	240
\$14		\$14		\$28	1:6,000	240
\$14			\$14	\$28	1:6,000	240
\$14			\$7 x 2	\$28	1:6,000	240
			\$7 x 4	\$28	1:6,000	240
	\$28			\$28	1:20,000	72

<i>Fast \$ Bonus</i>	<i>Match 3 Amts Game 1</i>	<i>Tic-Tac-Toe Game 2</i>	<i>Key # Match Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 1,440,000 Tickets</i>
		\$28		\$28	1:20,000	72
			\$28	\$28	1:30,000	48
\$14			\$14 x 2	\$42	1:60,000	24
\$14			\$7 x 4	\$42	1:60,000	24
\$14	\$14	\$14		\$42	1:60,000	24
\$14		\$14	\$14	\$42	1:60,000	24
\$14	\$14		\$14	\$42	1:60,000	24
			\$21 x 2	\$42	1:120,000	12
			\$7 x 6	\$42	1:120,000	12
	\$42			\$42	1:120,000	12
		\$42		\$42	1:120,000	12
			\$42	\$42	1:120,000	12
\$14			\$14 x 4	\$70	1:120,000	12
\$14	\$14	\$14	\$7 x 4	\$70	1:120,000	12
	\$70			\$70	1:120,000	12
		\$70		\$70	1:120,000	12
			\$70	\$70	1:120,000	12
			\$70 x 2	\$140	1:72,000	20
	\$140			\$140	1:360,000	4
		\$140		\$140	1:360,000	4
			\$140	\$140	1:360,000	4
	\$140,000			\$140,000	1:1,440,000	1
			\$140,000	\$140,000	1:1,440,000	1

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Valentine's Day Gift instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Valentine's Day Gift, prize money from winning Pennsylvania Valentine's Day Gift 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 Valentine's Day Gift instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Valentine's Day Gift or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 01-2237. Filed for public inspection December 14, 2001, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Cancellation of December and January Meetings

The December 18, 2001, and January 15, 2002, Environmental Quality Board (Board) meetings have been canceled. The next meeting of the Board is scheduled for Tuesday, February 19, 2002, at 9 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg. Note the time change for Board meetings to 9 a.m.

DAVID E. HESS,
Chairperson

[Pa.B. Doc. No. 01-2238. Filed for public inspection December 14, 2001, 9:00 a.m.]

HUMAN RELATIONS COMMISSION

Public Hearing Opinion

The Human Relations Commission, under section 7(o) of the Pennsylvania Human Relations Act (43 P. S. § 957(o)) (act) hereby announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act, in the following cases:

Raymond Maturo v. Assets Protection, Inc.; Doc. No. E93153H; (Pennsylvania Human Relations Commission, November 19, 2001) • Disability-based demotion and refusal to assign Ruling for Complainant, 7-0 decision; 26 pages.

Charles Jusinski v. Borough of Shenandoah; Doc. No. H7235; (Pennsylvania Human Relations Commission, No-

vember 20, 2001) • Refusal to accommodate a disability with regard to a parking space; Ruling for Complainant, 7-0 decision; 25 pages.

The final orders in the previously-listed cases are subject to appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinions listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page (the number of pages in the opinion is set forth at the end of the case listing), to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Harrisburg, PA 17101-2702. The check or money order should be made payable to the "Commonwealth of Pennsylvania."

HOMER C. FLOYD,
Executive Director

[Pa.B. Doc. No. 01-2239. Filed for public inspection December 14, 2001, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

[Correction]

Notice of Filing of Final Rulemakings

An error occurred in the notice which was published at 31 Pa.B. 6755 (December 8, 2001). A final regulation number was reflected incorrectly. The correct version appears as follows with ellipses referring to the existing text of the notice:

<i>Final Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
3-40	Department of Banking Mortgage Bankers and Brokers; Continuing Education	11/20/01
	* * * * *	

[Pa.B. Doc. No. 01-01-2199. Filed for public inspection December 7, 2001, 9:00 a.m.]

INSURANCE DEPARTMENT

AF&L Insurance Company; Rate Filing

AF&L Insurance Company is requesting approval to increase its premium 15% for the Long Term Care Policy Forms LTC-4/5, LTC-7 and the associated riders. The average LTC-4/5 premium will increase from \$1,987 to \$2,285 and will affect 1,303 Pennsylvania policyholders. The average LTC-7 premium will increase from \$2,133 to \$2,453 and will affect 404 Pennsylvania policyholders. The requested effective date of the increase is January 1, 2002.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2240. Filed for public inspection December 14, 2001, 9:00 a.m.]

Alleged Violation of Insurance Laws; Angel M. Martinez; Doc. No. SC01-08-026

Notice is hereby given of the Order to Show Cause issued on November 30, 2001, by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the previously-referenced matter. Violation of the following is alleged: sections 604 and 639 of the Insurance Department Act of 1921 (40 P. S. §§ 234 and 279); and 31 Pa. Code §§ 37.46, 37.47 and 37.48.

Respondent shall file a written answer to the Order to Show Cause within 20 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 Part II (relating to General Rules of Administrative Practice and Procedure); Special Rules of Administrative Practice and Procedure, 31 Pa. Code §§ 56.1—56.3 and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previously-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. 01-2241. Filed for public inspection December 14, 2001, 9:00 a.m.]

American Independent Insurance Company; Private Passenger Auto Rate Filing

On November 27, 2001, the Insurance Department (Department) received from American Independent Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 7.8% increase amounting to \$4.933 million annually, to be effective January 1, 2002.

Unless formal administrative action is taken prior to January 26, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2242. Filed for public inspection December 14, 2001, 9:00 a.m.]

**Highmark Inc. d/b/a Pennsylvania Blue Shield;
Addendum to Hospital Facility Agreement—
Traditional Products; Filing No. 200154**

Highmark Inc. d/b/a Pennsylvania Blue Shield submitted a Special Care addendum to the Hospital Facility Agreement-Traditional Products. This addendum is submitted for use with the approved Hospital Facility Agreement under Filing No. 200151.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2243. Filed for public inspection December 14, 2001, 9:00 a.m.]

**United Services Automobile Association; Home-
owners Rate/Rule Revision**

On November 28, 2001, the Insurance Department (Department) received from United Services Automobile Association a filing for a rate level change for homeowners insurance.

The association requests an overall 15.0% increase amounting to \$2.903 million annually, to be effective May 1, 2002.

Unless formal administrative action is taken prior to January 27, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2244. Filed for public inspection December 14, 2001, 9:00 a.m.]

Harvey Werling; Hearing

Appeal of Harvey Werling under The Motor Vehicle Financial Responsibility Law Catastrophic Loss Benefits Continuation Fund; Doc. No. CF01-11-038

A telephone prehearing conference initiated by this office shall be conducted on January 10, 2002, at 10 a.m. A hearing shall occur on January 24, 2002, at 1:30 p.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. If an attorney or representative for a party attending the conference does not have complete settlement authority relative to this matter, the party or persons with full settlement authority shall be available by telephone during the conference. At the prehearing conference/telephone conference, the parties shall be prepared to discuss settlement, stipulations, witnesses and the documents anticipated for use at the hearing, estimated time for the hearing, special evidentiary or legal issues and other matters relevant to the orderly, efficient and just resolution of this matter.

On or before December 27, 2001, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. A report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Except as established at the prehearing conference, both parties shall appear at the scheduled hearing prepared to offer all relevant testimony or other evidence. Each party must bring documents, photographs, drawings, claims, files, witnesses and the like, necessary to support the party's case. A party intending to offer documents for photographs into evidence shall bring enough copies for the record and for each opposing party.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before January 11, 2002, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before January 18, 2002.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 01-2245. Filed for public inspection December 14, 2001, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no such documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-01-311, Dated, November 26, 2001. This resolution authorized the Collective Bargaining Agreement between the Commonwealth and the Pennsylvania State Corrections Officers Association. The agreement provides for the establishment of rates of pay, hours of work and other conditions of employment for the period July 1, 2001, through June 30, 2004. The approximate costs of the economic provisions of the agreement are as follows:

July 1, 2001 through June 30, 2002: \$18,200,000
 July 1, 2002 through June 30, 2003: \$14,300,000
 July 1, 2003 through June 30, 2004: \$16,200,000

These costs include the increased costs associated with salary sensitive benefits.

Governor's Office

Management Directive No. 530.23—State Employee Combined Appeal, Amended November 2, 2001.

Administrative Circular No. 01-32—Christmas Trees and Decorations, Dated October 26, 2001.

Administrative Circular No. 01.33—Relocation—Office of Inspector General's Harrisburg Office, Dated October 31, 2001.

GARY R. HOFFMAN,
Director
Pennsylvania Code and Bulletin

[Pa.B. Doc. No. 01-2246. Filed for public inspection December 14, 2001, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Order

Public Meeting held
 November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
 Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
 Terrance J. Fitzpatrick

Law Bureau Prosecutory Staff v. Easy Cellular, Inc.;
C-20016047; A-310592, F0002

Default Order

By the Commission:

On February 11, 1999, the Commission entered an Order approving the application of Easy Cellular at A-310592, F0002, for authority to offer telecommunications services as a competitive local exchange carrier (CLEC) within Pennsylvania. On February 22, 2001, Law Bureau Prosecutory Staff mailed a letter to Easy Cellular stating that its CLEC authority may be rescinded if the Commission did not receive Easy Cellular's initial tariff within 60 days from the date of the letter. Having not received a tariff from Easy Cellular within the 60-day time limit, on August 24, 2001, Law Bureau Prosecutory Staff filed a complaint against Easy Cellular. The Complaint charged that Easy Cellular, Inc. violated section 1302 of the Public Utility Code, 66 Pa.C.S. § 1302, relating to the filing of tariffs, by not filing an initial tariff within the prescribed time. Section 1302 provides in pertinent part:

Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission.

According to the post office receipt, service of the complaint was perfected on August 24, 2001. To date, more than 20 days later, no answer has been filed to the complaint and no tariff has been filed; *Therefore,*

It Is Ordered That:

1. The allegations in Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. Easy Cellular, Inc. immediately cease providing service to any new local exchange customers and, within 10 days of the entry date of this order, provide a written notice to any of its existing local exchange customers directing each to select an alternative local exchange carrier service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's provisional authority absent adverse public comment within the 20-day time constraint established.

3. Absent the filing of adverse comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, Easy Cellular, Inc.'s provisional authority at A-310592, F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

4. The Secretary serve a copy of this order upon all jurisdictional telecommunication carriers and also cause a copy of this order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2247. Filed for public inspection December 14, 2001, 9:00 a.m.]

Default Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. PT-1 Communications, Inc.
(2001.0150); Doc. No. C-20016201; A-310443*

Default Order

By the Commission:

On October 2, 2001, the Law Bureau Prosecutory Staff instituted a complaint against PT-1 Communications, Inc. (Respondent), an interexchange (IXC) reseller certificated at A-310443. The Respondent is in the prepaid debit card business, and on February 2, 2001, it transferred its debit card assets to IDT Corporation. After that date, the Respondent ceased to have debit card activity and became an inactive company. On March 9, 2001, the Respondent filed for Chapter 11 bankruptcy protection; and beginning in May 2001, it failed to pay its monthly Universal Service Fund assessment.¹

In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by 3 or more months. The complaint charged that the Respondent's failure to pay these assessments violates 52 Pa. Code §§ 63.161—63.171 and 66 Pa.C.S. §§ 3001—3009.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on October 3, 2001, and according to the postal return receipt, service was perfected on October 5, 2001. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. Absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate of public convenience held by PT-1 Communications, Inc. at Docket No. A-310443 shall be canceled, and the company's name stricken from all active utility lists maintained

¹Neither section 362 (automatic stay provision) nor section 525 (prohibiting governmental units from revoking licenses) of the Federal Bankruptcy Code are applicable here because the debt in question is clearly post-petition having arisen after the filing of the bankruptcy petition. 11 U.S.C.A. §§ 362 and 525. The debt, therefore, is not dischargeable under the bankruptcy laws. The instant matter is clearly distinguishable from *Nextwave Personal Communications, Inc. v. F.C.C.*, 254 F.3d 130 (D.C. Cir. 2001), which held that the Federal Communications Commission could not cancel its broadband personal communications service licenses issued to the debtor for failure to make its pre-petition installment payments for the licenses. In so holding, the court relied on section 525 of the Bankruptcy Code, finding that the missed payments were dischargeable debts under the bankruptcy law.

by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2248. Filed for public inspection December 14, 2001, 9:00 a.m.]

Investigation Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

*Investigation Upon the Commission's Own Motion with
Regard to PJM Installed Capacity Credit Markets;
I-00010090*

Investigation Order

By the Commission:

At the beginning of January 2001, PJM installed capacity credit clearing prices (Installed Capacity Credits or ICAP) reported in PJM daily auction markets rose steeply and cleared at levels at or above the PJM Capacity Deficiency rate of \$177.30 for nearly three months. Load serving entities serving load within the control area of PJM Interconnection, L.L.C.¹, including electric generation suppliers serving Pennsylvania retail electric generation markets are required to have sufficient qualified capacity or credits to cover their daily obligation pursuant to the PJM Reliability Agreement § 7.4 or pay the prescribed capacity deficiency rate imposed by PJM Reliability Agreement, Schedule 11. The cost of securing capacity or capacity credits is in addition to the cost of securing or self-generating energy for eventual resale. In order to participate in the wholesale market, each load serving entity must obtain both capacity and energy, plus incur additional costs related to ancillary transmission services, required reserves and related miscellaneous costs of wholesale operations.

On April 12, 2001, the Pennsylvania Public Utility Commission (Commission), by letter to the PJM Interconnection, L.L.C.'s Market Monitoring Unit (PJM MMU), requested PJM to provide this Commission with a report on the ICAP market, in accordance with the MMU's responsibilities prescribed by the Federal Energy Regulatory Commission². On November 14, 2001, the Commission received a 17 page report from the PJM MMU entitled "Report to the Pennsylvania Public Utility Commission—Capacity Market Questions—November 2001" (Report) which concludes:

[That an unnamed entity called "Entity 1" in the report] "did successfully raise the market price in the daily capacity credit market above the competitive level for a portion of the period from January 1 to April 30, 2001. The rules of the capacity market

¹PJM is a regional transmission organization which operates transmission facilities and supervises wholesale generation transactions subject to the jurisdiction of the Federal Energy Regulatory Commission. See *Pennsylvania—New Jersey—Maryland Interconnection*, 81 F.E.R.C. ¶ 61,257 (1997), order on clarification, 82 F.E.R.C. ¶ 61,068 (1998), order on reh'g, 92 F.E.R.C. ¶ 61,782 (2000), appealed sub nom *Baltimore Gas and Electric Co. v. F.E.R.C.*, Case No. 00-1460 (CA District of Columbia) and *Public Service Electric and Gas Company v. F.E.R.C.*, Case No. 00-1457 (CA District of Columbia).

²See *PJM Interconnection, L.L.C.*, 86 F.E.R.C. ¶ 61,247, rehearing denied, 88 F.E.R.C. ¶ 61,274 (1999)

stated in the RAA did not explicitly prohibit this conduct. Nonetheless, the behavior constituted the exercise of undue market power and was inconsistent with the intended consequences of the rules . . . In the absence of those actions, the prices in the daily capacity market would have been lower.

The Report also concludes that an increase in excess capacity within PJM as well as several subsequent changes to the PJM Reliability Agreement approved by FERC in response to filings made by the PJM Reliability Assurance Committee and PJM itself have acted to eliminate the ability of "Entity 1" to exercise market power and to correct the particular set of design flaws which permitted the exercise of market power identified in the Report during the January-April 2001 period. The report notes that the changes in market rules and underlying market conditions have caused prices to decline in daily, monthly and multimonthly ICAP markets, and that the capacity market "continues to be the focus of significant attention by PJM and its members," but does not recommend any changes to the authority or resources of the MMU.

The Commission views this report with the utmost seriousness and hereby initiates an investigation into the allegations contained in the report. The operation of this region's competitive wholesale markets is the bedrock upon which our competitive retail market is founded. It should be noted that to the extent that there has been an exercise of undue market power in the PJM ICAP market, there has likely been a corresponding injury to the PJM retail market both in Pennsylvania and throughout the region.

We believe that it is necessary in the course of this investigation for the public to have an opportunity to review and comment on the PJM MMU report in order to comment on its findings and conclusions, and to supply any additional information that has a bearing on this matter. In addition, we solicit the views of the public on possible remedies for the reported conduct as well as comments whether there ought to be any modifications of our regulations at 52 Pa. Code §§ 54.121—54.122 (Competitive Safeguards). We therefore initiate and direct the Commission Law Bureau to conduct an investigation pursuant to 66 Pa.C.S. §§ 313, 314, 331, 501, 504 and 2811 into the PJM ICAP market and the allegations contained in the PJM MMU report. *Therefore,*

It Is Ordered That:

1. The Law Bureau is hereby directed to conduct an investigation into the PJM ICAP market and the allegations contained in the PJM MMU report

2. The PJM MMU report shall be made available to the public for inspection and on the Commission's website at <http://puc.paonline.com>.

3. The public is invited to comment on the PJM ICAP market and upon the matters discussed in the PJM MMU report, pursuant to the provisions of 52 Pa. Code §§ 1.4 and 1.37. An original and three copies of comments should be filed with the Commission on or before January 15, 2002. The contact person for this investigation is John A. Levin, Assistant Counsel, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, (717) 787-5978, e-mail: levin@puc.state.pa.us.

4. Filed comments which contain material representations of fact shall be accompanied by oath, affirmation or affidavit attesting to the truth of the matters asserted.

5. Filing of comments shall not cause the commentor to become a party to this investigation.

6. The Secretary shall serve a copy of this order upon the Consumer Advocate of Pennsylvania, the Office of Small Business Advocate. In addition the Secretary shall cause a copy of this order to be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2249. Filed for public inspection December 14, 2001, 9:00 a.m.]

Telecommunications

A-311154F7000. Verizon Pennsylvania Inc. and Teleconex, Inc. Joint Petition of Verizon Pennsylvania Inc. and Teleconex, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Teleconex, Inc. filed on November 27, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Teleconex, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2250. Filed for public inspection December 14, 2001, 9:00 a.m.]

Telecommunications

A-310935F7000. Verizon Pennsylvania Inc. and Verizon Advanced Data Inc. Joint Petition of Verizon Pennsylvania Inc. and Verizon Advanced Data Inc. for approval of adoption of a replacement interconnection agreement and amendment no. 1 under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Verizon Advanced Data Inc. filed on November 27, 2001, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Replacement Interconnection Agreement and Amendment under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Verizon Advanced Data Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-2251. Filed for public inspection December 14, 2001, 9:00 a.m.]

Tentative Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

*Interim Guidelines Establishing Customer Information
for Jurisdictional Telecommunications Companies; Doc.
No. M-00011582F0002*

Tentative Order

By the Commission:

The Commission first promulgated Chapter 64, "Standards and Billing Practices for Residential Telephone Service," 52 Pa. Code §§ 64.1—64.213, on November 30, 1984¹ and has amended it several times. Since 1984, there has been a marked increase in the number of competitors in the Pennsylvania telecommunications market, and in the number and variety of the telecommunications service packages being offered. As a result, the consumer's telephone bill has become more complex and in many instances, more confusing, making consumers vulnerable to slamming² and cramming³ by unscrupulous service providers. Accordingly, the Commission proposes to revise Chapter 64 for the following purposes:

1. To provide residential and small business customers with information in disclosure statements, bills, notices and marketing materials in order to assist customers in making educated choices about local telecommunications service.

2. To provide customers with disclosure statements that convey, in clear and concise plain language, the terms and conditions of their local telecommunications services.

3. To provide customers with bills for local telecommunication services in a clear, concise and understandable format.

4. To reduce slamming and other telecommunications fraud by setting standards for customer information materials.

By this Tentative Order, the Commission proposes to adopt interim guidelines that are consistent with the Truth in Billing Principles recently adopted by the Federal Communications Commission. These Interim Guidelines will remain in place until a final rulemaking on this subject matter has been completed.

Discussion

On May 11, 1999, the Federal Communications Commission (FCC) released its First Report and Order and Further Notice of Proposed Rulemaking on Truth-In-Billing and Billing Format.⁴ In this order, the FCC adopted the Truth-in-Billing Principles that are to insure that customers receive thorough, accurate and understandable bills from their telecommunications carrier.

The FCC's Truth-in-Billing Principles and guidelines have three core principles that must be followed by service providers. First, telephone bills must be clearly organized and must highlight new service provider infor-

mation.⁵ Second, bills should contain full and non-misleading descriptions of the service charges contained therein.⁶ Third, bills should contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or to contest charges on the bill.⁷ These are broad binding principles that, according to the FCC, offer a flexible approach, but are meant to be "obligations to provide customers with accurate and meaningful information contemplated by these principles" and are to be "enforceable to the same degree as other rules."⁸ In adopting these principles and guidelines, the FCC expressed its intent to work together with the states towards the common objective of Truth-In-Billing.⁹ In fact, the FCC stated that it looked on its Order adopting the Truth in Billing Principles as another phase of its "partnership with the states to promote competition and combat telecommunications-related fraud." To those ends, the FCC expressly stated that, "[n]otwithstanding the requirement of our 1998 Slamming Order and Further Notice, the states must accept the same verification procedures as prescribed by the [FCC], states will be free to continue to enact and enforce additional regulation consistent with the general guidelines and principles set forth in this Order, including rules that are more specific than the general [Truth-in-Billing] guidelines"¹⁰

The FCC's establishment of the Truth-In-Billing Principles provides the opportunity to revise the Commission's corresponding provisions in Chapter 64 to make them consistent with these principles and to update them to reflect changes in the telecommunications market.

Accordingly, we have drafted for public comment proposed interim guidelines that address the provision of customer information relating to service identification, service charges, bill format, and notices of change of service or service provider. Because these proposed guidelines are intended to eventually replace Section 64.14 in part, they include much the same subject matter as that regulation.

We especially seek comments on the terms and definitions proposed for use in the proposed interim guidelines. Note that different terms for concepts than are currently used in Chapter 64 are proposed. For example, the proposed interim guidelines define and use the term "local service provider" instead of "local exchange company" or "LEC," the terms used in Chapter 64.

Also, the Commission previously has established a regulatory definition of "small business customer" for electric and natural gas service. However, the Commission has not yet incorporated in its regulations a definition of "small business customer" for telecommunication service. See 52 Pa. Code §§ 54.2 and 54.152 (electric generation service) and §§ 62.32 and 62.72 (natural gas service). To correct this omission, a definition for "small business customer" for the purpose of the provision of telecommunications services is proposed herein and is defined as "a customer with three or fewer access lines not used for residential service."

These changes are proposed to reflect the reality of the current competitive market, and it is the Commission's intention to replace current Chapter 64 definitions with these updated terms. Again, comments are especially requested on these proposed changes.

¹ 15 Pa. B. 4354.

² Slamming occurs when a company changes a customer's telecommunications carrier without that customer's knowledge or authorization.

³ Cramming is the practice of causing unauthorized, misleading or deceptive charges to be placed on the consumer's telephone bill.

⁴ *Truth-In-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-170, 14 FCC Rcd 7492 (released May 11, 1999)(*Truth-In-Billing Order*).

⁵ *Truth-In-Billing Order*, ¶ 5.

⁶ *Truth-In-Billing Order*, ¶ 5.

⁷ *Truth-In-Billing Order*, ¶ 5.

⁸ *Truth-In-Billing Order*, ¶ 9.

⁹ *Truth-In-Billing Order*, ¶ 26.

¹⁰ *Truth-In-Billing Order*, ¶ 26.

Conclusion

We are hereby proposing by this Tentative Order Interim Guidelines to be in effect pending the promulgation of final regulations at a separate docket. These guidelines, when finalized after receipt of public comment, are intended to provide guidance to local service providers and underlying carriers in regard to the provision to customers of accurate and understandable information in disclosure statements, bills, customer notices and marketing materials.

To accommodate public comment on these tentative interim guidelines, we will direct that this order be published in the *Pennsylvania Bulletin* and will establish a ten-day comment period from the date of publication. We urge that all interested persons file comments as soon as possible. Note that reply comments will not be permitted. Accordingly, comments should address all relevant issues including the identification of the additional costs, if any, that are anticipated to be incurred by the industry to comply with these interim guidelines. Additional costs are those that are in excess of the current costs to comply with similar existing State and Federal requirements; *Therefore,*

It Is Ordered That:

1. The Interim Guidelines following this Tentative Order are hereby proposed to provide customers with accurate and understandable information in disclosure statements, bills, notices and marketing materials. These guidelines, once finalized, are intended to remain in place pending the conclusion of a formal rulemaking to promulgate mandatory regulations.

2. This Tentative Order, including Annex A, be published in the *Pennsylvania Bulletin* and that a comment period ending 10 days after the Tentative Order's published date is hereby established.

3. Written comments, an original and 15 copies, shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A copy of these comments should be submitted at that same address to the technical and legal contact persons listed below, and to Sherri DelBiondo, Regulatory Coordinator. No reply comments will be permitted. A diskette containing the comments in electronic format must also be submitted. Comments should specifically reference the docket number of this Tentative Order.

4. A copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, posted on the Commission's website at <http://puc.paonline.com> and shall be made available to all other interested parties.

5. The contact persons for this matter are Wayne Williams, Consumer Services, (717) 787-7137 and Patricia Krise Burket, Law Bureau, (717) 787-3464.

6. A final order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this Tentative Order.

JAMES J. MCNULTY,
Secretary

Annex A**Customer Information****I. Statement of Purpose, Application and Effect.**

A. *Purpose.* The purpose of these guidelines is as follows:

(1) To provide residential and small business customers with information in disclosure statements, bills, notices and marketing materials in order to assist customers in making educated choices about local telecommunications service.

(2) To provide customers with disclosure statements that convey in clear and concise plain language, the terms and conditions of their local telecommunications services.

(3) To provide customers with bills for local telecommunication services in a clear, concise and understandable format.

(4) To reduce slamming and other telecommunications fraud by setting standards for customer information materials.

B. *Application.* These guidelines apply to residential and small business customers.

C. *Effect of guidelines.* The requirements contained in these guidelines are intended to be consistent with and to augment the Truth-in-Billing Requirements adopted by the FCC in 47 CFR 64.2400—64.2401 and 52 Pa. Code § 64.191 (relating to Public Information).

II. Definitions.

The following words and terms, when used in these guidelines, as well as companion guidelines concerning quality of service, abandonment of service and changing local service providers, have the following meanings, unless the context clearly indicates otherwise:

Basic service charges—These charges include the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability and 9-1-1 emergency service.

Billed account—An account assigned a unique identification number by the billing agent or local service provider for tracking purposes.

Billing agent—An entity that bills customers for products or services offered by regulated service providers.

Federal Communications Commission or *FCC*—United States government agency that regulates interstate telecommunications services.

Local service—Calling capacity between points within the community in which a customer lives. Local service includes the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability, and 9-1-1 emergency service.

Local service provider—A company, such as a local exchange carrier, that provides local service and may also provide other telecommunications services.

Optional service—A service that customers can choose that may or may not be part of their bundled package. These can be billed either by a flat monthly rate or per call. Basic service cannot be suspended if the customer does not pay the charges for optional service(s).

Service provider—An entity, other than the billing agent, that offers a product or service to a customer, the charge for which appears on the bill of the billing agent.

Small business customer—A customer with three or fewer access lines not used for residential service.

Telephone bill—The invoice for telecommunications products or services rendered whether rendered by the local service provider or its billing agent.

III. Customer Bills, Format and Organization.

A. *Bill frequency.* The local service provider has the responsibility to render a monthly bill to customers.

B. *Billing information.* In addition to the requirements established in Section 64.14(a)—(d) and Plain Language Guidelines at Section 69.251, a bill should comply with the following:

(1) The customer's name, address and telephone number should appear on the first page of the bill.

(2) The outstanding balance for each billed account as of the beginning of the current billing cycle, should be designated using a term such as "past due amount."

(3) A toll-free telephone number, mailing address and, if available, a web site address for each service provider should be listed. The bill should contain a specific message to encourage customers to contact a service provider with questions or complaints about the bill prior to the due date of the bill.

(4) Charges that must be paid to retain basic service should be clearly identified and immediately thereafter, a statement "that failure to pay these charges will result in the loss of basic service" should be present.

(5) All line items that reflect an addition of a service, a change in rates or a change in rate plans should be clearly identified as either "new," "rate increase," "rate decrease," or "change in rate plan" as applicable.

(6) A statement about the availability of the programs for low-income customers and customers with disabilities should be included. The bill should also include a telephone number for the customer to contact the company regarding these programs.

(7) The definition section of the bill should be distinctly separate. Definitions are to be brief, clear, non-misleading and in plain language. The definitions should include billed items on the bill that are not commonly understood such as abbreviations, symbols or acronyms. Use standardized terms on bills whenever possible when referring to charges relating to regulatory requirements. Definitions of the following charges and terms should be on a customer's monthly bill:

- (a) Federal Line Cost Charge
- (b) Federal Tax
- (c) Federal Universal Service Fund Surcharge
- (d) Interstate Access Surcharge
- (e) Basic Service
- (f) Number Portability Surcharge
- (g) PA Relay Surcharge
- (h) Pre-subscribed Interexchange Carrier Charge
- (i) Public Safety Emergency Telephone 911
- (j) State Tax

(8) Where the basic service package has a call allowance, the number of calls should be located next to the plan name.

C. *Foreign language requirements.* Where a company has a significant number of Spanish speaking persons in

its service territory, the local service provider should inform Spanish speaking applicants and customers how they can obtain their bills in Spanish. A sentence in English and Spanish indicating that the information is available in Spanish upon request satisfies this requirement. Local service providers whose service territories include other non-English speaking persons should consider providing information in their native languages.

D. *Bill organization.* Telephone bills should be clearly organized by type of service and should comply with the following:

(1) Charges should be grouped by service provider. The name of each service provider should be clearly identified with its associated charges on the telephone bill. If the service provider has more than one name, the name appearing on the bill should be the name used to market the service. Where charges from two or more service providers appear on the same telephone bill, the charges and totals for each provider should be stated separately.

(2) Charges for local basic service should be listed separately and appear before other monthly charges. Required monthly fees or surcharges, including the 911-service fee, the Federal Communications Commission's subscriber-line charge and the number portability charges should be included in the amount for basic service.

(3) The telephone bill should clearly show the amount to be paid to avoid suspension of basic service. This amount should appear on the front page of the bill where the amount to be paid is shown.

(4) The telephone bill should clearly list per call charges. This listing should include charges for local, local toll and long distance charges with the rate shown in dollars or cents per minute.

(5) Monthly flat rate charges should be itemized monthly and appear separately from other charges.

(6) Per use charges should be listed separately by the type of service. Each type of service billed should show the number of times used, the per-use charge and the total amount charged.

(7) The telephone bill should clearly identify a new service provider that did not bill for service charges in the previous billing cycle. This requirement is not applicable to service providers that bill on a per transaction basis.

IV. Disclosure Statement of Terms and Conditions of Service.

The local service provider should provide a disclosure statement of the terms and conditions of service to new customers.

A. The disclosure statement should be:

(1) Provided in writing, using plain, non-technical language.

(2) Sent to a new customer free of charge by the end of the next business day after receiving the customer's order.

(3) Provided whenever there is a change in the terms of service.

(4) Provided upon request to customers at least annually, at no cost to the customer.

B. Each disclosure statement should contain the requirements under § 64.191(g) and the following information:

(1) Name, service address and telephone number of customer.

(2) Date of customer authorization and verification method.

(3) The length of the agreement, including:

(a) The effective date of service.

(b) The expiration date, if applicable.

(4) Activation fees or charges, including applicable construction charges to install a new service or transfer an existing service to a new location.

(5) Information regarding whether charges and fees are refundable and when they would be refunded.

(6) A change in the applicant's telephone number and related fee, if applicable.

(7) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.

(8) An explanation of penalties, fees and exceptions that may be imposed on the customer including charges for late payments and returned checks. Penalties, fees and exceptions should be printed in bold font that is the same size used for the majority of the text in the disclosure.

(9) A full explanation of the product or service as shown below to which the customer has subscribed:

(a) Basic Service.

(b) Optional monthly flat rate services ordered and the price per month for each service unless covered in a package. These services can include Call Forwarding, Call Waiting and Caller I.D.

(c) Optional services ordered and the price per use. These services can include Repeat Dialing, Speed Dialing and Three-Way Calling.

(d) Non-recurrent charges with a description and price. These can include inside wiring or jack repair charges, telephone number charge and voluntary toll restriction.

(e) Calling card charges. The customer should be directed to contact the local service provider for a description of the calling card rates.

(10) The local service provider's cancellation policy and fees for early cancellation, where applicable.

(11) The customer contact information that includes the name of the service provider, the provider's address, telephone number and, if available, the web site address.

(12) Information that clearly notifies the customer if the company bills for local basic services one month in advance.

(13) The statements required by section IV, D(1) of these guidelines relating to Customer Notices.

C. *Prices.* The agreed upon prices in the disclosure statement should reflect the marketed and billed prices.

(Note: The provisions of this section will supercede those of § 64.191(f)(1)–(4)).

D. *Right of Cancellation.*

Customers should be provided with information about the provisions of a 3-day right of rescission period following receipt of the disclosure statement from the billing entity. See section 7 of the Unfair Trade Practices and Consumer Protection Law (73 P.S. § 201-7). The following information should be included in the disclosure statement:

(1) The 3-day right of rescission is three business days.

(2) The 3-day right of rescission begins when the customer receives the disclosure statement from the billing entity.

(3) The customer may cancel by contacting the billing entity in writing, verbally or, if available, electronically.

E. *Customer Notices About Changes in Terms.*

(1) A local service provider should provide customers written notice at 30 and 60 days in advance of a material change in the terms and conditions of service. The local service provider should give the customer the option to decline a material change in the terms and conditions of service and cancel service without penalty due to the changes. This paragraph does not apply to changes that are beneficial to the customer such as a price decrease.

(2) The local service provider should include in the customer's disclosure statement the following statements:

(a) "If we propose to change our terms of service in any type of agreement, we will send you two written notices in advance of the effective date of the change. We will send the first notice at or about 60 days before the effective date and the second notice at or about 30 days before the effective date of the change."

(b) "If you have a fixed term agreement, we will send you advance written notice at or about 60 days and at or about 30 days before the expiration date of the agreement."

(c) "We will provide the notices about changes as a bill message, a bill insert, or in a separate mailing. We will explain your options to you in these two advance notices."

(3) A local service provider should provide customers written notification at least 30 days in advance of assigning the customer's contract to a different local service provider.

V. Marketing/Sales Activities.

Advertising, marketing and sales should not be fraudulent, misleading, deceptive, unlawful or anti-competitive as prohibited by federal and state law. Advertised prices should reflect prices in disclosure statements and billed by the local service providers.

VI. Review of Documents.

The local service provider should provide the Commission with disclosure statements, billing and other customer information resources for review as deemed necessary upon request.

[Pa.B. Doc. No. 01-2252. Filed for public inspection December 14, 2001, 9:00 a.m.]

Tentative Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

Interim Guidelines Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunication Companies; Doc. No. M-00011582F0004

Tentative Order

By the Commission:

On November 30, 1984¹, the Commission first promulgated Chapter 64, "Standards and Billing Practices for Residential Telephone Service." 52 Pa. Code §§ 64.1—64.213. These regulations have been amended several times and since 1984 there has been a significant increase in the number of competitors in the Pennsylvania telecommunications market. In 1993, competition in the local telecommunications markets in Pennsylvania was initiated through the enactment of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009. Moreover, the Telecommunications Act of 1996 mandated the opening of local telephone service competition on a national level.²

To comply with certain aspects of the TA-96, the Commission has implemented a streamlined application process to modify traditional entry procedures applicable to telecommunication carriers. This was accomplished by Commission Order adopted at the Public Meeting of May 23, 1996 (Docket No. M-00960799, Order entered June 3, 1996). These entry procedures apply to all interexchange carriers and local exchange carriers, whether they are facilities-based, interconnected or reseller competitive local exchange carriers (CLECs). Specifically, the Commission's telecommunication procedures allow new entrants to commence service upon filing and service of the application, which must contain an interim tariff. Although the applicant must swear and affirm its ability and commitment to provide service in full compliance with all provisions of Pennsylvania law (fitness affidavit), the new carrier is not required to post a bond. Given the changing landscape, new problems have developed with the new players in the telecommunications industry. In particular, with the minimal entry requirements for carriers, the Commission has experienced problems with non facilities-based carriers who neglect to comply with our regulatory provisions including the abandonment process.

CLECs who are not facilities-based and rely either completely or partially for their underlying service on the incumbent local exchange carrier (ILEC) are considered resellers. If the CLEC fails to pay the underlying ILEC for the service it resells to its end-use customers, the CLEC's wholesale telephone service will be terminated; this results in the termination of dial tone service to the end-use customer—effectively a defacto abandonment of service by the CLEC. The Commission's rules under Chapter 64 do not cover abandonment of utility services nor do they address the notification of the end-use customers. However, a utility's obligations under the Public Utility Code with regard to abandoning service are very clear.

A Pennsylvania public utility company cannot lawfully abandon service to the public without first obtaining a Commission-issued certificate of public convenience authorizing the abandonment of utility service. *Re Megargel's Golf, Inc.*, 59 Pa. P.U.C. 517 (1985); *Application of Citizens Mutual Water Co.*, 37 Pa. P.U.C. 387 (1959). Section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), specifically enumerates this act of abandoning service as requiring prior approval evidenced by a certificate. See also, 52 Pa. Code §§ 1.43 and 3.551 (Commission's regulations on application filings). The Commission has established the following precedent with respect to this legal obligation:

A public utility seeking permission to abandon service must satisfy the same statutory burden of proof as the applicant for initial service rights; namely, that the issuance of the certificate is 'necessary, or proper for the service, accommodation, convenience, or safety of the public.' Section 203 of the Public Utility Law, 66 P. S. § 1123. The 'public' referred to in § 203 is the actual and potential users of a particular public utility service. . . .

Re Ridgeville Water Co., 51 Pa. P.U.C. 58, 59 (1977)³; *Re Estate of A. R. Burkett*, 55 P.U.C. 162 (1981). In conformity with Section 1103 of the Public Utility Code, 66 Pa.C.S. § 1103, the Commission may impose just and reasonable conditions on a public utility's abandonment of service. *Re Bald Eagle Water Co.*, 76 Pa. P.U.C. 556 (1992) (as a condition of being authorized to abandon service, a public utility paid customer \$3,500 to dig a well on customer's property as an alternative to utility's residential water service). Furthermore, the Commission will consider, inter alia, the availability and adequacy of alternative service in determining whether to authorize a utility's abandonment of service. *Megargel's*, 59 Pa. P.U.C. at 522; *Re Valley View Water Co.*, 55 Pa. P.U.C. 466 (1982).

Practically speaking, some of these considerations are not relevant to the problem of CLEC terminations—if the ILEC intends on terminating wholesale service to the CLEC, our resolution of an abandonment application on the merits is essentially a perfunctory exercise. As we have already discussed, the problem we experience as regulators is making sure that customers are notified of the impending termination of their residential telephone service and have an opportunity to apply for service with another service provider.

In contemplation of this situation, the Commission is proposing to adopt interim guidelines pending the promulgation of formal regulations to provide for an orderly process of customer notification and call center support when a local service provider of local telephone service abandons the provisions of service to residential and small business customers. A copy of the Interim Guidelines is attached as Annex A and by way of this Tentative Order we hereby seek comments by interested parties.

Specifically, we seek comment on the sufficiency of the contents of the embargo notice and the termination notice from the underlying carrier to the local service reseller, and the contents of the customer abandonment notices. We also seek comment on the time periods we propose for the local service provider obligations for abandonment. We are particularly interested in the deposit posting requirements of a surety bond or letter of credit with respect to the amounts and whether the requirements will ensure compliance with the process for customer notification and call center access when abandoning service. Furthermore, we are concerned that the application of preferred carrier freezes might inhibit customers from switching to a new carrier. Therefore, we seek comment as to whether we need provisions to have preferred carrier freezes routinely removed once the abandonment notices to customers are sent so that customers can quickly migrate to a new carrier.

Finally, we seek comments on the terms and definitions proposed for use in the proposed Interim Guidelines. For example, the proposed Interim Guidelines define and use

¹ 15 Pa.B. 4354

² Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C.A. § 151 et seq. (TA-96).

³ Substantially the same language which appeared in section 203 of the Public Utility Law, Act of May 28, 1937, P. L. 1053 as amended, 66 P. S. § 1123, now appears at section 1103 of the Public Utility Code, 66 Pa.C.S. § 1103.

the term "local service provider" instead of "local exchange company" or "LEC," the terms used in Chapter 64.

Also, the Commission previously has established a regulatory definition of "small business customers" for electric and natural gas service. However, the Commission has not yet incorporated in its regulations a definition of "small business customer" for telecommunication service. See 52 Pa. Code §§ 54.2 and 54.152 (electric generation service) and §§ 62.32 and 62.72 (natural gas service). To correct this omission, a definition for "small business customer" for the purpose of the provision of telecommunications services is proposed herein and is defined as "a customer with three or fewer access lines not used for residential service."

These changes are proposed to reflect the reality of the current competitive market, and it is the Commission's intention to replace current Chapter 64 definitions with these updated terms. Again, comments are especially requested on these proposed changes.

Conclusion

We are hereby proposing by this Tentative Order Interim Guidelines to be in effect pending the promulgation of final regulations at a separate docket. These guidelines, when finalized after the receipt of public comment, are intended to provide guidance to local service providers and underlying carriers when addressing the abandonment process.

To accommodate public comment on these tentative interim guidelines, we will direct that this order be published in the *Pennsylvania Bulletin* and will establish a 10-day comment period from the date of publication. We urge that all interested persons file comments as soon as possible. Note that reply comments will not be permitted. Accordingly, comments should address all relevant issues including the identification of the additional costs, if any, that are anticipated to be incurred by the industry to comply with these interim guidelines. Additional costs are those that are in excess of the current costs to comply with similar existing State and Federal requirements; *Therefore,*

It Is Ordered That:

1. Voluntary Interim Guidelines following this Tentative Order are hereby proposed to provide for an orderly process of customer notification and call center support when a local service provider of local telephone service abandons the provisions of service to residential and small business customers. These guidelines, once finalized, are intended to remain in place pending the conclusion of a formal rulemaking to promulgate mandatory regulations.

2. This Tentative Order, including Annex A, be published in the *Pennsylvania Bulletin* and that a comment period ending 10 days after the Tentative Order's published date is hereby established.

3. Written comments, an original and 15 copies, shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A copy of these comments should be submitted at that same address to the technical and legal contact persons listed below, and to Sherri DelBiondo, Regulatory Coordinator. No reply comments will be permitted. A diskette containing the comments in electronic format must also be submitted. Comments should specifically reference the docket number of this Tentative Order.

4. A copy of this order and any accompanying statements of the Commissioners be served upon all jurisdic-

tional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, posted on the Commission's website at puc.paonline.com and shall be made available to all other interested parties.

5. The contact persons for this matter are Wayne Williams, Consumer Services, (717) 787-7137 and Terrence J. Buda, Law Bureau, (717) 787-5755.

6. A final order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this Tentative Order.

JAMES J. MCNULTY,
Secretary

Annex A

Local Service Provider Abandonment Process

I. Statement of Purpose.

A. Purpose. The purpose of these guidelines is as follows:

(1) To provide for an orderly process of customer notification and call center support when a local service provider of local telephone service abandons the provision of service to residential and small business customers under the following circumstances:

(a) The underlying carrier that provides part or all of the services necessary to provide local exchange carrier service is terminating the local service provider's service agreement.

(b) The Public Utility Commission issues an order to revoke the local service provider's certificate of public convenience.

(c) The local service provider seeks a certificate of public convenience to voluntarily abandon the provision of local exchange carrier service.

(2) To ensure that local service providers give adequate customer notice of the impending termination of local exchange carrier service to enable their customers to obtain service from another provider before the existing local service provider abandons service.

(3) To provide for a minimal notification deposit requirement to be paid by local service providers prior to the initiation of services to customers to ensure that there is sufficient incentives for local service providers to provide adequate customer notification and call center access when abandoning service to customers. If the local service provider fails to provide proper notice and customer support, the deposit will be used to pay the cost of customer notices about the abandonment of services and to maintain call center access for customers who have questions.

(4) To provide for an embargo process that precedes the termination of a local service provider's service agreement with an underlying carrier.

B. Application.

(1) These rules apply to any local service provider that is providing local exchange service to residential or small business customers in Pennsylvania.

(2) These rules apply to any underlying carrier that provides wholesale telephone service to a local service provider and intends to embargo or terminate the local service provider's service.

II. Definitions.

The following words and terms in these guidelines, as well as companion guidelines concerning Quality of Service, Changing Local Service Providers, and Customer Information, have the following meaning unless the context clearly indicates otherwise:

End-use customer—A customer who has his or her telephone service provided by a local service reseller.

Embargo—The refusal by an underlying carrier to process local service change requests or to initiate new local service requests, because the local service provider that is reselling its services is delinquent in the payment of those services.

Local service—Calling capacity between points within the community in which a customer lives. Local service includes the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability, and 9-1-1 emergency service.

Local service provider—A company, such as a local exchange carrier, that provides local service and may also provide other telecommunications services.

Local service reseller—A local service provider that resells part or all of another company's wholesale telephone services to provide local service to consumers.

Small business customer—A customer with three or fewer access lines not used for residential service.

Underlying carrier—A company that owns or has access to transport and/or switching and/or other facilities and sells access to such services to a local service provider such that the local service provider can provide local service. The underlying carrier may also be a local service provider.

III. Pretermination Embargo Process.

A. Purpose.

An embargo is a pretermination process that is intended to limit the potential financial loss of the underlying carrier when a local service provider who is a local service reseller becomes delinquent in the payment for those services.

B. Authorized Reasons for an Underlying Carrier to Embargo Service.

(1) Failure to pay an undisputed delinquent amount for services necessary to provide the end-users with basic service when that amount remains unpaid for 30 days or more after the bill is rendered.

(2) Failure to abide by the terms and conditions of an interconnection agreement approved by the Public Utility Commission.

(3) Failure to comply with the terms of a payment agreement.

(4) Failure to comply with a Public Utility Commission order.

C. Unauthorized Reasons for an Underlying Carrier to Embargo Service.

(1) Nonpayment of charges unrelated to the provisions of local service. An example of a charge that if not paid cannot form the basis of an embargo is directory advertising.

(2) Nonpayment of charges not previously billed prior to the due date of the current bill.

(3) Noncompliance with a payment agreement prior to the date of payment that forms the basis of the agreement.

(4) Nonpayment of charges under complaint before the Public Utility Commission unless specifically authorized to do so by the Public Utility Commission.

(5) Nonpayment of charges where there is an open complaint about the accuracy or correctness of these charges. However, a reseller of that local exchange service is obligated to pay all amounts not legitimately under complaint.

D. Embargo Notification Process.

(1) Ten (10) days prior to the initiation of the embargo, the underlying carrier must issue a written notice of embargo to the local service reseller using the following procedures:

(a) The embargo notice is to be sent by first class mail.

(b) The notice to the reseller is to be addressed to the person designated to receive such notices.

(c) A copy of the 10-day notice of embargo is to be sent to the Secretary of the Public Utility Commission and the Public Utility Commission's Bureau of Consumer Services.

(2) Content of an embargo notice to a local service reseller shall include the following:

(a) Date that the embargo will start. The starting date given for the embargo cannot be less than ten days from the date the notice is mailed.

(b) Amount owed which forms the grounds for the embargo.

(c) Contact information for the company issuing the embargo notice where the reseller should call to make arrangements to pay the bill.

(d) A statement that if the bill is not paid on the date identified or other acceptable arrangements are not made that a termination notice will be issued.

IV. Underlying Carrier Termination Process for Local Service Resellers.

A. Termination Process Initiation. An underlying carrier is permitted to initiate the termination process of any local service reseller if by the expiration date of the embargo notice the reseller has not either made payment in full or entered into a mutually acceptable agreement for payment of the outstanding debt. An underlying carrier is not permitted to initiate termination when an account is under complaint. If at any time during the termination process a properly filed complaint is entered, the underlying carrier must suspend the termination process.

B. Contents of Termination Notice.

(1) A termination notice from the underlying carrier to the local service reseller must include the following:

(a) The date of the notification.

(b) The date services will be terminated unless payment is received or there is a mutually acceptable payment arrangement.

(c) The amount owed.

(d) A contact number for the underlying carrier.

(e) A copy of the notice must be provided to the Public Utility Commission's Secretary's Office, Bureau of Consumer Services and the Law Bureau.

V. Initiation of Abandonment.

The abandonment of a local service provider may be initiated by an underlying carrier, by an order of the Public Utility Commission which revokes the local service provider's certificate of public convenience, or by the local service provider itself upon proper application to the Public Utility Commission.

A. Underlying Carrier Initiation.

(1) An underlying carrier that intends to terminate the service of a local service reseller that serves residential and/or small business customers shall provide prior notice of termination to the local service provider and the PUC electronically and by first class mail 40 business days in advance of the scheduled termination.

(2) If the local service reseller fails to timely notify its end-use customers of the impending abandonment of service within 5 days after receiving the underlying carrier termination notice, the underlying carrier will extend the local service reseller's termination date until such time as the end-use customers can be properly notified.

(3) The extension should give end-use customers time to implement a change of local service provider so that their local service is continued in an uninterrupted manner.

B. Public Utility Commission Initiation.

The Public Utility Commission may initiate the abandonment of a local service provider's service through the issuance of a Commission order that revokes the local service provider's certificate of public convenience.

C. *Local Service Provider Initiation.* A local service provider may initiate the voluntary abandonment of its local service provision by filing with the Public Utility Commission an application to abandon service.

D. *Local Service Provider Obligations for Abandonment.*

(1) Upon receiving the prior electronic notice of termination from the underlying carrier, or upon the date the Public Utility Commission's order revoking the local service provider's certificate of public convenience becomes final, or upon the date the local service provider is issued a certificate of public convenience to voluntarily abandon its service provision, the local service provider shall have the following obligations:

(a) Within three business days prepare a written customer abandonment notice consistent with this order to be sent to all the local service provider's customers.

(b) Within three business days prepare a mailing list containing the names and addresses of current customers who are to receive the abandonment notice.

(c) Within four business days send by U.S. first class mail all its residential and small business customers the notice of abandonment.

(d) Within five business days send the Secretary of the Public Utility Commission and the Public Utility Commission's Bureau of Consumer Services the following via electronic mail:

(i) A copy of the abandonment notice that was sent to customers.

(ii) A confirmation letter that all residential and small business customers have been sent an abandonment notice.

(e) Within 6-business days send the Secretary of the PUC and the PUC's Bureau of Consumer Services the following via U.S. first-class mail:

(i) A copy of the abandonment notice that was sent to customers.

(ii) A confirmation letter that all residential and small business customers have been sent an abandonment notice.

(iii) A copy of the mailing list of customers that were mailed the notice.

(f) The local service provider is required to maintain call center access for customers who have questions for 35 business days after the date the notices have been sent to customers.

(g) The local service provider is required to maintain the provision of local service to residential and small business customers for 35 business days after the date the notices have been sent to customers.

VI. Content of Customer Abandonment Notices from Local Service Providers.

A. Customer Notice Requirements.

(1) The notice to customers about the pending abandonment of service to residential and small business customers should contain the following information and statements:

(a) A title on the envelope and the notice containing the words "Important Notice, Loss of Local Telephone Service" printed in bold letters with a font size of at least 14 points, conspicuously displayed so as to attract the attention of the reader.

(b) A statement: "At this time, (local service provider name) provides you with local telephone service."

(c) A statement: "As of (date thirty-five business days from date of notice), (local service provider name) will no longer provide your local telephone service and you must take action."

(d) A statement: "To prevent the loss of your local telephone service, you must select another local telephone service provider on or before (date 25 days from date notice is sent to customer). If you act by this date there will be enough time for the new service provider you choose to start your new service before your current service ends."

(e) A statement: "Please remember that local telephone service is competitive. You may select any company that is offering service in your area."

(f) A statement: "This is the only notice (the words only notice in bold and underlined) you will receive about the loss of your local telephone service. If you have any questions or need more information, contact (local service provider contact information including a toll-free telephone number)."

VII. Local Service Provider Deposit Requirements and Disposition.

A. Deposit Posting Requirements.

(1) Local service providers are required to post a surety bond or letter of credit with the PUC to assure compliance with the customer notification and call center access guidelines when abandoning service.

(2) A local service provider will post a surety bond or letter of credit in the amount of \$2,000 with the PUC at the time of application.

(3) At such time as the local service provider serves 2,500 or more access lines, the local service provider will file a surety bond or letter of credit with the PUC in the amount of \$5,000.

(4) At such time as the local service provider serves 5,000 or more access lines, the local service provider will file a surety bond or letter of credit with the PUC in the amount of \$10,000.

(5) At such time as the local service provider serves 10,000 access lines, the local service provider will file a surety bond or letter of credit with the PUC in the amount of \$20,000.

(6) For each additional 10,000 access lines served by the local service provider over the initial 10,000 lines, the local service provider will post a surety bond or letter of credit with a value of an additional \$10,000 over the prior deposit. For example, if the local service provider serves 20,000 lines, the total bond or credit requirement would be \$30,000. However, the total bond or credit held will not exceed \$50,000, regardless of the number of access lines served by the local service provider.

B. Deposit Disposition.

(1) Once the local service provider has abandoned service in an orderly fashion by providing customer notice and call center access as contained in these guidelines, the Commission will return the surety bond or letter of credit to the local service provider.

(2) In the event the local service provider does not provide customer notice and call center access in accordance with these guidelines, the PUC may use the proceeds of the surety bond or letter of credit to pay for the cost of providing the affected customers with notice and call center service.

Appendix A

Overall Abandonment Timeframe

<i>Business Day</i>	<i>Activity</i>
1	Local service reseller receives termination notice from underlying carrier; or date of PUC final order revoking local service provider's certificate of public convenience; or the local service provider receives a certificate of public convenience to abandon service.
3	Local service provider prepares abandonment notice for customers and prepares customer mailing list.
4	Local service provider sends notice to customers.
5	Local service provider provides an electronic copy of notice to PUC along with a confirmation letter that all affected customers have been sent an abandonment notice.
6	Local service provider sends PUC written notice, confirmation letter, and customer contact list.
5-9	Customers receive notice of abandonment.
10-25	Customers shop for new local service provider and make a selection. (15 days)
26-35	Time allotted for customer migration. (10 days)
35	Customer is provisioned to new local service provider.

<i>Business Day</i>	<i>Activity</i>
36	Underlying carrier terminates reseller's service. (If applicable).
36	Local service provider ceases provision of local exchange service and call center support.

[Pa.B. Doc. No. 01-2253. Filed for public inspection December 14, 2001, 9:00 a.m.]

Tentative Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick

Interim Guidelines Establishing Procedures for Changing Local Service Providers for Jurisdictional Telecommunications Companies; Doc. No. M-00011582

Tentative Order¹

By the Commission:

The Commission first promulgated Chapter 64, Standards and Billing Practices for Residential Telephone Service, 52 Pa. Code §§ 64.1—64.213, on November 30, 1984, and has amended it several times. Since 1984, there has been a marked increase in the number of competitors in the Pennsylvania telecommunications market. Consumers are moving back and forth among the various local (and toll) service providers. As a result, consumers have encountered confusion, delay, and/or interruption of local service during the migrations between local service providers (LSPs). Further, Verizon Pennsylvania, Inc., has recently received authority from the Federal Communications Commission (FCC) and this Commission to commence offering in-region long distance service within Pennsylvania. These additional options may result in even more migration of consumers. Accordingly, the Commission proposes to adopt interim guidelines as set forth in Annex A for the following purposes:

1. To ensure that consumers can change LSPs without unnecessary confusion, delay, or interruption to their basic service.
2. To ensure that the migration from one LSP to another LSP is seamless from the customer's perspective.
3. To minimize overlap in billing during the transition from one LSP to another LSP.

By this Tentative Order, the Commission proposes to adopt interim guidelines that will remain in place until a final rulemaking on this subject matter has been completed.

¹ This Tentative Order is one of several we are adopting this day addressing: Changing LSPs (base folder); Customer Information (F0002); Quality of Service (F0003); and Abandonment by Local Service Provider (F0004). While there may be overlap among all the orders, there is perhaps more so between F0001 and F0003. The focus of this Tentative Order and interim guidelines is generally looking at the issues from the perspective of the customer, whereas the focus of the base folder is generally from the LSPs' perspective.

*Discussion*²

In 1993, competition in the local telecommunications markets in Pennsylvania was initiated through the enactment of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009. Moreover, the Telecommunications Act of 1996 (TA-96), as codified in 47 U.C.S.A. § 201, et seq., mandated the opening of local-telephone service competition on a national level. Both the state and federal actions were designed to create customer choice of provider and service. In 1995, this Commission granted the first four Pennsylvania certificates of public convenience for competitive local exchange carrier (CLEC) authority to provide local service. Today, we have approximately 240 active and inactive CLECs, serving approximately 900,000 access lines. These numbers are growing. Consequently, the churn in the local market is increasing daily.

Along with the growth in CLECs, the industry has experienced a divergence in the type and form of services being provided. The growth and divergence have added to the need for updates in our regulations.

These interim guidelines are to address issues relating to migration of customers among LSPs, slamming, customer information, and billing. Our discussion of migration slamming, E911, and directory listings/white pages applies to all customers. Our discussion of customer information and billing applies to all customers. All other Commission regulations contained in Chapter 64, Residential Telephone Service, are applicable to LSPs. It is the responsibility of each LSP to know these requirements and to ensure that it operates in compliance with the regulations. Further, it is not acceptable for a LSP to attempt to transfer to the customer the LSP's responsibility to deal with the underlying carrier when there is a problem with the quality of service being provided.

*Migration*³

Changes in a customer's LSP should be executed in accordance with the regulations of the FCC that relate to verification of service orders, letters of agency, and preferred carrier freezes, as such regulations may be changed from time to time. Additionally, Chapter 64 imposes certain obligations upon LSPs. The interim guidelines are designed to provide further guidance.

The new LSP should determine if there is a LSPF on the account. A change in service cannot be processed if an

² The proposed interim guidelines define and use terms not found in 52 Pa. Code Chapter 64. The following terms, when used in this tentative order, shall have the following meanings unless the context clearly indicates otherwise. These definitions are more fully explained in the interim guidelines.

Freeze—Designation elected by a customer that requires the customer with the freeze to advise his/her old preferred carrier of his/her intention to change preferred carriers.

Local service—Calling capacity between points within the community in which a customer lives. Local service includes the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability, and 9-1-1 emergency service.

Local Service Provider (LSP)—A company, such as a local exchange carrier (LEC), that provides local service and may also provide other telecommunications services.

Local service provider freeze (LSPF)—The procedure which prevents a change in a customer's local service provider without the customer notifying the local service provider to lift the freeze.

Migration—A transfer of service from one carrier to another. For the purpose of these interim guidelines, the focus is on the movement of a customer from one local service provider to another local service provider.

Preferred carrier (PC)—The service provider chosen by a customer to provide particular telecommunications services. A customer's existing provider is his/her preferred carrier until such time as the customer makes a verified choice of a new preferred carrier.

Porting—The process of moving a customer's telephone number from one local service provider to another local service provider.

³ It is noted that a Collaborative has commenced at Docket No. C-00015149 F0002 to address local service provider freeze (LSPF) issues including processes and procedures available for LECs to migrate lines currently subject to LSPF. The issue of whether LSPF is appropriate or necessary is being addressed as a litigated matter presently before ALJ Chestnut at Docket No. C-00015149. To the extent that the interim guidelines proposed herein are inconsistent with the resolutions reached in either Docket No. C-00015149 or C-00015149 F0002, the resolutions reached in those dockets shall control until final regulations are adopted or those dockets are otherwise modified.

existing LSPF is not removed by the customer. Applicants for service with LSPFs must be advised that they need to contact their current (old) LSP to remove the LSPF before an order to migrate the service may be taken.⁴

To process a migration, the new LSP must provide the old LSP with notification of a change within 24 hours. The time to change from a customer's old LSP to a new LSP should not exceed 10 business days. The new LSP should advise applicants of a service start date.⁵ When applicable, the new LSP should inform applicants that they could keep (that is, port) their same telephone numbers.

If the migration of local service request is processed in accordance with state and federal requirements, the old LSP may not refuse to execute a customer's request to change basic service or refuse to port a customer's phone number. This applies so long as the customer's account is or was not terminated for the customer's failure to pay a delinquent bill, even if the account has been suspended or for the customer's failure to keep the terms of a contract. If an account has been terminated for non-payment of billing for local service, the old LSP may refuse to port the telephone number until the bill is paid or otherwise resolved. The old LSP may not, however, refuse to release the local loop or other facilities required to provide service to the premises where service was previously terminated on the basis of the unpaid billing.

Slamming

Slamming is the unauthorized changing of a customer's telecommunications service provider. On March 23, 2001, we issued a Secretarial Letter in *LEC Obligations for Addressing Customer Complaints about LEC Slamming and LEC Adherence to the FCC Slamming Liability Rules*, Docket No. M-00991322. Slamming continues to be an issue in the market place. This order and the interim guidelines will not change or reduce the provisions of the Secretarial Letter but rather clarify and expand upon it.

Accordingly, the interim guidelines are to be applied in conjunction with and as an enlargement upon the Secretarial Letter based upon further market experience as competition has evolved.

Customer Information

Customer information is crucial to the operation of a competitive marketplace. Markets do not work at their optimum when there is a pattern of asymmetrical dissemination of information.

Accordingly, the new LSP should inform applicants that it will send a written disclosure statement of the terms and conditions of service within 1 business day of its acceptance of the customer's migration order. The new LSP should provide applicants with information in accordance to 52 Pa. Code Chapter 64. The new LSP should also inquire whether applicants want information that may assist customers with disabilities or explain universal service programs.

Billing

The failure to properly remove a migrated customer from the automatic billing systems may result in duplicate bills and overlapping bills. This exacerbates the potential for improper billing. Improper billing may go unnoticed by a customer.

⁴ If the new LSP is also seeking to provide services (e.g., inter-exchange, intraLATA, interLATA, interstate, or international toll) covered by a PC freeze, the authorization to lift the freezes may be done in the same process, but the customer must expressly lift each particular freeze.

⁵ For any LSP subject to state or federal carrier-to-carrier guidelines, if the carrier-to-carrier guidelines provide a more explicit or a narrower window for performance, the carrier-to-carrier guidelines shall control for that LSP.

Accordingly, upon notification from the new LSP, the customer's old LSP should, within 42 days, issue the customer a final bill for services rendered. Once charges are paid for those services rendered prior to the change of the customer's LSP, the old LSP should remove the customer from its billing system and discontinue billing.

Finally, the interim guidelines are not designed to affect or constrict a customer's debtor/consumer rights or an LSP's creditor's remedies otherwise permitted by law. Additionally, customers who believe that service has not been rendered consistent with the interim guidelines may file informal complaints with the Commission's Bureau of Consumer Services.

E911 and Directory Listings/White Pages.

Access to accurate information is essential to the operation of emergency response systems. Listings with directory assistance and in the white pages are of major significance to most customers.

Accordingly, any migration will require specific and timely coordination of records to ensure that the data bases are accurate and accessible.

Conclusion

We are hereby proposing by this Tentative Order Interim Guidelines to be in effect pending the promulgation of final regulations at a separate docket. These guidelines, when finalized after the receipt of public comment, are intended to provide guidance to LSPs and underlying carriers when addressing the process of changing LSPs.

To accommodate public comment on these tentative interim guidelines, we will direct that this order be published in the *Pennsylvania Bulletin* and will establish a 10-day comment period from the date of publication. We urge that all interested persons file comments as soon as possible. Note that reply comments will not be permitted. Accordingly, comments should address all relevant issues including the identification of the additional costs, if any, that are anticipated to be incurred by the industry to comply with these interim guidelines. Additional costs are those that are in excess of the current costs to comply with similar existing State and Federal requirements; *Therefore, It Is Ordered That:*

1. Voluntary Interim Guidelines re Procedures for Changing Local Service Providers, following this Tentative Order as Annex A, are hereby proposed, inter alia, to ensure that consumers can change LSPs without unnecessary confusion, delay, or interruption to their basic service, to ensure that the migration from one LSP to another LSP is seamless from the customer's perspective, and to minimize overlap in billing during the transition from one LSP to another LSP. These guidelines, once finalized, are intended to remain in place pending the conclusion of a formal rulemaking to promulgate mandatory regulations.

2. This Tentative Order, including Annex A, be published in the *Pennsylvania Bulletin* and that a comment period ending 10 days after the date of publication of the Tentative Order is hereby established.

3. Written comments, an original and 15 copies, shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A copy of these comments should be submitted at that same address to the technical and legal contact persons listed below, and to Sherri DelBiondo, Regulatory Coordinator. A diskette containing the comments in electronic format (in Word or a compatible program) must also be

submitted. Comments should specifically reference the docket number and folder number of this Tentative Order. No reply comments will be permitted.

4. A copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff; be posted on the Commission's web site at puc.paonline.com; and be made available to all other interested parties.

5. The contact persons for this matter are David Lewis, Consumer Services, (717) 783-5187, and Louise Fink Smith, Law Bureau, (717) 787-8866.

6. A final order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this Tentative Order.

JAMES J. MCNULTY,
Secretary

Annex A

Interim Guidelines for Changing Local Service Providers

I. Statement of Purpose, Application, and Effect.

A. *Purpose.* The purpose of these interim guidelines is as follows:

(1) To ensure that consumers can change their local service provider (LSP) without unnecessary confusion, delay, or interruption to their basic service.

(2) To ensure that the migration from one LSP to another LSP should be seamless to the customer.

(3) To minimize overlap in billing during the transition from one LSP to another LSP.

B. *Application.* With the exception of E911 and Directory Listings/White Pages, which apply to all customers, these interim guidelines apply to all residential customers except those customers who want to discontinue service. Residential customers who discontinue service are required to provide their LSP with notice in accordance with 52 Pa. Code § 64.53, Discontinuance of service, as such regulations may be changed from time to time.

C. *Effect of Interim Guidelines.* The requirements contained in these interim guidelines are intended to be consistent with the FCC's regulations at 47 CFR Subpart K, Changing Long Distance Service, which is also applicable to local service, and with 52 Pa. Code § 64.2, Definitions; and 52 Pa. Code § 64.191, Public Information.

II. Definitions.

The following words and terms in these guidelines, as well as companion guidelines concerning Quality of Service, Abandonment of Service, and Customer Information, have the following meaning unless the context clearly indicates otherwise:

Freeze—Designation elected by a customer that requires the customer with the freeze, including a local service provider freeze, to advise his/her old preferred carrier of his/her intention to change preferred carriers. For customers without freezes, the new preferred carrier may relay the information to the old preferred carrier that the customer has made a verified decision to change preferred carriers.

Local service—Calling capacity between points within the community in which a customer lives. Local service includes the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability, and 9-1-1 emergency service.

Local Service Provider (LSP)—A company, such as a local exchange carrier, that provides local service and may also provide other telecommunications services.

Local service request—The method used to inform a customer's current local service provider that the customer wants to change local service providers.

Local service provider freeze (LSPF)—The procedure which prevents a change in a customer's local service provider without the customer notifying the local service provider to lift the freeze.

Migration—A transfer of service from one carrier to another. For the purpose of these interim guidelines, the focus is on the movement of a customer from one local service provider to another local service provider.

Preferred carrier (PC)—The service provider chosen by a customer to provide particular telecommunications services. A customer's existing provider is his/her preferred carrier until such time as the customer makes a verified choice of a new preferred carrier.

Porting—The process that allows customers to keep their telephone numbers when migrating from one local service provider to another local service provider.

Telephone bill—The invoice for telecommunications products or services rendered whether rendered by the local service provider or its billing agent.

III. Migration of Local Service.

A. *Execution of Changes in Local Service Provider.* Changes in a customer's LSP should be executed in accordance with the regulations of the FCC that relate to verification of service orders, letters of agency, and preferred carrier freezes, as such regulations may be changed from time to time.

B. *Additional Obligations.* In addition to existing obligations in 52 Pa. Code Chapter 64, the following requirements apply:

- (1) The new LSP must provide the old LSP with notification of a change within 24 hours.
- (2) The time to change from a customer's old LSP to a new LSP should not exceed 10 business days.
- (3) The new LSP should advise applicants of a service start date.
- (4) When applicable, the new LSP should inform all applicants for service that they could keep their same telephone numbers.
- (5) For any LSP subject to state or federal carrier-to-carrier guidelines, if the carrier-to-carrier guidelines provide a more explicit or a narrower window for performance, the carrier-to-carrier guidelines shall control for that LSP.

C. *Removal of Local Service Provider Freeze (LSPF).* The new LSP cannot process a change in service if an existing LSPF is not removed by the customer. The new LSP should do the following:

(1) Ask applicants if they have a LSPF on their basic service accounts.

(2) Inform applicants for service that the new LSP cannot authorize the removal of a customer's LSPF.

(3) Inform applicants for service with LSPFs that arrangements must be made to have the freeze lifted before an order to migrate the service may be processed.

(4) If the new LSP is also seeking to provide services (e.g., inter-exchange, intraLATA, interLATA, interstate, or international toll) covered by a PC freeze, the authorization to lift the freezes may be done in the same process, but the customer must expressly lift each particular freeze.

D. *Unauthorized Refusal to Migrate Service.* If the migration of local service request is processed in accordance with state and federal requirements, the old LSP may not refuse to execute a customer's request to change LSP's or refuse to port a customer's phone number even under the following circumstances so long as the customer's account is not terminated:

- (1) For a customer's failure to pay a delinquent bill, even if the account has been suspended.
- (2) For a customer's failure to keep the terms of a contract.
- (3) Exception to prohibition: If an account has been terminated for non-payment of billing for local service, the old LSP may refuse to port the telephone number until the bill is paid or otherwise resolved.
- (4) Limitation on exception to prohibition: The old LSP may not, however, refuse to release the local loop or other facilities required to provide service to the premises where service was previously terminated on the basis of the unpaid billing.

IV. Customer Information.

A. *Disclosures.* The new LSP should inform applicants for service that it will send a written disclosure statement of the terms and conditions of service within one (1) business day.

B. *Inquiries.* The new LSP should provide applicants with information in accordance to 52 Pa. Code Chapter 64. The new LSP should also do the following:

- (1) Inquire whether applicants want information that may assist customers with disabilities.
- (2) Inquire whether applicants want information about low income assistance.

V. Discontinuance of Billing.

A. *Final Bills.* Upon notification from the new LSP, the customer's old LSP should, within 42 days, issue the customer a final bill for services rendered.

B. *Final Payments.* Once charges are paid for those services rendered prior to the change of the customer's LSP, the old LSP should remove the customer from its billing system and discontinue billing.

VI. Debtor's Rights and Creditor's Remedies.

These interim guidelines do not affect the customer's debtor/consumer rights or the LSP's creditor's remedies otherwise permitted by law. Additionally, customers who believe that service has not been rendered consistent with these interim guidelines may file informal complaints with the Commission's Bureau of Consumer Services.

VII. E911 and Directory Listings/White Pages.

Any migration will require specific and timely coordination of records between the carriers to ensure that the data bases are accurate and accessible.

[Pa.B. Doc. No. 01-2254. Filed for public inspection December 14, 2001, 9:00 a.m.]

Tentative Order

Public Meeting held
November 30, 2001

Commissioners Present: Glen R. Thomas, Chairperson;
Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.;
Terrance J. Fitzpatrick

Interim Guidelines Establishing Quality of Service Procedures for Jurisdictional Telecommunications Companies;
Doc. No. M-00011582F0003

Tentative Order¹

By the Commission:

The Commission first promulgated Chapter 63, Telephone Service, 52 Pa. Code §§ 63.1—63.137, on March 25, 1946, and Chapter 64, Standards and Billing Practices for Residential Telephone Service, 52 Pa. Code §§ 64.1—64.213, on November 30, 1984, and has amended both chapters several times thereafter. Since 1984, there has been a marked increase in the number of competitors in the Pennsylvania telecommunications market. Consumers are moving back and forth among the various local (and toll) service providers. As a result, consumers have encountered confusion, delay, and/or interruption of local service in dealing with multiple local service providers (LSPs). Further, Verizon Pennsylvania, Inc., has recently received authority from the Federal Communications Commission (FCC) and this Commission to commence offering in-region long distance service within Pennsylvania. These additional options may result in even more interaction between a customer and multiple LSPs. Accordingly, the Commission proposes to adopt interim guidelines as set forth in Appendix A for the following purposes:

1. To establish uniform procedures for all LSPs to use when handling interfering station conditions.
2. To establish uniform procedures for all LSPs that will allow residential and business customers to retain their telephone lines and numbers when they change LSPs.
3. To address coordination of repair problems when there is an underlying carrier.

By this Tentative Order, the Commission proposes to adopt interim guidelines that will remain in place until a final rulemaking on this subject matter has been completed.

*Discussion*²

¹ This Tentative Order is one of several we are adopting this day addressing: Changing LSPs (base folder); Customer Information (F0002); Quality of Service (F0003); and Abandonment by Local Service Provider (F0004). While there may be overlap among all the orders, there is perhaps more so between F0001 and F0003. The focus of this Tentative Order and interim guidelines is generally looking at the issues from the perspectives of the LSPs, whereas the focus of the base folder is generally from the customer's perspective.

² The proposed interim guidelines define and use terms not found in our regulations. The following terms, when used in this tentative order, shall have the following meanings unless the context clearly indicates otherwise. These definitions are more fully explained in the interim guidelines.

Discontinuance of service—The temporary or permanent cessation of service on customer request.

In 1993, competition in the local telecommunications markets in Pennsylvania was initiated through the enactment of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009. Moreover, the Telecommunications Act of 1996 (TA-96), as codified in 47 U.C.S.A. § 201, et seq., mandated the opening of local-telephone service competition on a national level. Both the state and federal actions were designed to create customer choice of provider and service. In 1995, this Commission granted the first four Pennsylvania certificates of public convenience for competitive local exchange carrier (CLEC) authority to provide local service. Today, we have approximately 240 active and inactive CLECs, serving approximately 900,000 access lines. These numbers are growing. Consequently, the churn in the local market is increasing daily.

Along with the growth in CLECs, the industry has experienced a divergence in the type and form of services being provided. The growth and divergence have added to the need for updates in our regulations.

These interim guidelines are to address issues relating to interfering stations in conjunction with migration of customers among LSPs, porting, coordination of repair problems when there is an underlying carrier, transfers of customer base among LSPs, and carrier-to-carrier guidelines.³ Our discussion of these issues relates to residential and business customers. All other Commission regulations contained in Chapter 55, Non-Carrier Rates and Practices, Chapter 63, Telephone Service, and Chapter 64, Residential Telephone Service, are applicable to LSPs. It is the responsibility of each LSP to know these requirements and to ensure that it operates in compliance with the regulations. Further, it is not acceptable for a LSP to attempt to transfer to the customer the LSP's responsibility to deal with the underlying carrier when there is a problem with the quality of service being provided.

Interfering Stations.

LSPs and individual customers have complained that pre-existing service prevents the reuse of the existing telephone facilities by a new LSP to serve a new customer at a location where the prior customer abandoned the premises without notifying the old LSP to terminate the telephone service. We find that this practice unfairly causes new customers unnecessary delays and/or expense in obtaining service.

Accordingly, when a LSP (old LSP) receives notice from a new LSP that an interfering station condition exists and the old LSP's prior or present use of the line is the cause of the condition, the old LSP should send a 7-day notice of termination to its listed customer of record at the customer's last known address. The notice must state that there has been a request for new service in the name of a different customer at the location specified in the notice and that, unless notified otherwise, the old LSP will discontinue service in the name of the customer of

Interfering station—Pre-existing service that prevents the reuse of the existing telephone facilities by a new local service provider to serve a new customer at a location where the prior customer abandoned the premises without notifying the old LSP to disconnect the telephone service.

Local service provider (LSP)—A company, such as a local exchange carrier (LEC), that provides local service and may also provide other telecommunications services.

Local service reseller—A local service provider that provides local service to its customers by reselling the services of an underlying carrier.

Migration—For the purposes of the interim guidelines, the movement of a customer from one local service provider to another local service provider.

Porting—The process of moving a customer's telephone number from one local service provider to another local service provider.

Underlying carrier—A company that owns or has access to transport and/or switching and/or other facilities and sells access to such services to a local service provider such that the local service provider can provide local service. The underlying carrier may also be a local service provider.

³ See the *Performance Metrics Order* proceeding, Docket No. M-00991435 (PMO), and the *Metrics and Remedies* proceeding, Recommended Decision of October 2, 2001, at Docket No. M-00011468. Exceptions pending.

record 7 days from the date of the notice in order to allow for installation of new local service at the service address. At the end of the 7-day period, if the old LSP has not received any response from the previous customer of record, the old LSP should terminate service to the service address. If the old LSP is not the underlying carrier, the old LSP must arrange to have the service terminated at the end of the 7-day period. The service must be terminated within 24 hours of the end of the 7-day period. Within 24 hours of the termination, the old LSP should notify the new local service provider that the service has been terminated.

The new LSP should complete the installation of the service for the customer consistent with existing regulations and guidelines for primary service orders. Further, as with repair and maintenance issues, the new LSP shall not require the customer to deal with the underlying carrier when there is a problem with the quality of service being provided. The old LSP and the new LSP may be the same carrier, for example, if a customer vacates a premises and the new customer chooses the same LSP as served the prior customer.

Porting.

The FCC has spoken rather clearly on number porting, holding that LECs do not have a proprietary interest in numbers assigned to their customers and, more significantly, that number portability is absolutely critical to the opening of local telecommunications markets to competition. *In the Matter of Telephone Number Portability, Old Report and Order and Further Notice of Proposed Rule-making*, CC Docket No. 95-1165, RM 8535, 11 FCC Rcd 8352; 1996 LEXIS 3430, ¶113.

This Commission agrees with the FCC's position. Looking at the energy markets for a parallel, the Commission does not permit a distribution entity to hold an end-user's service line hostage to ensure payment of outstanding bills. While this example corresponds more closely to a LEC refusing to release a local loop for resale or as an UNE than it does to a refusal to port the number, it must, nevertheless, be recognized that LECs do not have a proprietary interest in the telephone numbers assigned to customer users.

Accordingly, this Commission believes that it is appropriate to establish in the interim guidelines that LSPs may not refuse to port a telephone number for customers whose service is suspended or still in service. If, however, the service has been terminated for non-payment, the old LSP may refuse to port the telephone number until the bill is paid or otherwise resolved. Furthermore, in conjunction with the refusal to port the telephone number, a LSP may not refuse to release the local loop or other facilities required to provide service to the premises where service was previously terminated on the basis of the unpaid billing.

Coordination of Repair Problems.

Often times, it is initially unclear where a service problem (or incomplete installation problem) arises and who is responsible for fixing it. Regardless of the cause and effect of the various problems one can encounter in installation, maintenance, and repair of telecommunications services, we feel that it is in the best interest of the customer for the customer to have a single point of contact and to be able to rely on the LSP, rather than having to navigate between the LSP and an underlying carrier, to resolve such problems.

Accordingly, we shall provide that the new LSP shall not require the customer to assume the LSP's responsibility

to deal with the underlying carrier when there is a problem with the quality of service being provided.

Transfers of Customer Base.

LSPs on occasion transfer customers among themselves. Transfers of customers between LSPs typically do not require a certificate of public convenience if both carriers are certificated and will remain in operation after the transfer of customers. For any such LSP-initiated transfer, the Commission requires appropriate and timely notice to the affected customers and notice to the Commission prior to the transfer. If such transfers occur because a LSP is ceasing to do business in the Commonwealth, the old LSP must additionally obtain Commission authority to abandon service. In most cases, the affected customers agree to transfer (affirmatively or by inaction) or make alternative arrangements with another LSP. On occasion, a customer with a LSPF may fail to lift the LSPF to allow the transfer to take place. This creates the risk that customers may lose dial tone when the old LSP ceases to service them.

Accordingly, we shall provide that when two LSPs agree to a transfer of customers, the transferring LSP should request that the Commission lift the LSPFs for all customers who have not timely responded to the LSP's notice of intent to transfer. The transferring LSP will provide notice to the affected customers of the request to have the LSPF lifted. If the transfer is necessitated by the abandonment of service by the old LSP, there should be a rebuttable presumption that the LSPF will be lifted upon request. If the transfer is predicated upon other grounds, the burden will be on the old LSP to prove that lifting the LSPF is appropriate. The LSP may satisfy this burden by competent evidence or by stipulation to the necessity of lifting the freeze from the Bureau of Consumer Services and the Office of Consumer Advocate and/or the Office of Small Business Advocate (depending upon customer base). Upon approval of the lifting of the LSPF by the Commission, the old LSP and the new LSP may complete the migration. Upon completion of the migration, the new LSP should reinstate a LSPF unless the customer requests otherwise.

Carrier-to-Carrier Guidelines.

At least one LSP (Verizon Pennsylvania, Inc.) is subject to both State and Federal carrier-to-carrier guidelines. There have been numerous suggestions that all LSPs should be subject to carrier-to-carrier guidelines to manage the transactions between carriers. Such an endeavor is beyond the scope of this order and may be considered by this Commission at some future date.

Accordingly, while recognizing that one LSP is subject to carrier-to-carrier guidelines, we shall not establish additional carrier-to-carrier guidelines at this time but shall require that if any carrier-to-carrier guidelines established by this Commission or the FCC provide a more explicit or a narrower window for performance, then such carrier-to-carrier guidelines will control for LSPs subject to them.

Conclusion

We are hereby proposing by this Tentative Order Interim Guidelines to be in effect pending the promulgation of final regulations at a separate docket. These guidelines, when finalized after the receipt of public comment, are intended to provide guidance to LSPs and underlying carriers when addressing quality of service issues.

To accommodate public comment on these tentative interim guidelines, we will direct that this order be

published in the *Pennsylvania Bulletin* and will establish a 10-day comment period from the date of publication. We urge that all interested persons file comments as soon as possible. Note that reply comments will not be permitted. Accordingly, comments should address all relevant issues including the identification of the additional costs, if any, that are anticipated to be incurred by the industry to comply with these interim guidelines. Additional costs are those that are in excess of the current costs to comply with similar existing State and Federal requirements; *Therefore,*

It Is Ordered That:

1. Voluntary Interim Guidelines re Quality of Service, Annex A to this Tentative Order, are hereby proposed to establish uniform procedures for all LSPs to use when handling interfering station conditions, to establish uniform procedures for all LSPs that will allow residential and business customers to retain their telephone lines and numbers when they change LSPs, and to address coordination of service problems when there is an underlying carrier. These guidelines, once finalized, are intended to remain in place pending the conclusion of a formal rulemaking to promulgate mandatory regulations.

2. This Tentative Order, including Annex A, be published in the *Pennsylvania Bulletin* and that a comment period ending 10 days after the date of publication is hereby established.

3. Written comments, an original and 15 copies, shall be submitted to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. A copy of these comments should be submitted at that same address to the technical and legal contact persons listed below, and to Sherri DelBiondo, Regulatory Coordinator. A diskette containing the comments in electronic format (Word or compatible program) must also be submitted. Comments should specifically reference the docket number and folder number of this Tentative Order. No reply comments will be permitted.

4. A copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional local exchange carriers, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff; be posted on the Commission's web site at puc.paonline.com; and be made available to all other interested parties.

5. The contact persons for this matter are David Lewis, Consumer Services, (717) 783-5187, and Louise Fink Smith, Law Bureau, (717) 787-8866.

6. A final order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this Tentative Order.

JAMES J. MCNULTY,
Secretary

Annex A

**Interim Guidelines For
Quality of Service**

I. Statement of Purpose, Application, and Effect.

A. *Purpose.* The purpose of these interim guidelines is to ensure that residential and business customers of all local service providers (LSPs) receive quality telephone service. Specifically, these interim guidelines address the following:

(1) To establish uniform procedures for all LSPs to use when handling interfering station conditions.

(2) To establish uniform procedures for all LSPs that will allow residential and business customers to retain their telephone lines and numbers when they change LSPs.

(3) To address coordination of repair problems when there is an underlying carrier.

B. *Application.* These guidelines apply to all LSPs.

C. *Effect of guidelines.* The requirements contained in these interim guidelines are intended to be consistent with and to augment 52 Pa. Code, Chapters 55, 63, and 64, Non-Carrier Rates and Practices, Telephone Service, and Standards and Billing Practices for Residential Telephone Service, respectively.

II. Definitions.

The following words and terms in these guidelines, as well as companion guidelines concerning Abandonment of Service, Changing Local Service Providers, and Customer Information, have the following meanings unless the content clearly indicates otherwise:

Discontinuance of service—The temporary or permanent cessation of service upon the request of a customer.

Interfering station—Pre-existing service that prevents the reuse of the existing telephone facilities by a new local service provider to serve a new customer at a location where the prior customer abandoned the premises without notifying the old local service provider to disconnect the telephone service. The old local service provider and the new local service provider may be the same company.

Local service—Calling capacity between points within the community in which a customer lives. Local service includes the customer's local calling plan, dial tone line, touch-tone, directory assistance, Federal line cost charge, PA Relay Surcharge, Federal Universal Service Fund, local number portability, and 9-1-1 emergency service.

Local service provider (LSP)—A company, such as a local exchange carrier, that provides local service and may also provide other telecommunications services.

Local service reseller—A local service provider that resells part or all of another company's wholesale telephone services to provide local service to consumers.

Migration—The movement of an end-user customer from one local service provider to another local service provider.

Porting—The process of moving a customer's telephone number from one local service provider to another local service provider.

Underlying carrier—A company that owns or has access to transport and/or switching and/or other facilities and sells access to such services to a local service provider such that the local service provider can provide local service. The underlying carrier may also be a local service provider.

III. Migration of Local Service.

Ninety-five percent of all primary service orders requesting the migration of local service from one LSP to another LSP should be completed within 10 working days of receipt of the request for service by the new LSP.

IV. Interfering Station Termination Procedures.*A. Notice Provisions.*

(1) When an old LSP receives notice from a new LSP that an interfering station condition exists and the old LSP's prior or present use of the line is the cause of the condition, the old LSP should send a 7-day notice of termination to its listed customer of record at the customer's last known address.

(2) The notice must state that there has been a request for new service in the name of a different customer at the location specified in the notice.

(3) The notice must state that, unless notified otherwise, the LSP that sent the notice (i.e., the old LSP) will terminate service in the name of the customer of record 7 days from the date of the notice in order to allow for installation of new local service at the service address.

B. Duty of the old LSP.

(1) At the end of the 7-day period, if the old LSP has received no response from the previous customer of record, the old LSP should terminate service to the service address.

(2) If the old LSP is not the underlying carrier, the old LSP must arrange to have the service terminated at the end of the 7-day period.

(3) The service must be terminated within 24 hours of the end of the 7-day period.

(4) Within 24 hours of the termination, the old LSP should notify the new LSP that the service has been terminated.

C. Duty of the new LSP.

(1) The new LSP should complete the installation of the service for the customer consistent with existing regulations and guidelines for primary service orders.

(2) The new LSP shall not require the customer to assume the LSP's responsibility to deal with the underlying carrier when there is a problem with the quality of service being provided.

V. Number Porting.*A. Responsibility of the Old LSP.*

(1) Upon notification by a new local service provider that the customer has applied for service from the new LSP, the old LSP should release the customer's telephone line and number to the new LSP.

(2) If the request for migration of local service is processed in accordance with state and federal requirements, the old LSP may not refuse to execute a customer's request to change basic service or refuse to port a customer's phone number even under the following circumstances so long as the customer's account is not terminated:

- (a) For a customer's failure to pay a delinquent bill.
- (b) For a customer's failure to keep the terms of a contract.

(c) Exception to prohibition: If an account has been terminated for non-payment of billing for local service, the old LSP may refuse to port the telephone number until the bill is paid or otherwise resolved.

(d) Limitation on exception to prohibition: The old LSP may not, however, refuse to release the local loop or other facilities required to provide service to the premises where service was previously terminated on the basis of the unpaid billing.

VI. Repair Problems.

The new LSP shall not require the customer to assume the LSP's responsibility to deal with the underlying carrier when there is a problem with the quality of service being provided.

VII. Transfer of Customer Base (Involuntary Migration).

A. See the interim guidelines on Local Service Provider Abandonment Process for details on the abandonment process.

B. These interim guidelines address the transfer of customers between LSPs. For any such LSP-initiated transfer, the Commission does require appropriate and timely notice to the affected customers and notice to the Commission prior to the transfer. If such transfers occur because a LSP is ceasing to do business in the Commonwealth, the old LSP must additionally obtain Commission authority to abandon service.

(1) In most cases, the affected customers agree to transfer (affirmatively or by inaction) or make alternative arrangements with another LSP. On occasion, a customer with a LSPF may fail to lift the LSPF to allow the transfer to take place. When two LSPs agree to a transfer of customers, the transferring LSP may request that the Commission lift the LSPFs for all customers who have not timely responded to the LSP's notice of intent to transfer. The transferring LSP will provide notice to the affected customers of the request to have the LSPF lifted.

(2) If the transfer is necessitated by the abandonment of service by the old LSP, there should be a rebuttable presumption that the LSPF will be lifted upon request. If the transfer is predicated upon other grounds, the burden will be on the old LSP to prove that lifting the LSPF is appropriate. The LSP may satisfy this burden by competent evidence or by stipulation to the necessity of lifting the freeze from the BCS and the OCA and/or OSBA (depending upon customer base). Upon approval of the lifting of the LSPF by the Commission, the old LSP and the new LSP may complete the migration.

VIII. Carrier-to Carrier Guidelines.

For any LSP subject to State or Federal carrier-to-carrier guidelines, if the carrier-to-carrier guidelines provide a more explicit or a narrower window for performance, the carrier-to-carrier guidelines shall control for that LSP.

[Pa.B. Doc. No. 01-2255. Filed for public inspection December 14, 2001, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0168.1, Pile Load Test at Packer Ave. Marine Terminal until 2 p.m. on Thursday, December 27, 2001. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 18, 2001. 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 December 20, 2001, 10 a.m. at Packer Avenue Marine Terminal, Packer Ave. and Columbus Blvd., Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 01-2256. Filed for public inspection December 14, 2001, 9:00 a.m.]

PORT OF PITTSBURGH COMMISSION

Independent Auditors' Report

Board of Directors
Port of Pittsburgh Commission
Pittsburgh, Pennsylvania

We have audited, in accordance with generally accepted auditing standards, the balance sheet of Port of Pittsburgh Commission Special Revenue Fund (Commission), a component unit of the Commonwealth of Pennsylvania, as of June 30, 2001, and the related statement of revenues, expenditures and changes in fund balance for the year ended (not presented herein); and, in our report dated September 14, 2001, we express an unqualified opinion on those financial statements.

As described, the accompanying summary financial information of the Commission as of and for the year ended June 30, 2001, is not a presentation in conformity with generally accepted accounting principles. In our opinion, however, the accompanying summary financial information is fairly stated, in all material respects, in relation to the financial statements from which it has been derived.

Terry & Stephenson, P.C.
429 Forbes Avenue, Suite 1600
Pittsburgh, PA 15219

September 14, 2001
Pittsburgh, Pennsylvania

**Port of Pittsburgh Commission Special Revenue
Fund (A Component Unit of the Commonwealth of
Pennsylvania)
Balance Sheet
June 30, 2001**

Assets:	
Cash and investments	\$1,743,823
Other assets	51,454
Total Assets	<u>\$1,795,277</u>
Liabilities and Fund Balance:	
Liabilities	\$2,024,949
Fund balance (accumulated deficit)— reserved for economic development	<u>(229,672)</u>
Total Liabilities and Fund Balance	<u>\$1,795,277</u>

Statement of Revenues, Expenditures, and Changes in Fund Balance for the Year Ended June 30, 2001

Revenues and Other Financing Sources:	
Interest, rental, and other income	\$ 169,120
Intergovernmental transfers	929,750
	<u>1,098,870</u>
Expenditures:	
Operating	642,807
Capital	48,839
Other	79,091
	<u>770,737</u>
Excess of revenues and other financing sources over expenditures	<u>328,133</u>
Fund balance, beginning of year, as previously reported	(607,805)
Correction of error	<u>50,000</u>
Fund balance, beginning of year, as repeated	<u>(557,805)</u>
Fund balance, end of year	<u><u>(\$ 229,672)</u></u>

The summary financial information shown differs from generally accepted accounting principles. Differences include amounts grouped; captions summarized; footnote disclosures are omitted.

JAMES R. MCCARVILLE,
Executive Director

[Pa.B. Doc. No. 01-2257. Filed for public inspection December 14, 2001, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

January 16, 2002 Dinh T. Duong 10 a.m.
(Transfer Retirement Contributions
from SERS to TIAA-CREF)

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.01 (relating to applicability of general rules), procedural matters will be in conformance with the General Rules of Administrative Practice and Procedure, 1 Pa. Code, Part II unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 01-2258. Filed for public inspection December 14, 2001, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Aerial Photogrammetric Mapping Firm Open End Contract

Systemwide

Reference No. 3-144

The Turnpike Commission (Commission) will retain an aerial photogrammetric mapping firm for an Open End Contract to provide analytical aerial triangulation, digital and conventional map compilation, cross section readout and conventional map drafting services. The work to be performed on each specific project may include any or all of the previous phases of work on various projects located throughout the entire length of the Turnpike System. The Commission will provide mapping control. The contract will be for a maximum cost of \$750,000 or for a period of 3 years, whichever occurs first.

The photogrammetric mapping work must be performed in accordance with the requirements of applicable sections of the "Specifications For Aerial Photography, Field Control Surveys, and Topographic Mapping" contained in Form 442, Department of Transportation (Department), Bureau of Design Specifications for Consultant Engineering Agreements and/or the "Surveying And Mapping Manual," Publication 122M, Bureau of Design of the Department as directed by the Commission. The services will encompass a wide range of design related mapping efforts with the possibility of several different types of projects being mapped under short completion schedules.

The firm may be required to: provide digital data in AutoCAD, DXF, ARC/INFO and Microstation formats; provide topographic mapping, GIS data, digital orthophoto mapping; provide low altitude photography for high accuracy aerial surveys; provide DTM and DEM collection; and Light Detection and Ranging (LIDAR) mapping.

The firm will provide analytically determined supplemental mapping control points meeting Commission specifications and a captured points file of existing roadway centerline in ASCII format. Map compilation may be in digital format with drafting by automated processes. Translation capability to other CADD systems will be required.

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. Firms should have prior experience in large-scale photogrammetric mapping, low altitude photography for high accuracy aerial surveys for highway design and LIDAR mapping.

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. Firms should have sufficient qualified permanent full-time personnel to complete mapping work assignments with short delivery schedules utilizing current state-of-the-art photogrammetric instruments, equipment and software.

d. Workload of the prime consultant and subconsultants for Department and Commission projects.

e. 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.

Questions and inquiries concerning this solicitation should be directed to Robert W. Long at (717) 939-9551, ext. 5760; or by e-mail to rlong@paturndpike.com. Contractual questions should be directed to George M. Hatalowich at (717) 986-8737; or by e-mail to ghatalow@paturndpike.com.

General Requirements and Information

Firms interested in providing the previous work and services are invited to submit a Statement of Interest with the required information. The Statements of Interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. (If the firm has multiple offices, the location of the office performing the work must be identified).

2. A three-page statement of interest on the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for each project and provide explanation of the technical approach.

3. An organization chart for the Project, identifying key personnel and any subconsultants and their roles. Deviation from the subconsultant's listed in the statement of interest will require written approval from the Commission.

4. Tabulation or listing of workload for the prime consultant and all subconsultants for Department and Commission projects. Do not graphically represent the firm's workload.

5. A Consultant Qualification Package similar to the one submitted to the Department for the current year or one that is best suited for this project. A copy of the Consultant Qualification Package printed directly from the Department's ECMS website is acceptable.

The Consultant Qualification Package should contain at a minimum the following information for the prime consultant and all subconsultants and attached to the back of the statement of interest (subs to follow primes):

- ECMS General Information and Project Experience Forms or Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, either not more than 1 year old as of the date of the advertisement.

- Resumes of key personnel expected to be involved in the project (limit to two 8 1/2 x 11 pages, per person). Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in this Commonwealth.

- A copy of the Department's DBE/WBE Certification, if applicable.

If a Joint Venture responds to a project advertisement, the Commission will not accept separate statements of interest from joint venture constituents. A firm will not be

permitted to submit a statement of interest on more than one joint venture for the same project reference number. Also, a firm that responds to a project as a prime may not be included as a designated subconsultant to another firm that responds to the same project advertisement. Multiple responses under any of the forgoing situations will cause the rejection of all responses of the firm or firms involved. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Small firms, Disadvantaged Business Enterprise firms, and other firms who have not previously performed work for the Commission are encouraged to submit a statement of interest.

Firms interested in performing the previous services are invited to submit a statement of interest and required information to George M. Hatalowich, Engineering Contract Manager, at the Turnpike Commission Administration Building located at 700 South Eisenhower Boulevard, Middletown, PA 17057 (street address). The Commission mailing address is P. O. Box 67676, Harrisburg, PA 17106-7676.

The statement of interest and required information must be received by 12 p.m., Friday, January 4, 2002. Any statements of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable statements of interest received in response to these solicitations, one firm will be selected for this project. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Commission. Technical Proposals will not be requested prior to the establishment of the final ranking.

The Commission reserves the right to reject all statements of interest, to cancel solicitation requested under this notice and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Chairperson

[Pa.B. Doc. No. 01-2259. Filed for public inspection December 14, 2001, 9:00 a.m.]

PJM is a regional transmission organization which operates transmission facilities and supervises wholesale generation transactions subject to the jurisdiction of the Federal Energy Regulatory Commission. See *Pennsylvania—New Jersey—Maryland Interconnection*, 81 F.E.R.C. ¶ 61,257 (1997), order on clarification, 82 F.E.R.C. ¶ 61,068 (1998), order on reh'g, 92 F.E.R.C. ¶ 61,782 (2000), appealed sub nom *Baltimore Gas and Electric Co. v. F.E.R.C.*, Case No. 00-1460 (CA District of Columbia) and *Public Service Electric and Gas Company v. F.E.R.C.*, Case No. 00-1457 (CA District of Columbia).

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

- The payment date specified in the contract.
- 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
- The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

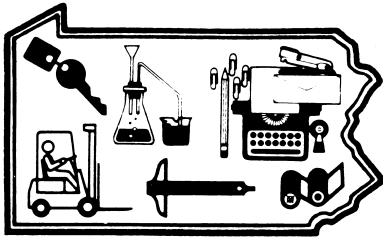
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

**Commodities**

7520-10 Wastebaskets, Desk Trays/Organizers. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 02/01/02—01/31/03
Contact: Vendor Services (717) 787-2199

6640-02 Biological Testing and Supplies. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 02/01/02—01/31/03
Contact: Vendor Services (717) 787-2199

7240-02 Curbside Recycling Containers. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 04/01/02—03/31/03
Contact: Vendor Services (717) 787-2199

5710-01 Bituminous, Liquid including Dust palliatives and Asphalt Cements-AC. For a copy of the bid package fax request to (717) 787-0725.

Department: Transportation
Location: Various
Duration: 03/01/02 to 02/28/03
Contact: Vendor Services (717) 787-2199

5610-49 Cement, Concrete, Truck Mixed. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 03/01/02 to 02/28/03
Contact: Vendor Services (717) 787-2199

8251160 Rebid Latest Model 018100, Hay, Trailer Mounted. For a copy of the bid package fax request to (717) 787-0725.

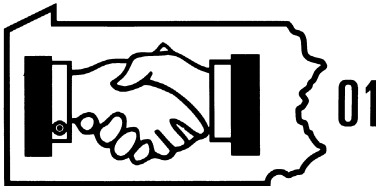
Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-2002
Contact: Vendor Services (717) 787-2199

1214211 Patient Lift with scale. For a copy of the bid package fax request to (717) 787-0725.

Department: Public Welfare
Location: Hamburg, PA
Duration: FY 2001-2002
Contact: Vendor Services (717) 787-2199

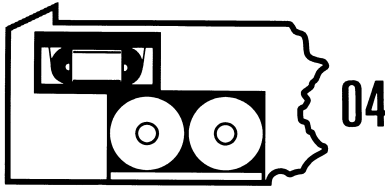
8260360 Patches for 2002 "Keep Pennsylvania Beautiful". For a copy of the bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2001-2002
Contact: Vendor Services (717) 787-2199

SERVICES**Advertising**

02E410 Contemplated Sale of Lands No Longer Needed For Transportation The Department of Transportation, under 71 P.S. 513(e)(7), intends to sell certain land owned by it located in Lawrence Township along S.R. 0879, Clearfield County, Clearfield, Pa. It has been determined that the land is no longer needed for present or future transportation purposes. Interested public entities are invited to express their interest in purchasing the site within (30) calendar days from the date of this notice to: Pennsylvania Department of Transportation, George M. Khoury, P.E., District Engineer, Engineering District 2-0, 1924-30 Daisy St., P. O. 342, Clearfield, Pa. 16830

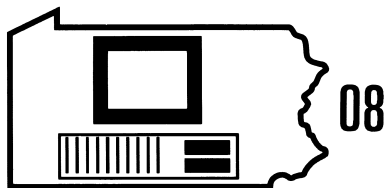
Department: Transportation
Location: Lawrence Township, S.R. 0879, Clearfield, Pa.
Contact: Yvonne S. Parker (814) 765-0565



Audio/Video

SP1126000-002 To provide complete radio maintenance service, including a preventive maintenance program, for Motorola equipment which includes car radios, walkie-talkies and antennas at the State Correctional Institution at Pittsburgh. Interested vendors can call Lt. Dan Primm at (412) 761-1955 ext. 376 for additional information.

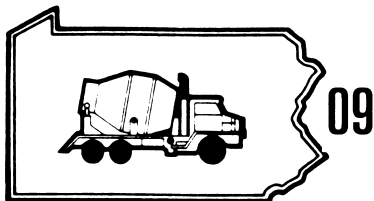
Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



Computer Related Services

RFP-3810054 Request for Proposal to provide Desktop Development services for the Bureau of Information Technology. To request a copy of the proposal, e-mail Pamela Stouffer at pastouffer@state.pa.us or call (717) 783-0760.

Department: Conservation and Natural Resources
Location: Harrisburg
Duration: 5 Years
Contact: Pamela Stouffer (717) 783-0760



Construction & Construction Maintenance

DGS A 572-33 PROJECT TITLE: Replace Water Storage Tank - Power Plant. BRIEF DESCRIPTION Remove existing and provide new water storage tanks, pumps, piping, electric power and control circuits and all related accessories. ESTIMATED RANGE: \$75,000.00 to \$125,000.00. HVAC and Electrical Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: (717) 787-3923. Bid WEDNESDAY, December 19, 2001 at 2 p.m.

Department: General Services
Location: State Correctional Institution, Huntingdon, Huntingdon County, PA
Duration: 140 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit (717) 787-6556

DGS 184-30 PROJECT TITLE: Flood Protection Improvement Project. BRIEF DESCRIPTION: Demolition of existing and construction of new sheet pile and concrete flood wall with associated storm drainage and paving. General construction only. ESTIMATED RANGE: \$500,000.00 to \$1,000,000.00. General Construction. PLANS DEPOSIT: \$50.00 per set payable to: DEPARTMENT OF ENVIRONMENTAL PROTECTION. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: Department of Environmental Protection, Construction Contracts Section, P. O. Box 8452, Harrisburg, PA 17105-8452. Tel: (717) 783-7994. Bid WEDNESDAY, January 9, 2002 at 11 a.m. A Pre-Bid Conference has been scheduled for TUESDAY, December 18, 2001 at 11 a.m. at the Borough Maintenance Building on Park Avenue in Northern Cambria Borough, Cambria County, PA. Contact: Ron Spielman, Tel: (717) 787-9096. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

Department: General Services
Location: Bainesboro Borough, Cambria County, PA
Duration: 175 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit (717) 787-6556

62-0064 The Project consists of LAN installation, telephone and CATV replacement in six residence halls at West Chester University. The work involves the installation of LAN, telephone and CATV wiring and construction of LAN closets as well as the required mechanical systems in six (6) residence halls as specified and indicated on the drawings. Work shall include, but is not necessarily limited to, the furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary to complete all construction. The work is to be performed by 3 separate prime contractors—General Construction, Mechanical Construction and Electrical Construction.

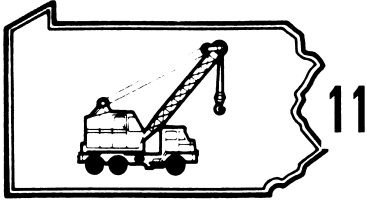
Department: State System of Higher Education
Location: West Chester University, West Chester, PA 19383
Duration: Commencement - May 13, 2002 Completion August 9, 2002 for three of the residence halls. Commencement May 12, 2003 - Completion August 8, 2003 for the other three residence halls.
Contact: Marianne Peffall-Contracts Manager (610) 436-2705

DGS 184-20 PROJECT TITLE: Flood Protection. BRIEF DESCRIPTION: Flood protection project involving construction of concrete walls, box culvert, channel, riprap, excavation, seeding and restoration, paving and sewer relocation along 3,600 LF of McLaughlin Run. ESTIMATED RANGE: \$2,000,000.00 to \$5,000,000.00. General Construction. PLANS DEPOSIT: \$50.00 per set payable to: DEPARTMENT OF ENVIRONMENTAL PROTECTION. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: Department of Environmental Protection, Construction Contracts Section, P. O. Box 8452, Harrisburg, PA 17105-8452. Tel: (717) 783-7994. Bid WEDNESDAY, January 9, 2002 at 11 a.m. A Pre-Bid Conference has been scheduled for WEDNESDAY, December 19, 2001 at 11 a.m. at the Bethel Park Municipal Building, Council Chambers Room, 5100 West Liberty Avenue, Bethel Park, PA. Contact: Foster Schaffer, Tel: (717) 783-7950. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

Department: General Services
Location: Municipality of Bethel Park, Allegheny County, PA
Duration: 295 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit (717) 787-6556

DGS 406-53 REBID PROJECT TITLE: REVISED REBID - Renovation of Memorial Auditorium. BRIEF DESCRIPTION: Renovations to the existing Memorial Auditorium and construction of a rehearsal hall addition consists of site work, interior and exterior demolition, concrete foundation, masonry walls, steel joists, metal decking, EPDM roofing, aluminum windows, stage rigging, asbestos abatement, to include modifications to the existing HVAC, plumbing, fire protection and electrical systems. ESTIMATED RANGE: \$2,000,000.00 to \$4,000,000.00. General, HVAC, Plumbing and Fire Protection and Electrical Construction. PLANS DEPOSIT: \$155.00 per set payable to: WEBER MURPHY FOX. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: Weber Murphy Fox, 300 State Street, Suite 200, Erie, PA 16507. Tel: (814) 456-2953. Bid WEDNESDAY, January 23, 2002 at 11 a.m. A Pre-Bid Conference has been scheduled for Tuesday, January 8, 2002 at 3 p.m. at Edinboro University of PA in the Memorial Auditorium Building, Edinboro, PA. Contact: Dana Mintsiveris. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

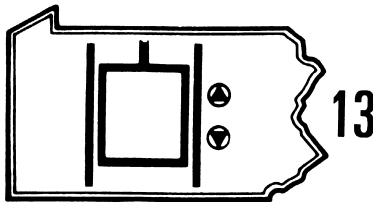
Department: General Services
Location: Edinboro University of PA, Edinboro, Erie County, PA
Duration: 240 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit (717) 787-6556



Demolition—Structural Only

Contracting for Demolition & Removal Notice is hereby given that the Department of Transportation is seeking bids for the demolition and removal of three (3) residential structures in conjunction with the construction of S.R. 209-007 and S.R. 402-001, in Monroe County, Middle Smithfield Townships, asbestos removal may be required. For bid forms, date of inspection, specifications and further information please contact the person listed below.

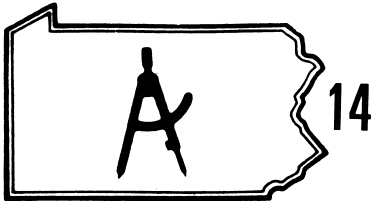
Department: Transportation
Location: Transportation 5-0 C/O IAS, 2 Landmark Center, East Stroudsburg, PA 18301
Duration: As specified in contract
Contact: John Leinmiller (570) 426-5164



Elevator Maintenance

SP1126000-006 To provide maintenance, inspection and service for elevators located at the State Correctional Institution at Pittsburgh. Interested vendors can call Mr. Dave Schultz at (412) 761-1955, ext. 396 for additional information. Service period July 1, 2002 to June 30, 2005.

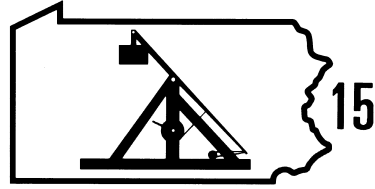
Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Environmental Maintenance Service

BOGM 01-21R Clean Out and Plug Thirteen (13) Orphan Oil Wells estimated to be between 1,375 and 1,840 feet in depth, prepare and restore well sites, and mobilize/demobilize plugging equipment. This project issues December 14, 2001; payment in the amount of \$10.00 must be received before bid documents will be sent.

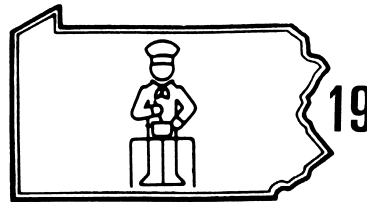
Department: Environmental Protection
Location: Mr. & Mrs. Ross K. Weigel, Ott Resources and Allegheny National Forest properties, Sheffield Township, Warren County
Duration: 130 calendar days after notice to proceed
Contact: Construction Contracts Section (717) 783-7994

OSM 03(2967)101.1 Abandoned Mine Land Reclamation, Rupp Cemetery involves approximately 171,750 c.y. grading, 1,000 c.y. ditch excavation, 750 s.y. rock lining with filter material, 350 s.y. impervious lining (pvc), sealing mine opening, subsurface drain, and seeding 19 acres. This project issues December 14, 2001; payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the PA \$29.1 million 2000 AML Grant.

Department: Environmental Protection
Location: Manor Township, Armstrong County
Duration: 130 calendar days after notice to proceed
Contact: Construction Contracts Section (717) 783-7994

BOGM 01-30 Clean Out and Plug One Hundred Thirty Eight (138) Abandoned and Orphan Oil Wells estimated to be 1,000 feet each in depth, prepare and restore well sites, and mobilize/demobilize plugging equipment. This project issues December 14, 2001; payment in the amount of \$10.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Oil Creek State Park, Cornplanter Township, Venango County
Duration: 375 calendar days after notice to proceed
Contact: Construction Contracts Section (717) 783-7994



Food

101 Eggs, Fresh, Consumer Grade A, Medium must be candle inspected, Class I, Brown and White, packed 30 dozen/case. 40 pound carton. USDA Certificate Required (and all related items). Approximately 1,500 dozen each Monday from July 1, 2002 to June 30, 2005. Bids will be sent out bi-monthly.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller (412) 761-1955

102 Items to be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. 62,000 each, Cheese Pizza, 5.5 oz. prepared frozen. Individual pizza to contain 1-1/2 oz. mozzarella or mozzarella substitute, 1-1/2 oz. tomato sauce and spice on a 2-1/2 oz. enriched crust. Packed 48/case. New weight: 16 lbs/case (and all related items).

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

104 All items to be bid bi-monthly, and all amounts are approximate for period July 01, 2002 to June 30, 2005. Lbs. are approximate for 12 month period. 8,000 lbs. Beef Liver; 12,000 lbs. Frankfurters, all beef; 9,600 lbs. Ham, skinless; 15,000 lbs. Pork Chops and all related items. 8,000 lbs. Bacon; 5,000 lbs. Bologna, garlic (all beef); 5,000 lbs. Bologna (all beef); 15,000 lbs. Beef Sandwich Steaks; 4,500 lbs. Braunschweiger; 4,000 lbs. Chopped Ham; 14,400 lbs. Beef Rib-B-Que and all related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

106 Items will be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. Lbs. are approximate for 12 month period. 20,000 lbs. Cheese, processed American; 10,000 lbs. Cheese, processed Swiss; 7,000 lbs. Longhorn Cheese, and all related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

108 Items to be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. Lbs. are approximate for 12 month period. 46,000 lbs. Chicken, ready to cook, Grade A, Type II, Fresh Frozen, Class I Broilers or Fryers, Style II, quartered, no livers, gizzards or necks. Weight Range: 3 lb. per chicken. PA Spec C-94, effective 04/11/73. USDA Certificate Required (and all related items).

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

115 Items will be bid bi-monthly. All amounts are approximate for period of July 01, 2002 to June 30, 2005. (Cases are approximate for 12 month period). 20,000, each, chicken burritos and 20,000, each, beef burritos and all related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002 to June 30, 2005
Contact: Nancy Keller (412) 761-1955

100 Items to be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. (Lbs. are approximate for 12-month period). 8,000 lb. Fish Portions, raw, unbreaded, cod, 4 oz. portions. USDA Certificate Required. 8,000 lb. Crab Cakes, 4 oz. portion, pre-cooked. Certificate of Compliance Required. 1,200 lbs. Clams and ALL related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller (412) 761-1955

110 Items to be awarded bi-monthly. All amounts are approximate for period July 01, 2002 to June 30, 2005. Onions, Carrots, Celery, Lettuce, Bananas, Apples, Oranges, Grapefruit, Pears, and all related items. USDA Certificate Required.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

112 All items to be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. Lbs. are approximate for 12 month period. 22,000 lbs. Poultry Meat; 14,000 lbs. Turkey Breast; 12,000 lbs. Chicken Patties; 4,000 lbs. Turkey Sausage; 8,000 lbs. Turkey Ham; 9,000 lbs. Chicken Franks; 12,000 lbs. Ground Turkey and all related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

113 Items to be bid bi-monthly, all amounts are approximate for period July 01, 2002 to June 30, 2005. 18,000 lbs. Broccoli, frozen; 7,000 lbs. Brussel Sprouts, frozen; 9,000 lbs. Cauliflower, frozen; and all related items.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

103 48,000 each, milk, skim in 1/2 pint containers for period July 01, 2002 to June 30, 2005 and all related items. Bids will be sent out monthly.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

105 Ice Cream in 4 oz. cups, minimum of 1/3 delivery to be with toppings and one meal of Sherbert per month. Approximately 480 dozen cups weekly, from July 01, 2002 to June 30, 2005. Bids will be sent out bi-monthly.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

107 Items will be bid bi-monthly. All amounts are approximate for period July 01, 2002 to June 30, 2005. Lbs. are approximate for 12 month period. 6,000 lbs. Veal Steaks, 4 oz. portions, and all related items.

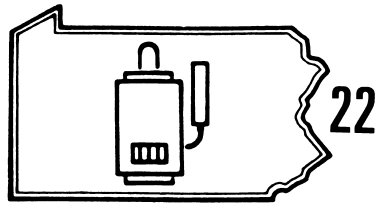
Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

109 All items are approximate for period of July 01, 2002 to June 30, 2005. 400 bags Flour, Hi-Gluten, 100 lb. bags; 200 bags of Flour, Rye, 100 lb. bags; 300 bags Flour, Whole Wheat, 100 lb. bags; 4,200 bags flour, Bread, 100 lb. bags; and all related items. Bids sent out bi-monthly.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

114 Item to be bid bi-monthly for period July 01, 2002 to June 30, 2005. Approximately 32,000 lbs. per month. Potatoes to be US #2, First Choice, 6 oz. minimum, if available, then 3 inch round, white, US #1 is acceptable. USDA Certificate Required.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



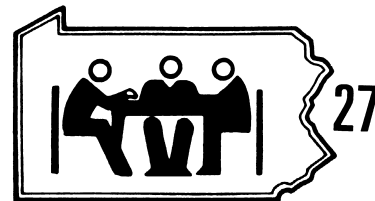
HVAC Services

SP1381021100 Provide emergency and routine repair work for air conditioning systems. The contractor must respond to the call within 2 hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable and further agree to guarantee workmanship and replacement parts provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from Facilities and can be obtained by faxing a request to (717) 861-2932 or via e-mail to wlengel@state.pa.us.

Department: Military Affairs
Location: Various buildings, Fort Indiantown Gap, Annville, PA
Duration: 1 July 2002—30 June 2005
Contact: Vicky Lengel (717) 861-8579

SP1126000-005 Contractor will provide maintenance and repair to ALL kitchen equipment, existing and future, during the period of July 01, 2002 to June 30, 2005, at the State Correctional Institution at Pittsburgh.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



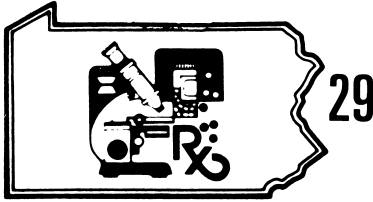
Lodging/Meeting Facilities

SP 3820001 Services required of meeting room for approximately 140 people, lodging (approximately 70 rooms) and meals for the Department's Forest Fire Wardens Training to be held August 2-4, 2002. Facility must be located less than 10 miles from Lewisburg, PA.

Department: Conservation and Natural Resources
Location: Within a 10 mile radius of Lewisburg, PA
Duration: August 2-4, 2002
Contact: Corinna Walters (717) 783-0733

MAG7580 Provide meeting accommodations for the 2002 Annual Meeting and Terrorism Conference being held the week of April 22, 2002 in Cleveland, OH. Meeting requirements include lodging, approximately 600 (single/double) rooms, and one large meeting room to accommodate approximately 1000+ attendees for April 23-26, 2002.

Department: Attorney General
Location: Downtown Cleveland, Ohio
Duration: April 21, 2002 through April 26, 2002
Contact: Jay Friske (800) 345-1322, ext. 570



Medical Services

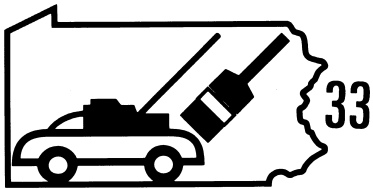
LBLA 1281 Patient Dental Chair. Fax requests for bid package to (570) 372-5675.
Department: Public Welfare
Location: Selinsgrove Center, 1000 US Highway 522, Selinsgrove, PA 17870
Contact: Arletta K. Ney (570) 372-5670

20973400 Contractor/physician to provide psychotherapy psychiatric services 21 to 35 hours per week. Contracted physician must have unrestricted license to practice medicine and/or psychiatry in the Commonwealth of Pennsylvania.
Department: Public Welfare
Location: Torrance State Hospital, State Route 1014, Torrance, PA 15779
Duration: 07/01/02—09/30/05
Contact: Linda J. Zoskey (724) 459-4547

SP 10781009 Contractor to provide supplemental psychiatric registered nursing services, 7 days per week on three shifts. For bid specifications contact the Purchasing Office at (610) 670-4129.
Department: Public Welfare
Location: Wernersville State Hospital, Route 422 West, Berks County, P. O. Box 300, Wernersville, PA 19565-0300
Duration: Anticipated Start February 1, 2002
Contact: Nancy Deininger, Purchasing Agent (610) 670-4129

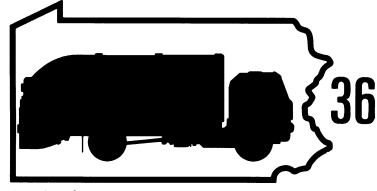
SP1126000-003 Music Therapist will provide therapeutic activities for inmates in the Special Needs Unit for mentally ill offenders. It will be conducted in both individual and group settings. Fifteen (15) hours of service will be provided per week for 50 weeks per year. Interested vendors can call Rebecca Kessler at (412) 761-1955, ext. 435 for additional information.
Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955

SP1126000-004 Art Therapist will provide therapeutic activities for inmates in the Special Needs Unit for mentally ill offenders. It will be conducted in both individual and group settings. Fifteen (15) hours of service will be provided per week for 50 weeks per year. Interested vendors can call Rebecca Kessler at (412) 761-1955 ext. 435 for additional information.
Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 1, 2002—June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



Property Maintenance

040151 The Pennsylvania Department of Transportation, Engineering District 4-0 is requesting mowing service along interstate and primary routes throughout Lackawanna, Luzerne, Pike, Wayne, Susquehanna, and Wyoming counties. A minimum of three (3) flail mowers are required. Total acreage for three complete cycles per season is approximately 4,000 acres. Specifications may be obtained from the District Roadside Unit by e-mailing your request to Spaide@dot.state.pa.us, faxing your request to (570) 963-4245 Attn: Roadside, or by phoning (570) 963-4048 between the hours of 8 a.m. and 4 p.m. Monday thru Friday. Please include your company's name, address (PO Box and Street), telephone number and name of contact person on all faxes and e-mails.
Department: Transportation
Location: District 4-0 including Lackawanna, Luzerne, Pike, Susquehanna, Wayne and Wyoming counties
Duration: One year with renewals
Contact: Martha Spaide (570) 963-4048



Sanitation

1381021121 Removal of trash and garbage.
Department: Military Affairs
Location: PA ARMY NATIONAL GUARD, 3205 Lancaster Avenue, Philadelphia, PA 19104-2839
Duration: July 1, 2002—June 30, 2005
Contact: Vicky Lengel (717) 861-8579

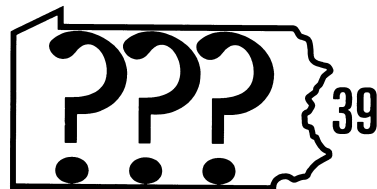
1381021133 Removal of trash and garbage.
Department: Military Affairs
Location: PA Army National Guard, 900 Adams Avenue, Scranton, PA 18510-1004
Duration: July 1, 2002—June 30, 2005
Contact: Vicky Lengel (717) 861-8579

SP1381021101 Pumping of three (3) 4500 gallon septic tanks.
Department: Military Affairs
Location: National Guard Armory, 125 Goodridge Lane, Washington, PA 15301-0020
Duration: 1 July 2002—30 June 2005
Contact: Vicky Lengel (717) 861-8579

1381021123 Removal of trash and garbage.
Department: Military Affairs
Location: PA Army National Guard, 2700 Southampton Road, Philadelphia, PA 19154-1299
Duration: July 1, 2002—June 30, 2005
Contact: Vicky Lengel (717) 861-8579

1381021102 Pumping of septic tanks.
Department: Military Affairs
Location: Dept. of Military & Veterans Affairs, Various Buildings, Fort Indiantown Gap, Annville, PA 17003-5002
Duration: JULY 1, 2002—JUNE 30, 2005
Contact: Vicky Lengel (717) 861-8579

SP1126000-007 To provide garbage and trash removal at the State Correctional Institution at Pittsburgh. One (1) 32 cu. yards portable compactor. Approximately twelve (12) loads per month. Two (2) yards capacity, equivalent to eight (8) gallon drums. These containers will be emptied three (3) times each week. Interested vendors can call Mr. Dave Schultz at (412) 761-1955 ext 396, for additional information.
Department: Corrections
Location: State Correctional Institutional at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2002 to June 30, 2005
Contact: Nancy Keller, Purchasing Agent (412) 761-1955



Miscellaneous

2001-02 Pennsylvania nonprofit organizations, which have previously conducted successful reading professional development activities, and Pennsylvania institutions of higher education are invited to submit applications to conduct intensive, high quality professional development programs to improve teaching and learning in reading in this Commonwealth. Guidelines are available on the Pennsylvania Department of Education website at <http://www.pde.psu.edu>. Funding is from Subchapter II-Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P.L. 103-382).
Department: Education
Location: 333 Market Street, Harrisburg, PA 17126-0333
Duration: Through September 30, 2003
Contact: Linda J. Benedetto (717) 772-3623

6900

STATE CONTRACTS INFORMATION

016 Allentown State Hospital is making repair to its Williamson Stokers and is in need of replacement links. Links must have top air passages. Specifications can be obtained by contacting the Purchasing Department at (610) 740-3425 or FAX (610) 740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18109-2498
Duration: IBLA
Contact: Robert Mitchell (610) 740-3425

[Pa.B. Doc. No. 01-2260. Filed for public inspection December 14, 2001, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY LOGAN,
Acting Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
2420-01	12/04/01	ABC Groff	124,880.00	2420-01	12/04/01	Lyons Saw Mill & Log- ging Equipment/ Supplies	49,932.00
2420-01	12/04/01	Alamo Sales	49,987.00	2420-01	12/04/01	M T D Prod- ucts	99,914.00
2420-01	12/04/01	Ariens Co.	49,932.00	2420-01	12/04/01	Moridge Mfg.	24,966.00
2420-01	12/04/01	Bandit Indus- tries	24,996.00	2420-01	12/04/01	Motrim	24,966.00
2420-01	12/04/01	Bobcat Co.	49,932.00	2420-01	12/04/01	Philadelphia Turf	50,016.00
2420-01	12/04/01	C H Waltz Sons	49,977.00	2420-01	12/04/01	Plasterer Equipment	25,028.00
2420-01	12/04/01	J P Carlton	24,966.00	2420-01	12/04/01	Power Equip- ment Dis- tributors	24,966.00
2420-01	12/04/01	Cherry Valley Tractor Sales	25,041.00	2420-01	12/04/01	R L Parsons & Son ECI	99,864.00
2420-01	12/04/01	Cleveland Brothers	74,898.00	2420-01	12/04/01	R & S Equip- ment Repair	124,830.00
2420-01	12/04/01	Club Car	24,966.00	2420-01	12/04/01	Rayco Mfg.	24,966.00
2420-01	12/04/01	Excel Indus- tries	24,966.00	2420-01	12/04/01	Salsco	99,864.00
2420-01	12/04/01	F & S Supply	74,898.00	2420-01	12/04/01	Saxon Turf Equipment	49,932.00
2420-01	12/04/01	Ferris Indus- tries	24,966.00	2420-01	12/04/01	Simplicity Mfg.	24,966.00
2420-01	12/04/01	Finch Turf Equipment	25,044.00	2420-01	12/04/01	Steiner Turf Equipment	74,898.00
2420-01	12/04/01	Giant-Vac	24,966.00	2420-01	12/04/01	Stull Enterprises/ta Stull Equip- ment	274,626.00
2420-01	12/04/01	Gordon Ban- nerman Ltd.	24,966.00	2420-01	12/04/01	Tiger Corp.	49,932.00
2420-01	12/04/01	Groff Tractor/ Equipment	49,994.00	2420-01	12/04/01	Trailmate	24,966.00
2420-01	12/04/01	Harper Industries/ dba Deweze	24,966.00	2420-01	12/04/01	U S Municipal Supply	49,932.00
2420-01	12/04/01	Hilbert Equipment/ Welding	74,898.00	2420-01	12/04/01	Vemeer Sales/ Service	25,024.00
2420-01	12/04/01	Hollinger's	149,796.00	2420-01	12/04/01	Vernon's Industrial/ Residential Products	24,966.00
2420-01	12/04/01	Ingersoll Rand Equipment/ Service	24,966.00	2420-01	12/04/01	Walsh Equip- ment	25,018.50
2420-01	12/04/01	John Deere	99,864.00	2420-01	12/04/01	Wenner Equip- ment	74,968.00
2420-01	12/04/01	Lancaster Tractor/ Equipment	74,898.00	2420-01	12/04/01	Stephenson Equipment	25,025.00
2420-01	12/04/01	Land Pride	49,932.00	5610-37 Re-Bid	11/27/01	American As- phalt Paving	51,261.98
2420-01	12/04/01	Lawn & Golf Supply	99,929.00	5610-37 Re-Bid	11/27/01	Eastern Industries- West	67,978.55
2420-01	12/04/01	Lincoln Supply & Equip- ment	149,840.00				

STATE CONTRACTS INFORMATION

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Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
5610-37 Re-Bid	11/27/01	Glasgow	30,000.00
5610-37 Re-Bid	11/27/01	Glenn O. Hawbaker	93,080.80
5610-37 Re-Bid	11/27/01	Hanson Aggre- gates Penn- sylvania	45,317.65
5610-37 Re-Bid	11/27/01	Heilman Pavement Specialties	624,041.00
5610-37 Re-Bid	11/27/01	Hempt Brothers	43,285.00
5610-37 Re-Bid	11/27/01	HRI	105,585.55
5610-37 Re-Bid	11/27/01	IA Construc- tion	30,000.00
5610-37 Re-Bid	11/27/01	M & M Stone	30,000.00
5610-37 Re-Bid	11/27/01	Marsh Asphalt	38,000.00
5610-37 Re-Bid	11/27/01	New Enter- prise Stone/ Lime	214,126.50
5610-37 Re-Bid	11/27/01	Pennsy Supply	119,918.75
5610-37 Re-Bid	11/27/01	Russell Stan- dard	70,846.00
5610-37 Re-Bid	11/27/01	Wyoming Sand & Stone	59,044.40
5610-37 Re-Bid	11/27/01	York Building Products	65,294.60
6520-02	11/27/01	Medtronic Physio- Control	1,629,960.00
8305-03 Re-Bid	11/30/01	Acme Supply LTD	396,000.00
8305-03 Re-Bid	11/30/01	Amtex	159,400.00
8305-03 Re-Bid	11/30/01	Aspen Licens- ing Interna- tional	1,178,950.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
8305-03 Re-Bid	11/30/01	Atlantic Tex- tiles	2,708,610.50
8305-03 Re-Bid	11/30/01	Chemtick Coated Fab- rics	1,176,200.00
8305-03 Re-Bid	11/30/01	Foc-Rich Tex- tiles	681,985.00
8305-03 Re-Bid	11/30/01	Galey & Lord	228,250.00
8305-03 Re-Bid	11/30/01	Hasker Tex- tiles	9,650.00
8305-03 Re-Bid	11/30/01	Interior De- signs by Ricci	170,025.00
8305-03 Re-Bid	11/30/01	J. Weinstein & Sons	2,488,852.50
8305-03 Re-Bid	11/30/01	Raytex Fabrics	2,253,427.00
8305-03 Re-Bid	11/30/01	Tabb Textiles	380,250.00
8305-03 Re-Bid	11/30/01	Vintex	102,350.00
1124181-01	12/03/01	Wecsys LLC	39,655.00
1132351-01	12/03/01	J U M Lone Star Group	14,245.00
1145201-01	12/03/01	Gentex Corp.	89,292.00
1151181-01	12/03/01	Laser Imaging Systems	512,849.00
8057700-01	12/03/01	Uneq	45,390.00
8057700-02	12/03/01	M3 Technolo- gies	15,106.60
8251090-01	12/03/01	Highway Equipment/ Supply	357,960.00

KELLY P. LOGAN,
Acting Secretary

[Pa.B. Doc. No. 01-2261. Filed for public inspection December 14, 2001, 9:00 a.m.]

