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PENNSYLVANIA BULLETIN

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Department of Banking
Department of Environmental Protection
Department of General Services
Department of Labor and Industry
Department of Military and Veterans Affairs
Department of Revenue
Department of Transportation
Environmental Quality Board
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Milk Marketing Board
Office of the Budget
Pennsylvania Public Utility Commission
State System of Higher Education
Treasury Department
Turnpike Commission
Unemployment Compensation Board of
Review

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

No. 277, December 1997

PENNSYLVANIA



BULLETIN

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1997.

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THE COURTS

Title 255—LOCAL COURT RULES

CUMBERLAND COUNTY

Rules of the Court of Common Pleas; No. 95-1387 Civil Term

And Now, this 8th day of December, 1997, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective January 22, 1998, or thirty (30) days after publication in the *Pennsylvania Bulletin*.

Pursuant to Pa. R.C.P. 239, the Court Administrator is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette, formatted in Word Perfect 6.1 for Windows reflecting the text in the hard copy version, one (1) copy to the Supreme Court Criminal Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the Cumberland Law Journal.

By the Court

HAROLD E. SHEELY,
President Judge

Rule 303-1. Arraignment. Every defendant shall be arraigned before a judge, before the Clerk of Court, the Clerk's deputy or by first class mail, where the defendant is represented by counsel of record and upon timely initiative, hereinafter set forth:

(a) Arraignment shall take place at the Cumberland County Courthouse, at the Cumberland County Prison, at the State Correctional Institution at Camp Hill, by first

class mail, or at such other place as may be designated by an order of the President Judge.

(1) If defense counsel chooses to have the defendant arraigned via first class mail, then the defendant and his or her counsel must complete the "acknowledgment of arraignment" form designated by Rule 303-2.

(b) Arraignment shall take place no later than fifteen (15) days after the information has been filed, unless waived by a defendant who has counsel, or is otherwise postponed by the court for cause shown.

(c) Defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment no later than five (5) days before the date scheduled for the arraignment.

(1) Such notice shall include a caption containing the name and docket number of the case and the charges against the defendant.

(2) Notice shall be given by first-class mail or in accordance with Pa.R.Crim.P. 309.

(d) If a defendant is represented by private counsel, or court-appointed counsel other than the Public Defender, defendant may appear with counsel before the Clerk of Court for arraignment anytime prior to the scheduled formal arraignment, at which time counsel shall enter a formal appearance, if an appearance has not been previously entered of record.

(e) At arraignment, the defendant shall be instructed to appear at a pretrial conference and trial in accordance with Rule 311.

Adopted January 11, 1978, effective January 16, 1978; Amended December 19, 1989, effective January 1, 1990; Amended December 8, 1997, effective January 22, 1998.

[Pa.B. Doc. No. 97-2076. Filed for public inspection December 26, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 138e]

Agricultural Conservation Easement Purchase Program

The Department of Agriculture (Department), Bureau of Farmland Protection, amends Chapter 138e (relating to agricultural conservation easement purchase program).

The amendments are offered under authority of section 15 of the Agricultural Area Security Law (act) (3 P. S. § 915), which requires the Department to promulgate regulations necessary for the efficient, uniform and State-wide enforcement of the act. That same section allows for the use of interim guidelines by the Department until no later than December 31, 1997, by which time the Department is to have regulations in place to supplant the interim guidelines.

The interim guidelines permitted under section 15 of the act were published at 25 Pa.B. 5253 (November 25, 1995) as the "Interim Guidelines for Implementation of the Agricultural Area Security Law" (Interim Guidelines), and have been used by the Department to effectively implement various provisions of the act with respect to which there were no attendant regulations or with respect to which regulations had been rendered inadequate as a result of statutory amendment.

These final-form regulations accomplish two objectives: 1) They supplant the various provisions of the Interim Guidelines with identical regulatory provisions; and 2) They accomplish an updating and streamlining of the Interim Guidelines to reflect the experience of the Department in administering the Agricultural Conservation Easement Purchase Program to date.

Comments

Notice of proposed rulemaking was published at 27 Pa.B. 3751 (July 26, 1997) and provided for a 30-day public comment period.

Comments were received from the House Agriculture and Rural Affairs Committee (House Committee), the Minority Chairperson of the House Committee (Minority Chairperson), the Independent Regulatory Review Commission (IRRC) and the Pennsylvania Builders Association (PBA).

Comment: The House Committee suggested that § 138e.3 (relating to definitions) be revised to include the definition of "agricultural security area" from section 3 of the act (3 P. S. § 903). IRRC also raised this comment, noting the use of this term in § 138e.16(a)(1) (relating to minimum criteria for applications).

Response: The Department has made the suggested addition in the final-form regulations.

Comment: The House Committee expressed concern over the definition of "conservation plan" in § 138e.3. The primary concern was with the requirement that the plan have a "nutrient management component." The House Committee noted there is no authority in the act to require the implementation of a nutrient management plan as a prerequisite to the sale of an agricultural conservation easement. A separate statute, the Nutrient Management Act (3 P. S. §§ 1701—1718), sets forth the

circumstances under which a nutrient management plan is required. The House Committee believed the requirement of a nutrient management component in a conservation plan might be interpreted as requiring a landowner to develop a nutrient management plan that would not otherwise have been required under the Nutrient Management Act.

The House Committee also noted references to "nutrient management" in proposed §§ 138e.15(e)(4)(iii), 138e.61(b)(9), 138e.70(b)(6) and 138e.241, and suggested consideration be given to modifying the definition of "nutrient management plan" or deleting references to nutrient management.

Response: Section 14.1(d)(1)(iii) of the act (3 P. S. § 914.1(d)(1)(iii)) requires consideration be given to nutrient management practices in assessing the stewardship of the land with respect to which an agricultural conservation easement purchase is proposed. In light of this requirement, the Department declines to remove the references to nutrient management described in the two preceding paragraphs. The Department agrees the regulations should not require a landowner to develop a nutrient management plan if the plan is not required under the Nutrient Management Act. Rather than deleting references to "nutrient management" in the final-form regulations, though, the Department has revised the definition of "conservation plan" in § 138e.3 of the final-form regulations to describe the required nutrient management component of the plan.

Comment: The House Committee suggested § 138e.3 be revised so the term "farmland tract" reads "farmland tract or tract." IRRC concurred with this comment.

Response: The Department has implemented the House Committee's suggestion in the final-form regulations.

Comment: Proposed § 138e.14(4) (relating to county statement of purpose) provided that one of the purposes of a county agricultural land preservation program (county program) is to protect normal farming operations from complaints of public nuisance against normal farming operations. The House Committee noted this regulatory requirement predated the proposed rulemaking, but questioned whether it is appropriate or legal to impose this requirement on county programs. Although the House Committee noted section 11(b) of the act (3 P. S. § 911(b)) imposes a similar restriction with respect to public nuisance ordinances enacted by municipalities or political subdivisions, it did not feel this statutory provision justified the referenced regulatory language.

Response: The Department declines to revise or delete the requirement in § 138e.14(4). Section 15 of the act (3 P. S. § 915) grants the Department authority to adopt regulations necessary to promote the "efficient, uniform and Statewide" administration of the act. Section 11(b) of the act requires that political subdivisions protect normal farming operations in agricultural security areas from being legally defined as public nuisances. A county program is a creation of the county governing body. The requirement that a county program protect normal farming operations from complaints of public nuisance is consistent with the duty placed upon counties by section 11(b) of the act.

Comment: IRRC recommended deleting the comma that appeared in proposed § 138e.15(a) (relating to farmland ranking system).

Response: The Department implemented this recommendation in the final-form regulations.

Comment: IRRC noted the acronym "LESA" is used only once—in proposed § 138e.15(c)—and suggested deleting it and using only full words in its place.

Response: The acronym "LESA" is a well-known acronym used throughout this Commonwealth. Although the term "Land Evaluation and Site Assessment" is used only once, the Department believes the insertion of the acronym "LESA" following that term adds clarity for the benefit of those county program personnel who are affected by the final-form regulations. For this reason the Department declined to implement IRRC's suggestion.

Comment: IRRC recommended adding the phrase "site assessment" beneath "clustering potential" in the chart in proposed § 138e.15(c). This would be consistent with the other entries on that chart.

Response: The Department agrees the chart in proposed § 138e.15(c) is unclear. The ambiguity was the result of the format of the chart as it was published in the proposed rulemaking, rather than its substantive content. This chart has been revised in the final-form regulations, without adding or deleting language, to make it identical to the chart which appeared in the corresponding subsection of the Interim Guidelines, and which the Department submitted to the Legislative Reference Bureau for publication in the proposed rulemaking.

Comment: IRRC suggested the headings of proposed §§ 138e.15(d), (d)(4), (e)(1)(i)—(iii), (e)(3) and (4)—(6) be revised to include both the complete term and the acronym, as is done at proposed § 138e.15(c).

Response: The Department accepts IRRC's suggestion and has implemented it in the final-form regulations.

Comment: IRRC recommended deleting the word "total" from where it first appears in proposed § 138e.15(d)(3), for the reason this would add clarity to that paragraph.

Response: The Department believes the use of the word "total" is appropriate in each of the two instances it is used in this paragraph, and that implementing IRRC's suggestion would not add clarity. In addition, the Department has not encountered any confusion over the use of this word in this paragraph in the nearly 2 years it has administered the Interim Guidelines. For these reasons, the Department declined to implement IRRC's suggestion.

Comment: Both IRRC and the House Committee noted the use of the term "commercial agriculture" in proposed § 138e.15(e)(1)(iii) and (5)(iii), and suggested that term either be defined or replaced with the term "normal farming operation."

Response: The Department accepted the commentators' suggestion, and has replaced the term "commercial agriculture" with "normal farming operations"—a term that is defined in § 138e.3 of the final-form regulations.

Comment: The PBA reviewed proposed § 138e.15 (e)(3)(ii) and (iv), and questioned the appropriateness of assigning a higher ranking to farmland in an area which has or will have access to public water and sewer, and assigning a higher ranking to farmland adjoining or in the area of nonagricultural uses. The PBA opined that the agricultural conservation easement purchase program should not be used as a tool to halt growth and economic development by purchasing easements in growth areas.

Response: Section 14.1(d)(1)(ii) of the act requires a county program to consider the likelihood that farmland will be converted to nonagricultural use in assessing whether to recommend the purchase of an agricultural conservation easement with respect to that farmland. The market for nonfarm use or development of the farmland is relevant in this consideration.

The farmland ranking system in § 138e.15 provides a county program with a basic framework addressing all of the topics which the act requires a county program to consider in determining whether to recommend the purchase of a particular agricultural conservation easement. A county program is then free to customize its county program to give greater proportional emphasis to those areas it feels are the most important. Although a county program must rank farmland on a 100 point scale, it has a great deal of flexibility in determining the emphasis it will put on land evaluation (between 40% and 70%), development potential (between 10% and 40%), farmland potential (between 10% and 40%) and clustering potential (between 10% and 40%). In addition, a county program is free to develop additional factors under each of the foregoing categories.

In § 138e.15, the least amount of emphasis a county program could put on a farmland tract's proximity to sewer and water lines, or its proximity to nonagricultural uses, in arriving at a numerical ranking for that tract would be 1%. This would occur if a county program contained 10 development potential factors (as it is permitted to do under § 138e.15(e)(3)(i)) and afforded only 10% of its overall ranking score to development potential (as it is permitted to do under § 138e.15(c)). Each of the 10 development potential factors would then account for 1% of the overall numerical ranking score.

Under § 138e.15, the greatest amount of emphasis a county program could put on a farmland tract's proximity to sewer and water lines, or its proximity to nonagricultural uses, in arriving at a numerical ranking for that tract would be 13.33%. This would occur if a county program contained only three development potential factors (the minimum required under § 138e.15(e)(3)(i)) and afforded 40% of its overall ranking score to development potential (as it is permitted to do under § 138e.15(c)). Each of the three development potential factors would then account for 13.33% of the overall numerical ranking score.

The Department believes proximity of a farmland tract to sewer and water lines and proximity of a farmland tract to nonagricultural uses are two good indicators—but certainly not the only indicators—of the development potential of that tract. The act requires a county program to give consideration to development potential in assessing whether to recommend the purchase of an agricultural conservation easement with respect to that tract. The Department believes § 138e.15 of the final-form regulations strikes a reasonable balance: it requires a county program to consider all of the factors prescribed by the act, but allows a county program to give the greatest emphasis to those factors which the county board determines are most important in that particular county. In light of the foregoing, the Department declines to revise this numerical ranking system in response to PBA's comment.

Comment: Both IRRC and the Minority Chairperson noted the use of the term "productive farmland" in proposed § 138e.15(e)(4)(ii), and asked whether that term refers to the capability of the land or its actual use. Both commentators requested this term be clearly defined.

Response: The term "productive farmland" refers to the actual use to which land is put—and not its potential. The Department believes the term is sufficiently clear in the context within which it is used. The term is followed by the clarifying phrase—"harvested cropland, pasture and grazing land—." "Harvested cropland" is defined in § 138e.3, and relates to the use to which land is being put. Although the term "pasture and grazing land" is not defined, the Department is satisfied the term is commonly accepted as referring to the present use of land, rather than its potential use. In light of the foregoing, the Department declined to further define this term.

Comment: The House Committee noted that § 14.1(d)(1)(iii) of the act requires a county program consider the extent to which best land management practices are used in its evaluation of a prospective agricultural conservation easement purchase. In light of this statutory language, both IRRC and the House Committee recommended the word "best" precede "land management practices" in § 138e.15(e)(4)(iii).

Response: The Department agreed the recommended revision is consistent with the act, and has implemented it in the final-form regulations.

Comment: Both IRRC and the House Committee suggested the term "optimum acreage" be defined or otherwise clarified. This term is used in § 138e.15(e)(4)(iv).

Response: The Department accepted this suggestion and has deleted the term "optimum acreage" from § 138e.15(e)(4)(iv) of the final-form regulations and clarified that a county program must consider the acreage of a tract in determining its farmland potential under the farmland ranking system.

Comment: IRRC and the House Committee suggested the semicolon in § 138e.15(e)(5)(ii) be removed.

Response: The referenced semicolon has been removed from the final-form regulations.

Comment: Proposed § 138e.15(e)(5)(iii) required a county program consider—in evaluating the proposed easement purchase—the proximity of the proposed easement purchase to other lands already subject to the easements. Although that subparagraph addressed the possibility that nearby easements might be owned by the State, county, joint State/county or nonprofit land conservation organization, it did not address the possibility an agricultural conservation easement might be held by a unit of local government. This is provided for in the definition of "agricultural conservation easement" in section 3 of the act. The House Committee recommended § 138e.15(e)(5)(iii) be revised to address the possibility a unit of local government might own an agricultural conservation easement.

Response: The recommended revision has been implemented in the final-form regulations.

Comment: IRRC recommended the example in proposed § 138e.15(e)(6) be reworked from a narrative format into a tabular format.

Response: The Department declined to implement this recommendation. Although the Department agreed the table proposed by IRRC was clear and easy to follow, it believed the current narrative example more clearly describes the process by which an SA score is to be calculated.

Comment: The Minority Chairperson suggested that proposed § 138e.17 (relating to planing and development map) be revised to require that the map be an officially

adopted map, to preclude the possibility that a farmland tract would be rejected from consideration for agricultural conservation easement purchase on the basis of a temporary or pending map that had not yet been adopted as the official map.

Response: The Department accepted this suggestion and has revised § 138e.17(a) of the final-form regulations accordingly.

Comment: IRRC noted that proposed § 138e.61(d) (relating to application) would require a color-coded soils map of the farmland tract being offered for agricultural conservation easement purchase, while proposed § 138e.91(1)(vi) (relating to recommendation for purchase) would require an uncolored soils map. IRRC recommended the Department review these two sections to determine whether they should be modified so that one soils map could meet the requirements of both sections.

Response: The Department declined to revise the separate requirements of the sections referenced in the comment. The referenced soils maps are required in two separate contexts. The color-coded map is required in the context of county board review of an agricultural conservation easement purchase application. The uncolored map is required in the context of State Board review of an easement purchase recommendation. The Department noted the section heading of proposed § 138e.91, "application for review," erroneously described the function of the State Board and might cause a reader to confuse that section with the "application" referenced in § 138e.61. For this reason, the Department has retitled and revised § 138e.91, and revised § 138e.92 (relating to review and decision), to more accurately describe the function of the State Board.

Comment: Both IRRC and the House Committee noted the erroneous insertion of a comma in proposed § 138e.62 (relating to evaluation of application) and suggested it be removed.

Response: The Department has implemented this suggestion in the final-form regulations.

Comment: IRRC recommended revising the second sentence of proposed § 138e.66(a)(3) (relating to offer of purchase by county board) to delete language that also appears in the first sentence and add a beginning such as "An example would be the landowner...". IRRC believed this revision would add clarity.

Response: The Department declined to implement this suggested revision. Although the Department agrees the language of the second sentence restates language appearing in the first sentence, this repetition is by design, and should preclude any confusion.

Comment: The House Committee concluded proposed § 138e.67(f)(1) and (2) (relating to requirements of the agricultural conservation easement deed) did not belong within the context of the other material in that section, and suggested the substance of those paragraphs be set forth elsewhere in the final-form regulations.

Response: The Department accepted this suggestion and has set forth the substance of the referenced paragraphs in a new § 138e.72 (relating to transactions affecting ownership of easement).

Comment: In the context of its comment with respect to proposed § 138e.67, the House Committee suggested language be added to the final-form regulations to require that money restored to the Agricultural Conservation Easement Purchase Fund as a result of condemnation of

an agricultural conservation easement be redirected to easement purchases in the county in which the condemnation occurred.

Response: The Department does not believe the act provides adequate legal authority for the Department to earmark funds returned to the Agricultural Conservation Easement Purchase Fund as the result of the condemnation of an agricultural conservation easement for expenditure for easement purchases in the county in which the condemnation occurred. For this reason, the Department declined to implement the House Committee's suggestion.

Comment: IIRC recommended paragraph (8) under proposed § 138e.70(c) (relating to summary report) be deleted and that § 138e.70(c) be revised to characterize the items listed in paragraphs (1)–(7) as comprising the minimum information to be included in the appendix of the summary report.

Response: The Department accepted this recommendation, and has implemented it in the final-form regulations.

Comment: IIRC recommended § 138e.71 (relating to notification of owners of land adjoining proposed easement purchase) be revised to specify a deadline by which a county board must notify owners of land adjoining a proposed agricultural conservation easement purchase of the State Board meeting at which the easement purchase is to be considered. IIRC also suggested the Department consider the same 14-day advance notice requirement § 138e.226(9) (relating to procedure for review of request to subdivide restricted land).

Response: The Department declined to implement these suggestions in the final-form regulations. Although § 138e.91(5) (relating to recommendation for purchase) of the final-form regulations requires a county board certify it has provided adjoining landowners adequate notice of the State Board meeting, the Department believes a measure of flexibility should be afforded a county board as to the appropriate time frame for this notice.

Comment: IIRC noted that proposed § 138e.91(1)(ii) required a "narrative summary report" as part of the summary report. IIRC could not discern whether the summary report referenced in this section is the same report which is described in detail in § 138e.70. If it is, IIRC recommended a cross reference to § 138e.70 so the county board will know what information to provide.

Response: The Department has deleted the term "report" from "narrative summary report" in § 138e.91(1)(ii) to clarify the summary is not intended to be the same "summary report" described in § 138e.70.

Comment: IIRC suggested proposed § 138e.91(1)(iii) be revised to clarify that the USGS map referenced in that section be a "currently applicable" USGS map that "clearly and legibly" shows the items specified.

Response: The Department accepted this suggestion, and has implemented it in the final-form regulations.

Comment: The House Committee suggested the phrase "the approval or disapproval of" be deleted from § 138e.226(9) (relating to procedure for review of request to subdivide restricted land). IIRC added the recommendation that, in the event the Department adopts the House Committee's suggestion, it also include language addressing whether the notice described in that provision would be required if the State Board intended to table consideration of the agricultural conservation easement purchase recommendation.

Response: The Department accepted the House Committee's suggestion, and has revised the final-form regulations accordingly. The Department declined to implement IIRC's suggested revision.

The Department believes § 138e.226(9) clearly states the degree of State Board consideration of an easement purchase recommendation which would trigger the requirement of advance notice: consideration of the approval or disapproval of the recommendation. In the few instances the State Board has tabled its consideration of an easement purchase recommendation, that action has not been a planned action on the meeting agenda. Notice that the State Board plans to consider a particular easement purchase at a particular meeting always leaves open the possibility that consideration will be tabled at that meeting. As a practical matter, if there is some mistake, deficiency, question or objection with respect to a particular easement purchase recommendation, Department personnel routinely raise and resolve that mistake, deficiency, question or objection with the county program before the recommendation is placed on the agenda for the State Board's consideration.

Comment: IIRC suggested § 138e.226(9) be revised to contain a provision requiring notification of owners of lands adjoining farmland under an agricultural conservation easement in the event the State Board intends to consider approving a subdivision of that restricted farmland.

Response: The Department declined to implement this suggestion. The State Board's approval of the subdivision of restricted land is but one of several approvals that would be required in order for the restricted farmland to be subdivided. The Department is satisfied the concerns of adjoining landowners regarding subdivision are more properly addressed before the local authorities charged with reviewing and approving or disapproving subdivision plans. In addition, adjoining landowners have the opportunity to appear before the State Board at the time that body considers the initial easement purchase recommendation. The Department is not inclined to extend, by regulation, the requirements imposed upon it by the Commonwealth Court's decision in *Lenzi v. Agricultural Land Preservation Board*, 602 A.2d 396 (1992) any further than are set forth in that decision.

Comment: The House Committee forwarded several general comments it received from Committee members and other Legislators. Suggestions were made that the Agricultural Conservation Easement Purchase Program place greater emphasis on the preservation of farm buildings, that it not allow restricted farmland to lie idle and that it compel landowners to use the money they receive from the sale of an agricultural conservation easement for purposes related to agricultural production in this Commonwealth.

Response: Although the Department will consider these comments from the Legislature as it administers the Agricultural Conservation Easement Purchase Program, it declines to attempt to implement any of the suggested changes in the final-form regulations. Each of the suggestions represents a pronounced change from the way the Department has administered the Program to date. In addition, the Department may be without statutory authority to implement these changes. On balance, the Department believes it advisable to consider these comments outside of the context of this final-form regulations.

On its own initiative, the Department modified several provisions in the final-form regulations to add clarity

without enlarging the purpose of the proposed amendments. These revisions are described as follows:

The definition of "applicant" in § 138e.3 was revised to reflect the possibility an applicant might wish to donate an agricultural conservation easement.

Section 138e.64(a) (relating to appraisal) was revised to clarify that a county board may ordinarily expect to be reimbursed for the costs of appraising an agricultural conservation easement that is ultimately purchased.

Section 138e.70(b)(2) has been revised to make appropriate reference to "soils available for agricultural production"—as the term is defined in § 138e.3.

Section 138e.70(c)(4) and (5) has been revised to reflect the Department's current practice of not requiring a crop report or livestock report unless the report is required under the county program.

Statement of Need

These final-form regulations are needed for the Department to comply with the statutory requirement that it supplant the Interim Guidelines with regulations by December 31, 1997, to update its regulatory authority to reflect changes to the act and to further the efficient, uniform and Statewide administration of the act. The final-form regulations are consistent with Executive Order 1996-1 (relating to regulatory review and promulgation).

Fiscal Impact

Commonwealth

The final-form regulations will impose no costs and will have no fiscal impact upon the Commonwealth.

Political Subdivisions

The final-form regulations will impose no costs and will have no fiscal impact upon political subdivisions.

Private Sector

The final-form regulations will impose no costs and will have no fiscal impact on the private sector.

General Public

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

Paperwork Requirements

The regulations are not expected to result in an appreciable increase in paperwork.

Contact Person

Further information is available by contacting the Department of Agriculture, Attention: Raymond C. Pickering, Director, Bureau of Farmland Protection, Pennsylvania Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 16, 1997, the Department submitted a copy of the notice of proposed rulemaking published at 27 Pa.B. 3751 to IRRC and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Commit-

tees with copies of the comments received as well as other documentation.

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

These final-form regulations were deemed approved by the House and Senate Committees on November 13, 1997, and were approved by IRRC on November 20, 1997, in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department of Agriculture finds that:

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

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

(3) The modifications that were made to these regulations in response to comments received do not enlarge the purpose of the proposal published at 27 Pa.B. 3751.

(4) The adoption of the final-form regulations in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 138e, are amended by amending §§ 138e.1, 138e.2, 138e.11—138e.14, 138e.16, 138e.18—138e.20, 138e.41—138e.43, 138e.61, 138e.63, 138e.65, 138e.66, 138e.68, 138e.69, 138e.101—138e.103, 138e.201—1383.206, 138e.221—138e.225, 138e.241 and Appendix A; and by adding §§ 138e.21, 138e.44, 138e.71, 138e.104, 138e.207, 138e.227 and Appendix B to read as set forth that 27 Pa.B. 3751; and by amending §§ 138e.3, 138e.15, 138e.17, 138e.62, 138e.64, 138e.67, 138e.91, 138e.92 and 138e.226; and by adding §§ 138e.70 and 138e.72 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order, 27 Pa.B. 3751 and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.

(c) The Secretary of Agriculture shall certify this order, 27 Pa.B. 3751 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*.

SAMUEL E. HAYES, JR.
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6385 (December 6, 1997).)

Fiscal Note: Fiscal Note 2-97 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART V-C. FARMLAND AND FOREST LAND

CHAPTER 138e. AGRICULTURAL CONSERVATION EASEMENT PURCHASE PROGRAM

GENERAL

§ 138e.3. Definitions.

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

Act—The Agricultural Area Security Law (3 P. S. §§ 901—915).

Agreement or agreement of sale—A document executed by a landowner and the county board to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase, and that includes all of the materials referenced and incorporated into the agreement, in accordance with section 14.1(h)(8.2) of the act (3 P. S. § 914.1(h)(8.2)).

Agricultural conservation easement or easement—An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the land for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a county governing body or to a unit of local government. It shall be granted in perpetuity, as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement will not be deemed to be management or control of activities at the site for purposes of enforcement of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).

Agricultural production—The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farm operator.

Agricultural security area—A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures in the act or designated as such under the act of January 19, 1968 (1967 P. L. 992, No. 442) (32 P. S. §§ 5001—5012) prior to the February 12, 1989 effective date of the act of December 14, 1988 (P. L. 1202, No. 149), by the governing body of the county or governing body of the municipality in which the agricultural land is located on the basis of criteria and procedures which predate February 12, 1989: provided that an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P. L. 1992, No. 442) may withdraw the land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which the land is located within 180 days of February 12, 1989.

Agricultural value—The sum of the following:

- (i) The farmland value determined by the applicant's appraisal.
- (ii) One-half of the difference between the farmland value determined by the State or county board's appraiser and the farmland value determined by the applicant's

appraiser if the farmland value determined by the State or county board's appraiser exceeds the farmland value determined by the applicant's appraiser.

Allocation—The State Board's designation of funds to eligible counties under section 14.1 of the act. An allocation is an accounting procedure only and does not involve certifying, reserving, encumbering, transferring or paying funds to eligible counties.

Annual easement purchase threshold—An amount annually determined by the State Board which equals at least \$10 million to be allocated among eligible counties.

Applicant—A person offering to convey an easement on a farmland tract.

Appropriation—The irrevocable commitment of a specific amount of money by the county governing body exclusively for the purchase of easements.

Comparable sales—Market sales of similar land. In locating comparable sales, first priority will be given to farms within the same municipality as the subject land. The second priority will be farms located within other municipalities in the same county as the subject land. The lowest priority will be given to farms located outside the same county as the subject land.

Conservation plan—A plan describing land management practices which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land. A conservation plan shall include the following:

- (i) An installation schedule.
- (ii) A maintenance program.
- (iii) A nutrient management component consisting of a statement of whether a nutrient management plan required under the Nutrient Management Act (3 P. S. §§ 1701—1718) and, if required, confirmation that a plan is in place or will be in place prior to conveyance of the agricultural conservation easement. If a nutrient management plan is not required under the Nutrient Management Act, the nutrient management component shall consist of a description of the amounts and types of nutrients generated on the farmland tract and a description of any current and planned measures or procedures for containment, use, disposal or other disposition of the nutrients described.

Contiguous acreage—All portions of one operational unit as described in the deed whether or not the portions redivided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, or other property identifiers. The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

Contract of sale—A legally enforceable agreement in a form provided by the State Board obligating the landowner to sell, and the Commonwealth or a county, or both, to purchase an agricultural conservation easement on a specified farmland tract.

County board—The county agricultural land preservation board as appointed by the county governing body under the act.

County fiscal year—The period from January 1 through December 31 of a particular calendar year.

County governing body—The county board of commissioners or, under home rule charters, another designated council of representatives.

County matching funds—Money appropriated by the county governing body for the purchase of easements.

County program—A county agricultural land preservation program for the purchase of easements authorized and approved by the county governing body, and approved by the State Board under section 14.1(a)(3)(xi) and (xiv) of the act.

Crops, livestock and livestock products—The term includes:

- (i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- (ii) Fruits, including apples, peaches, grapes, cherries and berries.
- (iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
- (iv) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers.
- (v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.
- (vi) Timber, wood and other wood products derived from trees.
- (vii) Aquatic plants and animals and their by-products.

Crops unique to the area—The term includes crops which historically have been grown or have been grown within the last 5 years in the region, and which are used for agricultural production in the region. For example, orchard or vineyard crops that have historically been produced in a particular county might be considered crops unique to the area.

Curtilage—The area surrounding a residential structure used for a yard, driveway, onlot sewerage system or other nonagricultural purposes.

Department—The Department of Agriculture of the Commonwealth.

Easement value—The difference between the nonagricultural value and agricultural value of a farm. If solely the county or State appraisal is used, nonagricultural value and agricultural value are equal to market value and farmland value, respectively. If the landowner obtains an independent appraisal, nonagricultural value and agricultural value shall be calculated according to section 14.1(f) of the act.

Economic viability of farmland for agricultural production—The capability of a particular tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employes is permitted under section 14.1(c)(6)(iv) of the act, to meet the criteria in § 138e.16(a) (relating to minimum criteria for applications).

Eligible counties—Counties whose county programs have been approved by the State Board. For the purpose of annual allocations, an eligible county shall have its county program approved by the State Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

Encumber—The reservation by the Commonwealth or a county of previously-allocated funds to pay all or part of the costs of purchasing a specific easement under a specific agreement of sale.

Farm—Land in this Commonwealth which is being used for agricultural production as defined in the act.

Farmland tract or tract—Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

Farmland value—The price as of the valuation date for property used for normal farming operations which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

Fund—The Agricultural Conservation Easement Purchase Fund established by section 7.2 of the act of June 15, 1982 (P. L. 549, No. 159) (3 P. S. § 1207.2).

Grant funds—Funds allocated to a county by the State Board under section 14.1(h)(2) and (5)(ii) of the act, the expenditure of which is not contingent upon the appropriation and expenditure of county matching funds.

Grantee—The person or entity to whom an easement is conveyed under the act.

Grazing or pasture land—Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

Harm the economic viability of the farmland for agricultural production—To cause a particular tract of restricted land to fail to meet the criteria in § 138e.16(a) or to create, through subdivision, a tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employes is permitted under section 14.1(c)(6)(iv) of the act, that would fail to meet the criteria in § 138e.16(a).

Harvested cropland—Land, other than land enrolled in the USDA Conservation Reserve Program, used for the commercial production of field crops, fruit crops, vegetables and horticultural specialties, such as Christmas trees, flowers, nursery stock, ornamentals, greenhouse products and sod. The term does not include land devoted to production of timber and wood products.

Immediate family member—A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.

LCC—Land Capability Class—A group of soils designated by either the county soil survey, as published by USDA-NRCS in cooperation with the Pennsylvania State University and the Department, or the Soil and Water Conservation Technical Guide maintained and updated by USDA-NRCS.

Land development—One of the following activities:

- (i) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively.
- (ii) A subdivision of land.

Land which has been devoted primarily to agricultural use—Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land contain-

ing nonresidential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or manmade features, and which further excludes any tract of 2 acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employes is permitted under section 14.1(c)(6)(iv) of the act.

Landowner—The person holding legal title to a particular farmland tract.

Market value—The price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

Nonagricultural value—The sum of the following:

(i) The market value determined by the State or county board's appraiser.

(ii) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the State or county board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the State or county board's appraiser.

Nonprofit land conservation organization—A nonprofit organization dedicated to land conservation purposes recognized by the Internal Revenue Service as a tax-exempt organization under the Internal Revenue Code (26 U.S.C.A. §§ 1—7872).

Normal farming operations—The customary and generally accepted activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of crops, livestock and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Nutrient management plan—A written site-specific plan which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the Nutrient Management Act.

Pennsylvania Municipalities Planning Code—53 P. S. §§ 10101—11201.

Person—A corporation, partnership, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Restricted land—Land which is subject to the terms of an agricultural conservation easement acquired under the act.

Secretary—The Secretary of the Department.

Soils available for agricultural production—Soils on land that is harvested cropland, pasture or grazing land, or land upon which no structure, easement, roadway,

curtilage or natural or manmade feature would impede the use of that soil for agricultural production.

Soils report—A report which identifies and sets forth the amount of each land capability class found on a farm land tract.

State Board—The State Agricultural Land Preservation Board.

State matching funds—Funds allocated to a county by the State Board under section 14.1(h)(3), (4) or (5)(i) of the act, the expenditure of which is contingent upon the appropriation and expenditure of county matching funds.

State-certified general real estate appraiser—A person who holds a current general appraiser's certificate issued under the Real Estate Appraisers Certification Act (63 P. S. §§ 457.1—457.19).

Subdivision—The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Title report—A report prepared by a person authorized by the Insurance Department to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions or other encumbrances on a farmland tract. The term does not include the title search, but does include the title binder or the title commitment, or both.

USDA—The United States Department of Agriculture.

USDA-NRCS—The Natural Resources Conservation Service of the USDA. This entity was formerly known as the Soil Conservation Service.

REQUIREMENTS FOR CERTIFICATION OF COUNTY PROGRAM

§ 138e.15. Farmland ranking system.

(a) *System required.* The county board shall adopt a farmland ranking system meeting the requirements of this section for use in prioritizing applications for the appraisal of properties meeting the minimum criteria in § 138e.16 (relating to minimum criteria for applications). This farmland ranking system may include additional or substitute criteria as approved by the State Board.

(b) *Review and approval of system.* The county board shall set forth its farmland ranking system in its county program and submit the county program to the State Board for review and approval in accordance with the act.

(c) *Land Evaluation and Site Assessment (LESA) system.* The farmland ranking system shall evaluate tracts being considered for appraisal on a 100-point scale, using the two-part LESA system described in this section. The weighted Land Evaluation (LE) score shall be calculated in accordance with subsection (d). The weighted Site Assessment (SA) score shall be calculated in accordance with subsection (e). The total of the weighted LE and weighted SA scores equals the farmland ranking score. The county board shall establish in the county program the weighted values to be given the LE score and the SA score, as well as the weighted values to be given the three general categories—development potential (DP), farmland potential (FP) and clustering potential (CP)—of factors to be considered in calculating the SA score. The weighted values set forth in the county program shall total 100%, and shall be within the following ranges:

	<i>Minimum Weighted Value</i>	<i>Maximum Weighted Value</i>
Land Evaluation (LE)	40%	70%
Site Assessment (SA)		
Developmental Potential	10%	40%
Site Assessment		
Farmland Potential	10%	40%
Site Assessment		
Clustering Potential	10%	40%

A flow chart summarizing the farmland ranking system is set forth at Appendix A.

(d) *Land Evaluation (LE).*

(1) *Source of soils data.* A farmland ranking system shall designate either or both of the following as the source of the soils data used in LE:

(i) The county soil survey, as published by the USDA-NRCS in cooperation with the Pennsylvania State University and the Department.

(ii) *The Soil and Water Conservation Technical Guide* published and updated by the USDA-NRCS.

(2) *Relative value of soil.* The county program shall set forth a relative value for each soil mapping unit in the county. The relative value shall be on a 100-point-scale—with 100 points assigned to the best soils for agricultural production and all other soils assigned relative values of less than 100 points.

(3) *Calculation of average relative value.* The average relative value of the soils on a tract being considered for appraisal shall be calculated by multiplying the relative value of each soil mapping unit within the tract by the total acreage of the soil mapping unit within the tract, adding these products and then dividing that sum by the total acreage of the tract.

Example: A 60-acre tract has 10 acres within soil mapping units with relative values of 95, 20 acres within soil mapping units with relative values of 90 and 30 acres within soil mapping units with relative values of 80. The sum of the relative values is calculated as follows:

10 acres x 95 = 950 acres
 20 acres x 90 = 1,800 acres
 30 acres x 80 = 2,400 acres
 Total 5,150 acres

The 5,150 acre sum is then divided by the total acreage of the tract (60 acres) to determine the average relative value:

5,150 acres divided by 60 acres = 85.83

In this example, the average relative value of the soils on the tract is 85.83.

(4) *Calculation of weighted LE score.* The weighted LE score of a tract being considered for appraisal shall be the product of the average relative value of the soils on the tract multiplied by the weighted value assigned to the LE score under the county program.

Example. The average relative value of the soils on the tract described in the example in paragraph (3) is 85.83. The county program assigns a weighted value to the LE score of 60% (.60) of the farmland ranking score. The weighted LE score for this tract would be 51.5, calculated as follows:

85.83 x .60 = 51.5

(e) *Site Assessment (SA).*

(1) *General categories of factors.* The county programs shall require the evaluation of three general categories of factors in determining the SA score, and shall specify the individual factors to be considered under each of these general categories. These categories are as follows:

(i) *Development Potential (DP) factors.* Factors that identify the extent to which development pressures are likely to cause conversion of agricultural land to nonagricultural uses.

(ii) *Farmland Potential (FP) factors.* Factors that measure the potential agricultural productivity and farmland stewardship practiced on a tract.

(iii) *Clustering Potential (CP) factors.* Factors that emphasize the importance of preserving blocks of farmland to support normal farming operations and help to shield the agricultural community from conflicts with incompatible land uses.

(2) *Scoring scale.* The county program shall require that each of the three general categories of factors described in paragraph (1) ranks tracts on a 100-point scale. The total combined maximum score under these categories shall be 300 points.

(3) *Development Potential (DP) factors.*

(i) *Number:* The county program shall specify no less than 3 and no more than 10 factors to be considered in scoring the DP of a tract being evaluated for appraisal. Three of these factors shall be the factors described in subparagraphs (ii)—(iv), unless substitute factors are approved by the State Board in accordance with subparagraph (v).

(ii) *Required factor: availability of sanitary sewer and public water:* The county program shall require that the availability of sanitary sewer and public water to a tract be considered in scoring its DP. A farmland tract is more likely to be surrounded by incompatible land uses or be converted to nonagricultural use if it is in an area which is suitable for onlot sewage disposal or if it is in an area which has access to public sewer and water service or is expected to have access to the service within 20 years. The tract shall receive a relatively higher score than a tract that does not have sanitary sewer and public water.

(iii) *Required factor: road frontage.* The county program shall require that the public road frontage of a tract be considered in scoring DP. Frontage on public roads increases the suitability of a tract for subdivision or development, and is a measure of the capability of a tract to be developed or improved for nonagricultural use. A tract with extensive road frontage shall receive a relatively higher score than a tract with less public road frontage.

(iv) *Required factor: extent of nonagricultural use in area.* The county program shall require that the extent of nonagricultural use adjoining or in the area of a tract be considered in scoring DP. Consideration shall be given to whether adjacent land uses affect normal farming operations and whether surrounding, but not necessarily adjoining, land uses affect the ability of the landowner to conduct normal farming operations on the tract, or whether the impacts are likely to occur within the next 20 years. Urban uses are generally considered incompatible with agricultural uses. A tract with extensive nonagricultural uses in the area shall receive a relatively higher score than a tract that is more distant from the nonagricultural uses.

Example: A county program may require that the percentage of adjacent land in nonagricultural use or the distance to urban centers or growth areas, or both, be considered in scoring DP.

(v) *Substitute or additional factors.* Subparagraphs (ii)—(iv) notwithstanding, a county program may set forth substitute or additional factors to be considered in scoring development potential, if the factors are reviewed and approved by the State Board.

(vi) *Weight of individual factors.* The county board shall establish and set forth in its county program the number of points that may be awarded under any individual factor in scoring DP. The number of points may vary from factor to factor.

(4) *Farmland Potential (FP) factors.*

(i) *Number.* The county program shall specify no less than 4 and no more than 10 factors to be considered in scoring the FP of a tract being evaluated for appraisal. Four of these factors shall be the factors described in subparagraphs (ii)—(v), unless substitute factors are approved by the State Board in accordance with subparagraph (vi).

(ii) *Required factor: percentage of certain types of land.* The county program shall require that the percentage of harvested cropland, pasture and grazing land on a tract be considered in scoring FP. Large amounts of productive farmland—harvested cropland, pasture and grazing land—make a farm more viable. If a large percentage of a tract is not used as productive farmland, the tract should receive a lower farmland potential score.

(iii) *Required factor: stewardship of land.* The county program shall require that the stewardship of the land and the use of conservation practices and best land management practices be considered in scoring the FP of a tract. A score will not be awarded under this factor unless sound soil and water conservation practices are in place with respect to at least 50% of the tract. The implementation of soil erosion control, sedimentation control, nutrient management and other practices demonstrating good stewardship of the tract shall be considered under this factor.

(iv) *Required factor: size of tract on application.* The county program shall require that the size of a tract described in the easement purchase application be considered in scoring the FP of the tract. In general, a farmland tract with higher acreage should be assigned a relatively higher value than a tract having less acreage.

(v) *Required factor: historic, scenic and environmental qualities.* The county program shall require that the designation or listing of a tract by local/State/Federal authorities as an historically or culturally-significant location, or a scenic area or open space be considered in scoring the FP of a tract. Tracts adjoining designated protected areas such as flood plains, wildlife habitat, parks, forests and educational sites shall also be considered under this factor. The county program shall specify whether a tract shall receive a relatively higher or relatively lower score based upon its historic, scenic or environmental qualities.

(vi) *Substitute or additional factors.* Subparagraphs (ii)—(v) notwithstanding, a county program may set forth substitute or additional factors to be considered in scoring FP, if the factors are reviewed and approved by the State Board. The additional factors may include a factor that awards points based upon the landowner's offer to sell the easement at a reduced price.

(vii) *Weight of individual factors.* The county board shall establish and set forth in its county program the number of points that may be awarded under any individual factor in scoring FP. The number of points may vary from factor to factor.

(5) *Clustering Potential (CP) factors.*

(i) *Number.* The county program shall specify no less than three and no more than ten factors to be considered in scoring the CP of a tract being evaluated for appraisal. Three of these factors shall be the factors described in subparagraphs (ii)—(iv), unless substitute factors are approved by the State Board in accordance with subparagraph (v).

(ii) *Required factor: consistency with planning map.* The county program shall require that the location of a tract with respect to those areas of the county identified as important agricultural areas of the county in the planning map described in § 138e.17 (relating to planning and development map) be considered in scoring the CP of the tract. A tract that is within an identified important agricultural area shall receive a higher score than tracts that are distant from these areas. Tracts located within the designated areas are more viable for agricultural use and are more likely to be compatible with county and local comprehensive plans.

(iii) *Required factor: proximity to restricted land.* The county program shall require that the proximity of a tract to land already under agricultural conservation easement—whether held by a county, the State, jointly by the county and State, a unit of local government, or by a nonprofit land conservation organization—be considered in scoring the CP of the tract. A tract that is close to the restricted land shall receive a higher score than tracts that are more distant from the restricted land. Clustering easement purchases will develop a mass of farmland which supports normal farming operations and reduces conflicts with incompatible land uses.

(iv) *Required factor: percentage of adjoining land in an agricultural security area.* The county program shall require that the percentage of a tract's boundary that adjoins land in an agricultural security area be considered in scoring the CP of the tract. The higher the percentage, the higher the score shall be. Areas where agriculture has been given protection by the municipality, at the request of the landowners, provides an environment conducive to farming.

(v) *Substitute or additional factors.* Subparagraphs (ii)—(iv) notwithstanding, a county program may set forth substitute or additional factors to be considered in scoring clustering potential, if the factors are reviewed and approved by the State Board. The additional factors may include a factor that awards points for the establishment of new clustering areas.

(vi) *Weight of individual factors.* The county board shall establish and set forth in its county program the number of points that may be awarded under any individual factor in scoring CP. The number of points may vary from factor to factor.

(6) *Calculation of weighted Site Assessment (SA) score.* The SA score of a tract being considered for appraisal shall be calculated as follows: The product of the DP score multiplied by the weighted value for that category is the weighted DP score. The product of the FP score multiplied by the weighted value for that category is the weighted FP score. The product of the CP score multiplied

by the weighted value for that category is the weighted CP score. The sum of these three weighted scores is the weighted SA score.

Example: A county program assigns weighted values of 10% to DP, 20% to FP and 30% to CP. The DP, FP and CP scores for a particular tract are 92, 85 and 80, respectively. The weighted DP score equals the DP score (92) multiplied by its weighted value (10%): 9.2. The weighted FP score equals the FP score (85) multiplied by its weighted value (20%): 17. The weighted CP score equals the CP score (80) multiplied by its weighted value (30%): 24. The weighted SA score is the sum of these three weighted scores (9.2 + 17 + 24): 50.2.

(f) *Calculation of farmland ranking score.* The sum of the weighted LE score and the weighted SA score equals the farmland ranking score.

(g) *Use of farmland ranking score.* The farmland ranking score shall determine the order in which tracts are selected by the county board for appraisal. Selection for appraisal shall be made in descending order of farmland ranking score.

§ 138e.17. Planning and development map.

(a) The county board shall, in consultation with the county planning commission, prepare and adopt a map identifying the important agricultural areas of the county. The scale of the map shall be such that it can be used to locate specific land proposed for easement purchase.

(b) The county board shall encourage the formation of agricultural security areas in the important agricultural areas identified in the map described in subsection (a).

(c) The planning and development map shall identify areas in the county devoted primarily to agricultural use where development is occurring or is likely to occur in the next 20 years. The identification of these areas shall be made in consultation with the county planning commission, and any other body the county board deems appropriate.

PROCEDURE FOR PURCHASING AN EASEMENT

§ 138e.62. Evaluation of application.

(a) The county board shall review the application to determine if it is complete and meets the minimum criteria in §§ 138e.11—138e.21 (relating to requirements for certification of county program).

(b) If the application is complete and the minimum criteria are met, an agent or member of the county board shall view the farmland tract and discuss the county program with the applicant.

(c) The county board shall evaluate timely applications which meet the minimum criteria and rank them according to the county farmland ranking system.

§ 138e.64. Appraisal.

(a) An offer to purchase an easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract, as those terms are defined in § 138e.3 (relating to definitions). The initial appraisal shall be at the county board's expense. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P. S. § 914.1(h)(6)) and § 138e.68 (relating to title insurance).

(b) An appraisal of market value and farmland value shall be based on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the *Uniform Standards of Profes-*

sional Appraisal Practice, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the *Uniform Standards of Professional Appraisal Practice* and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinions and conclusions.

(c) The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.

(d) The appraiser shall be a State-certified general real estate appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected by a county board on the basis of experience, expertise and professional qualifications.

(e) The appraiser shall supply a minimum of three copies of a narrative report which contains the following information and is in the following format:

(1) *Introduction.*

(i) A letter of transmittal.

(ii) The appraiser's certificate of value as to market value, farmland value and easement value.

(iii) A table of contents.

(iv) A summary of salient facts and conclusions.

(v) The purpose of the appraisal.

(vi) The definitions, including definitions of market value, farmland value and easement value.

(2) *Description of property.*

(i) A brief area of neighborhood description.

(ii) A description of appraised property.

(A) A legal description.

(B) Property data and zoning.

(C) A brief description of improvements.

(D) Color photos of subject property's fields and improvements.

(E) Tax map or official map used for tax assessment purposes showing the subject property and its relationship to neighboring properties.

(F) A legible sketch or aerial photograph of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.

(G) A location map showing the location of the subject farmland tract in a county or municipality.

(H) Soils map showing property boundaries.

(3) *Analyses and conclusions.*

(i) An analysis of highest and best use.

(ii) The valuation methodology market value.

(A) Comparable sales data.

(B) An adjustment grid.

(C) A locational map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single locational map shall be submitted with respect to each county from which comparable sales are drawn.

- (iii) The market value estimate.
- (iv) The valuation methodology: farmland value.
- (A) Comparable sales data.
- (B) An adjustment grid.
- (C) A locational map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single locational map shall be submitted with respect to each county from which comparable sales are drawn.
- (v) A farmland value estimate.
- (vi) The easement value.
- (vii) An appendix containing a brief statement of the appraiser's professional qualifications and a copy of the appraiser's current certification issued in accordance with the Real Estate Appraisers Certification Act (63 P. S. §§ 457.1—457.19).
- (f) The appraiser shall supply information concerning comparable sales as follows:
 - (1) At least three comparable sales shall be used for estimating market value and at least three comparable sales shall be used for estimating farmland value in an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject farmland tract, the appraiser may use comparable sales from other counties, with the approval of the county board. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the county board.
 - (2) Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including the date of sale, the purchase price, zoning, road frontage in feet (for determining market value) and soil mapping units (for determining farmland value). The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract. This analysis shall be in the form of a narrative statement of the information considered and the reasoning that supports the analyses, opinions and conclusions, and an adjustment grid assigning, when practicable and within the Uniform Standards of Professional Appraisal Practice referenced in subsection (b), approximate dollar values to adjustment shown on the adjustment grid.
 - (3) The location of each market value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily.
 - (4) The location of each farmland value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily. If a farmland value comparable sales map and a market value comparable sales map would depict the same county, they may be combined in a single map.

(5) For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of agricultural conservation easements or other legal restrictions or physical impairments that make the land valuable only for agricultural use. Comparable sales shall be in primarily agricultural use. Data may also be gathered from farm real estate markets when farms have no apparent developmental value.

(6) The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:

- (i) The farmland tract has public or private land use restrictions.
- (ii) The farmland tract is within a flood plain or a wetland (in whole or in part).
- (iii) The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes which limit its developmental capability.

(7) The appraiser shall provide at least one original and two copies of each report to the county board. The original of each report and all copies shall be bound with rigid covers.

(8) The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.

(9) If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code, the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

§ 138e.67. Requirements of the agricultural conservation easement deed.

(a) The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of § 138e.241 (relating to deed clauses).

(b) The deed shall be in recordable form and contain:

(1) A legal description setting forth the metes and bounds of the farmland tract subject to the easement.

(2) At least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones.

(c) The legal description may not contain a closure error greater than 1 foot per 200 linear feet in the survey.

(d) The farmland tract on which an easement is to be purchased shall be surveyed unless the legal description contained in the deed recorded in the land records of the county in which the farmland tract is located satisfies the requirements of subsections (b) and (c). A survey required by this paragraph shall comply with the boundary survey measurement standards for a Class A-2 survey as published by the Pennsylvania Society of Land Surveyors.

(e) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.

(f) For purchases made using a combination of State and county funds, the grantees shall be the Commonwealth and the county providing the funds under joint ownership as defined in the act.

(g) A copy of the proposed deed shall be submitted to the State Board for approval prior to execution and delivery.

§ 138e.70. Summary report.

(a) *General.* A recommendation by the county board for the purchase of an easement shall be accompanied by a summary report consisting of a narrative report and appendix as described in subsections (b) and (c).

(b) *Narrative report.* The narrative report shall consist of the following:

(1) A description of the farm, including the name of all landowners, location in relation to the nearest town, number of acres proposed for purchase and type of agricultural production on the farm.

(2) A description of the quality of the farmland tract, including the soil capability classes of the soils available for agricultural production.

(3) The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.

(4) A description of the likelihood of conversion to other uses if the easement is not purchased.

(5) A description of the nature and scope of developmental pressure in the municipality or area.

(6) A description of the nature and scope of conservation practices and best land management practices, including soil erosion and sedimentation control and nutrient management.

(7) A discussion of the purchase price summarizing the appraisals, including the agricultural and nonagricultural value, negotiations for purchase and the percentage of the appraised easement value accepted by the landowner.

(8) A statement of costs as described in § 138e.69 (relating to statement of costs).

(9) A certification by the county board that the information presented to the State Board is true and correct.

(c) *Appendix.* The appendix of the summary report shall, at a minimum, consist of the following:

- (1) The application form.
- (2) Locational maps, including tax, topographic and soils maps.
- (3) A soils report.
- (4) Any crop report required by the county program.
- (5) Any livestock report required by the county program.
- (6) An evaluation of the farmland ranking score, showing how the farm scored in comparison to other farms.
- (7) A quitclaim deed, or a subordination, release or letter approving the purchase from a mortgagee, lienholder or owner of rights in surface mineable coal.

§ 138e.72. Transactions affecting ownership of easement.

(a) *General prohibition.* Neither the Commonwealth nor the county may sell, convey, extinguish, lease, encumber or restrict in whole or in part its interest in an agricultural conservation easement for 25 years from the date of the purchase of the easement. This prohibition will not be construed to prevent a public entity, authority or political subdivision from exercising the power of eminent domain and condemning restricted land in accordance with section 14.1(c)(5) of the act (3 P. S. § 914.1(c)(5)).

(b) *Disposition of proceeds.* Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth and the county shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.

STATE BOARD REVIEW OF A PURCHASE RECOMMENDATION

§ 138e.91. Recommendation for purchase.

A county board shall make its recommendation for purchase of an easement by submitting the following documents to the Director, Bureau of Farmland Protection, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408:

(1) Twenty-two copies of the summary report prepared in accordance with § 138e.70 (relating to summary report), including the following items:

- (i) A cover letter from the county (optional).
- (ii) A narrative summary.

(iii) A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.

(iv) The Soil Report Form "C" (a form provided by the Department), both pages. See Appendix B (relating to Form C Soils Report).

(v) The list of soil mapping unit names, symbols and land capability classes on the subject property.

(vi) A legible, uncolored soil map of the subject property.

(vii) A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility rights-of-way and access road rights-of-way.

(viii) A summary table showing the individual farmland ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.

(ix) A copy of Exhibit B from the agreement of sale, modified to include interest, total acres and per acre easement cost.

(x) The 22 copies submitted shall be individually collated and three-hole punched, but not stapled.

(2) The appraisal reports.

(3) The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contract or integrity clause and a nondiscrimination clause.

(4) The title insurance report or commitment.

(5) A letter certifying that the adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one copy of the notification letter required under § 138e.71 (relating to notification of owners of land adjoining proposed easement purchase) and a list of the adjoining landowners.

(6) A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.

(7) A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.

(8) A copy of the approved soil conservation plan that is required to be in place with respect to the land under § 138e.241(2) (relating to deed clauses).

(9) A copy of the nutrient management plan that has been developed, certified, reviewed and approved in accordance with the Nutrient Management Act (3 P. S. §§ 1701—1718), if the nutrient management plan is required under the Nutrient Management Act for any portion of the property that is the subject of the recommendation for purchase.

§ 138e.92. Review and decision.

(a) The State Board will acknowledge receipt of the recommendation for purchase of an easement. The State Board will notify the county board if the recommendation for purchase is incomplete or incorrect and request that additional necessary clarification, information or documentation be supplied.

(b) Within 60 days of receipt of a complete recommendation for purchase, the State Board may approve, disapprove or table the purchase. The State Board may delay its action on a recommendation for purchase beyond this 60-day deadline if any of the conditions excusing the delay, as set forth in section 14.1(e)(2) of the act (3 P. S. § 914.1(e)(2)), occur. If State Board action is delayed as a result of any of these conditions, the 60-day period shall be extended until applicable issues in section 14.1(e)(2) of the act are resolved to the satisfaction of the State Board, whereupon the State Board will act on the recommendation of the county board at its next scheduled meeting.

(1) If the recommendation for purchase is approved, the State Board will execute the agreement of sale.

(2) If the recommendation for purchase is disapproved or tabled, the State Board will notify the county board in writing of the reasons for disapproval or tabling. The State Board will mail this written notification within 10 days of the disapproval or tabling. If the recommendation for purchase has been disapproved, the county board may resubmit the recommendation if the purchase recommendation has been revised to address the State Board's reasons for disapproval. The resubmittal shall be treated as a new recommendation for purchase.

(3) The county board may withdraw its recommendation for purchase from the State Board prior to action by the State Board. The county board may resubmit the recommendation for consideration. The resubmittal will be treated as a new recommendation for purchase.

(4) Failure of the State Board to act on a recommendation for purchase within 60 days of its receipt constitutes approval by the State Board.

(c) Following the end of each 7-year period within which recertification of a county program is required

under section 14.1(b)(4) of the act, the State Board will not approve a county board's recommendation for purchase until the county program has been approved for recertification in accordance with that section and the procedure described in § 138e.44 (relating to periodic recertification of county programs). The State Board may postpone the deadline for recertification of any county's program by up to 12 months and during the period of postponement, may approve a county board's recommendation for purchase.

(d) A decision of the State Board to disapprove a purchase shall be an adjudication subject to 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). The owner of the farmland tract proposed for easement purchase or the county board may appeal a decision of the State Board to disapprove the purchase of an easement. An appeal shall be made to the Secretary and shall be filed in writing within 30 days of the State Board's action. An appeal from the decision of the State Board shall be governed by 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

RESPONSIBILITY OF OWNER

§ 138e.226. Procedure for review of request to subdivide restricted land.

A landowner may obtain review of a request for approval to subdivide a tract of restricted land in accordance with the following procedure:

(1) The landowner shall submit an application to the county board, in a form and manner prescribed by the county board, requesting review and approval of the subdivision of a tract of restricted land.

(2) The county board shall note the date upon which the application is received.

(3) Upon receipt of the application, the county board shall forward written notice of the application to the county zoning office (if such an office exists), county planning office and county farmland preservation office. For purposes of this subsection, the foregoing offices shall be referred to as the "reviewing agencies."

(4) The county board shall note the date upon which each reviewing agency receives the written notice described in paragraph (3).

(5) Each reviewing agency shall have 60 days from receipt of the written notice described in paragraph (3) within which to review, comment and make recommendations on the proposed application to the county board. The county board may not consider comments and recommendations received beyond this deadline unless the landowner agrees in writing.

(6) The county board shall have 120 days from receipt of the application for approval to subdivide within which to review the application, review comments and recommendations submitted by the reviewing agencies and approve or reject the application. This 120-day deadline may be extended by the mutual agreement of the landowner and the reviewing agencies. If the county board fails to approve or reject an application within the 120-day deadline or an extension thereof, the application shall be deemed approved.

(7) If the application is rejected by the county board, the county board shall return the application and a written statement of the reasons for the rejection to the landowner. Within 30 days after receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 Pa.C.S. Chapter 5 Subchapter B

(relating to practice and procedure of local agencies) and Chapter 7 Subchapter B (relating to judicial review of local agency action.)

(8) If the application is approved by the county board, the county board shall promptly forward a copy of the application and the comments and recommendations of the reviewing agencies to the State Board for review and approval or disapproval.

(9) The State Board will provide the county board and the landowner with written notice of the date, time and location of the meeting at which the State Board shall review and consider the application. This notice will be forwarded by regular mail at least 14 days in advance of the State Board meeting.

(10) In its review of an application requesting approval of the subdivision of a tract of restricted land, the State Board will consider only whether the application complies with the conditions under which subdivisions are permitted by the county program.

(11) The State Board will provide both the county board and the landowner with written notice of its decision regarding the application for approval of the subdivision of a tract of restricted land. If the application is disapproved, the notice shall contain a statement of the reasons the application does not comply with the conditions under which subdivisions are permitted by the county program.

[Pa.B. Doc. No. 97-2077. Filed for public inspection December 26, 1997, 9:00 a.m.]

Title 10—BANKS AND BANKING

DEPARTMENT OF BANKING

[10 PA. CODE CHS. 61, 63, 65 AND 67]

Pawnbrokers License

The Department of Banking (Department), under the act of December 28, 1994 (P. L. 1402, No. 163) (Act 163) which amends the Pawnbrokers License Act (act) (63 P. S. §§ 281-1—281-32) and the authority of the Department to promulgate regulations in section 8 of the act, will impose procedures for initial pawnbroker license application hearings, minimum capital requirements, restrictions on usage of the name "pawn" or "pawnbroker" in this Commonwealth, assessment by licensees of a \$1 charge for governmental reporting costs and license changes of licensees' office location.

Purpose

The purpose of the amendments is to implement Act 163, which amended sections 2, 4, 4.1, 5.1, 6, 8 and 12 of the act (63 P. S. §§ 281-2, 281-4, 281-4.1, 281-5.1, 281-6, 281-8 and 281-12) the Secretary of the Department (Secretary) is authorized by section 8 of the act to issue regulations as may be necessary for the protection of the public and to insure the proper conduct of the pawnbroker business and enforcement of the act. The purposes of the rulemaking are consistent with the requirements of Act 163 and the authority of the Secretary to issue regulations.

Explanation of Regulatory Requirements

The amendments to the existing regulations provide procedures for initial pawnbroker license applications, including posting a notice of initial application and hearing at the proposed pawnbroker location, and publishing notice of the hearing in a newspaper of general circulation. The amendments also require a newspaper notice of renewal application to be published in a newspaper of general circulation by an applicant for renewal of a pawnbroker license. A change of place of business by a licensed pawnbroker could not be implemented until a notice of proposed relocation had been posted at the proposed new office location. Use of the formal name or fictitious name "pawn" or "pawnbroker" would not be permissible unless the entity using the formal name or fictitious name was a licensed pawnbroker under the act. Use of the terms "pawn" or "pawnbroker" would not be permissible in any advertisement unless the person or entity using the name was a licensed pawnbroker. A \$1 charge per pledge could be assessed by a licensee to cover only governmental reporting costs pertaining to reports required to be issued by a licensee to the local or State Police pertaining to a particular pledge, or as otherwise permitted by the Secretary. The minimum start-up and ongoing capital requirement applicable to an initial applicant or renewal applicant for a pawnbroker license would be \$10,000 per licensed pawnbroker office. The licensee would be required to report counterfeit pawn tickets to local police authorities. Interest and charges would be amended consistent with the statutory amendments to permit 3% per month aggregate interest and charges on the entire principal amount.

Entities Affected

The number of entities that will be affected by these amendments is as follows: an estimated five to ten initial applicants for pawnbroker licenses per annum regarding the hearing requirements applicable to initial applicants; all of the approximately 77 licensed pawnbrokers in this Commonwealth regarding the minimum capital requirements; all of the approximately 77 licensed pawnbrokers regarding the \$1 charge per pledge that may be assessed by a licensee to cover governmental reporting costs; all of the approximately 77 licensed pawnbrokers regarding the newspaper notice of renewal application to be published in a newspaper of general circulation; an estimated one or two licensed pawnbrokers per annum who might seek to relocate their licensed offices would have to post at the proposed new office location a notice of proposed relocation; and an estimated two or three unlicensed entities per annum would be restricted from utilizing the word "pawn" or "pawnbroker" in any advertisement or in their name or fictitious name unless licensed as a pawnbroker under the act.

Cost and Paperwork Requirements

These amendments will impose paperwork requirements on the Department to process initial pawnbroker license application hearings, and the notices of license application applicable to initial applicants and renewal applicants respectively. The amendments will not impose any paperwork requirements on any political subdivision and will not affect the costs of any political subdivision of this Commonwealth. All costs of hearing shall be paid by the initial applicant, including all costs for stenographer services, transcript printing costs and Department expenses for providing a designee of the Secretary to preside at the public hearing.

Effectiveness/Sunset Date

A sunset date is inapplicable as the statute imposes an ongoing requirement for the licensing and regulation of pawnbrokers.

Summary of Comments and Responses on the Proposed Rulemaking

Notice of proposed rulemaking was published at 27 Pa.B. 1809 (April 12, 1997).

During the public comment period, the only written comments received by the Department were from the Pennsylvania Pawnbrokers Association, City of Philadelphia Police Department and the Independent Regulatory Review Commission (IRRC).

Comments received from the Pennsylvania Pawnbrokers Association and the City of Philadelphia Police Department regarding the Pawnbrokers Act were favorable.

The Department considered the written comments received in formulating the final-form regulations. The Department has completed a review of the comments and has prepared a Comment and Response Document that addresses each comment on the proposed amendments.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 31, 1997, the Department submitted a copy of the proposed rulemaking to IRRC, and the Chairperson of the Senate Committee on Banking and Insurance and the Chairperson of the House Committee on Business and Economic Development. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments as well as other documentation.

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

Findings

The Department finds that:

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

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

(3) These amendments do not enlarge the purpose of the proposal published at 27 Pa.B. 1809.

Order

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

(a) The regulations of the Department, 10 Pa. Code Chapters 61, 63, 65 and 67, are amended by amending §§ 61.5, 61.6, 63.1, 65.9 and 67.2 to read as set forth at 27 Pa.B. 1809 and by amending §§ 61.1—61.4 and by adding § 63.5 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order, 27 Pa.B. 1809 and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form, as required by law.

(c) The Secretary of the Department shall submit this order, 27 Pa.B. 1809 and Annex A to IRRC and the Senate Committee on Banking and Insurance and House Committee on Business and Economic Development as required by the Regulatory Review Act.

(d) The Secretary of the Department of Banking shall certify this order, 27 Pa.B. 1809 and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

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

RICHARD C. RISHEL,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6385 (December 6, 1997).)

Fiscal Note: Fiscal Note 3-33 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 10. BANKS AND BANKING

PART V. PAWNBROKERS

CHAPTER 61. GENERAL PROVISIONS

§ 61.1. Definitions.

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

Act—The Pawnbrokers License Act (63 P. S. § 281-1—281-32).

Capital—Tangible net worth which shall be maintained at all times by the licensee.

Charges—The aggregate total of interest, fees for storage, insurance, investigation and other services rendered by pawnbrokers licensed under the statutes of the Commonwealth.

Department—The Department of Banking of the Commonwealth.

Initial applicant—An individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any group of individuals however organized applying for a license under the act or any person appearing as owner, partner, officer, director, trustee or other official of a partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any group of individuals however organized, on the application for license under the act. This applicant for license does not possess a license for the license term that expires immediately prior to the term being applied for regarding the proposed license location.

License—A license issued by the Secretary under the act that permits an initial applicant or renewal applicant to engage in the pawnbroker business at a particular business location to the extent provided in the license's terms.

Licensee—A pawnbroker licensed by the Department to do business under this part.

Month—The period elapsing between a certain date in 1 calendar month, to and including the same date in the next succeeding month.

Municipality—The term includes a city, town, borough or township.

Newspaper notice of renewal application—A written notice in a form prescribed by the Department. This notice shall be advertised in a newspaper of general circulation by a renewal applicant for a pawnbroker's renewal license. The advertisement shall be in a form prescribed by the Department.

Newspaper of general circulation—A newspaper issued daily, or not less than once per week, intended for general distribution and circulation, sold at fixed prices per day or week, published in the English language, which satisfies the requirements of 45 Pa.C.S. Part I (relating to preliminary provisions).

(i) The newspaper shall be:

(A) A newspaper which is one of general circulation in the county and is published in the city, borough or township in which the pawnbroker's office is to be located or already is located.

(B) If there is no newspaper as described in clause (A), a newspaper of general circulation in the county, published at the county seat.

(C) If there is no newspaper as described in clause (B), a newspaper of general circulation published in the county at the place nearest such city, borough or township.

(D) If there is no newspaper as described in clause (C), the newspaper of general circulation published at the place nearest the city, borough or township in an adjoining county.

(ii) The newspaper publications required by the act and this part shall be at the cost of the applicant for license.

Newspaper notice of hearing—The written notice in a form prescribed by the Department. The notice shall be published in a newspaper of general circulation by an initial applicant for a new pawnbroker's license.

Notice of initial application and hearing—The written notice in a form prescribed by the Department. The notice is shall be posted by an initial applicant for a new pawnbroker's license at the proposed pawnbroker's business location, as further specified in this part.

Renewal applicant—The definition of "initial applicant" shall be applied, except that this applicant for license does possess a license for the license term that expires immediately prior to the renewal term being applied for regarding the licensed location.

Resident—A person as defined in section 2 of the act (63 P. S. § 281-2) residing or operating at an address within 500 feet of an initial applicant's proposed new pawnbroker's business location.

Secretary—The Secretary of the Department or a person designated by the Secretary. This definition contemplates, among other things, that a designee of the Secretary may preside over a hearing required by the act.

§ 61.2. License applications, public notice, hearings and capital requirements.

(a) Blank forms of application and bond will be supplied by the Department upon request. Payment of a new license fee is required.

(b) Licenses shall be issued on the basis of information set forth in the application for license. Changes in title, place of business, office manager, owner, partner or corporate officials occurring during a license year shall require prior written approval of the Department.

(c) Every initial applicant for a license shall post a notice of initial application and hearing for at least 30 days beginning with the day the application is accepted as filed with the Secretary, in a conspicuous place at the proposed location for which the initial applicant has applied for a license, unless another location for posting the notice of initial application and hearing is approved by the Secretary. The notice of initial application and

hearing shall be in the form prescribed by the Secretary. The conspicuous place of posting the notice of initial application and hearing shall face to the outside of the proposed location for which the initial applicant is applying, so that persons observing the normal main window or facade of the proposed location may readily see and read the notice of initial application and hearing, unless otherwise permitted by the Secretary due to the circumstances of the proposed pawnbroker location. At the end of at least 30 days continual posting of the notice of initial application and hearing, an initial applicant shall deliver to the Department an affidavit in a completed form as prescribed by the Department certifying that the notice of initial application and hearing has been properly posted for the required 30-day time period. A photocopy of the completed notice of the initial application and hearing also shall be provided by initial applicant to the Department as part of the initial application.

(d) A public hearing shall be held regarding any pawnbroker's license application submitted by an initial applicant. The public hearing is a fact-gathering mechanism to assist the Department in its review of the initial applicant's pawnbroker's license application while providing an opportunity for interested residents to testify regarding matters relevant to the Secretary's consideration of whether to approve the initial applicant's license application for the proposed location.

(1) *General.*

(i) A hearing regarding an initial applicant's license application may not be held by the Department until after the Department has accepted as complete a license application from the initial applicant. An initial applicant shall provide the affidavit required in subsection (e) certifying to the posting of the notice of initial application and hearing for the requisite 30-day time period, and a proof of publication of a newspaper notice of hearing.

(ii) The separate newspaper notice of hearing shall be published at least once in a newspaper of general circulation at least 10 days prior to the hearing date. An initial applicant shall cause proof of publication of the newspaper notice of hearing to be provided to the Department in a written form issued and executed by a representative of the newspaper.

(iii) The hearing shall occur at a date, time and place as deemed appropriate in the sole reasonable discretion of the Secretary.

(2) *Hearing rules.* The Secretary will preside over the hearing. The hearing rules in 1 Pa. Code Part II (relating to general rules of administrative practice and procedures) and Chapter 3 (relating to hearings and conferences) do not apply to hearings regarding an initial applicant, as described in this section, because of the fact-gathering nature of these hearings. Formal rules of evidence do not apply to these hearings. The Secretary has the authority to swear witnesses at a hearing. Procedural issues regarding any hearing will be determined by the Secretary.

(3) *Witness testimony.* Witness testimony may be limited as to time by the Secretary. The initial applicant may testify once after all witnesses, if any, have testified. Residents attending the hearing and seeking to testify will be permitted to testify. The number of witnesses including resident witnesses may be restricted in the sole discretion of the Secretary, including circumstances in which the Secretary determines that witnesses seek to offer similar testimony or to facilitate completion of the hearing within a reasonable time period. Witnesses other

than residents may be permitted to testify at the hearing, in the sole discretion of the Secretary.

(4) *Costs of the hearing.* The costs of the hearing shall be paid by the initial applicant, including all costs for stenographer services, transcript printing costs and Department expenses for providing a designee of the Secretary to preside at the public hearing. Two copies of the hearing transcript shall be provided to the Department. If there is no testimony at the hearing, the transcript requirement will be waived by the Secretary.

(e) A license expires on October 1 of each year. An application for renewal shall be filed with the Department at least 30 days before the end of the license year. Applications for renewal shall be accompanied by a new bond and a check or money order payable to the Commonwealth of Pennsylvania. A renewal applicant shall have a newspaper notice of renewal application to be published once, in a form prescribed by the Department at least 30 days prior to license renewal. A renewal applicant shall have proof of publication provided to the Department in a written form issued and executed by a representative of the newspaper of general circulation. The Secretary will consider any written comments timely received after publication of the newspaper notice of renewal application.

(f) The minimum start-up capital requirement applicable to an initial applicant for a license is \$10,000 per licensed pawnbroker office. The ongoing capital requirement applicable to a renewal applicant is \$10,000 per licensed pawnbroker office. If multiple licensed offices are held by the same licensee, the maximum total capital requirement for the offices is \$100,000. The minimum capitalization shall be maintained as permanent capital which may not be distributed to any stockholder or owner of licensee or be purchased by a licensee without the prior written approval of the Secretary. A licensee holding a valid license on December 27, 1997, shall meet the minimum capitalization requirements listed in this subsection by December 27, 1999.

(g) An applicant for a pawnbroker's license shall demonstrate that the proposed pawnbroker's location shall contain security measures and devices, such as a vault for the storage of pledge items, for the conduct of a pawnbroker's business under the circumstances of that location. An initial applicant shall demonstrate to the Department's satisfaction that the initial applicant has the requisite experience or knowledge, or both, to conduct the business of a pawnbroker under the act and this part. The knowledge or experience may include, but not necessarily be limited to, retaining an office manager with at least 1 year of knowledge and experience in the pawnbroker business or other business experience determined to be relevant in the Department's discretion. Renewal applicants shall demonstrate to the Department's satisfaction that the renewal applicant continues to have the requisite experience or knowledge to conduct the business of a pawnbroker under the act and this part.

(h) The license certificate shall be posted in a conspicuous place in the office of the pawnbroker so that it will be in full view of the public at all times.

§ 61.3. Change of place of business.

(a) If a licensed pawnbroker seeks to retain its current license upon the relocation of its business, the relocation shall be within the same municipality where its currently licensed office is located. Any change of place of business of a licensed pawnbroker within the same municipality requires prior approval of the Department, which will be

granted upon the Department being satisfied that the requirements of this section have been met.

(b) The new place of business shall be in the same municipality for which the license was originally issued.

(c) A licensee who wishes to change the place of business to a municipality other than that indicated on the current license shall obtain a new license by filing a new application and bond and paying the license fee.

(d) Application for approval of a change of address shall be filed in writing with the Department at least 15 days prior to the intended date of change. Leases for new quarters may not be signed until the Department has approved the change of address. The Department will act on the application within 14 days. Failure of the Department to act on the application within 14 days constitutes approval, unless the Department requests additional information, which stops the 14-day review period from proceeding until the information requested by the Department is received from the licensee.

(e) The current license certificate should be forwarded to the Department with any request for approval of a proposed change in the place of business.

§ 61.4. Partnerships.

(a) A license issued to a partnership shall automatically expire when one of the partners dies or withdraws from the partnership. A new license shall be obtained immediately by the surviving partners desiring to continue the business which had been conducted under the expired license. A new license shall also be required when one or more new partners are admitted to a partnership.

(b) Any change in a partnership occurring during a license year and requiring a new license shall require the payment of a new license fee.

CHAPTER 63. CHARGES, PAYMENT AND RECORDS

§ 63.5. Charge for reports to police.

A \$1 charge per pledge may be assessed and collected by a licensee to cover only those governmental reporting costs pertaining to reports required to be issued by a licensee to the local or State police pertaining to that pledge, or as otherwise permitted by the Secretary. The \$1 fee may be collected at the time the loan is made, or may be financed as part of the loan, in which latter case interest and charges on the \$1 may be made by the licensee consistent with the act.

[Pa.B. Doc. No. 97-2078. Filed for public inspection December 26, 1997, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Great Lakes Initiative (GLI)

The Environmental Quality Board (Board) by this order amends Chapter 93 (relating to water quality standards) to read as set forth in Annex A. These regulatory changes incorporate requirements of the Great Lakes Water Quality Guidance (GLI) into the water quality standards regulation.

This notice is given under Board order at its meeting of September 16, 1997.

A. *Effective Date*

These amendments are effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. *Contact Persons*

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P.O. Box 8555, 400 Market Street, Harrisburg, PA 17105-8555, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The final rulemaking is promulgated under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (act) (35 P.S. §§ 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of the act.

D. *Background of the Amendment*

The Commonwealth's Water Quality Standards, which are set forth in part in Chapter 93, implement the provisions of sections 5 and 402 of the act and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards consist of the designated uses of the surface waters of this Commonwealth and the specific numeric and narrative criteria necessary to achieve and maintain those uses.

The GLI requirements, promulgated at 40 CFR Part 132 on March 23, 1995 (60 F.R. 15366), provide for consistent protection for fish and shellfish in the Great Lakes System and the people and wildlife who consume them. The GLI focuses on long-lasting pollutants called bioaccumulative chemicals of concern (BCCs) that accumulate in the food web of large lakes. The major elements of the GLI are: water quality criteria to protect human health, aquatic life and wildlife; methodologies for criteria development; procedures for developing effluent limits for point sources; and antidegradation policies and procedures. States are required to adopt water quality standards, antidegradation policies and implementation procedures "as protective as" the GLI.

The Commonwealth's strategy for complying with the GLI has two major objectives. The first objective is, wherever possible, to provide Statewide consistency, so that unequal requirements are not focused on specific regions of this Commonwealth. The second objective is to provide special protection to the unique resource known as the Great Lakes System in this Commonwealth. To meet these objectives, these amendments apply scientifically sound methodologies from both current practice and as identified in the GLI, Statewide. Exceptions to Statewide procedures are made when the unique character of the Great Lakes System demands special consideration. For example, BCCs pose a particular threat to the Great Lakes because of the long retention of pollutants in the Great Lakes, which contrasts with the ability of streams

to flush out those pollutants by means of their flow. For this reason, application of procedures for BCCs is different for the Great Lakes than in other waters of this Commonwealth.

The Department held several public meetings, met with technical and advisory committees, and made the proposed strategy available for review and comment prior to formally submitting proposed rulemaking to the Board. A public meeting was held in Erie on the requirements of the GLI on September 5, 1995. In February 1996, the Commonwealth's proposed strategy was made available on the world wide web for public comment. Two meetings were also held on June 5, 1996, one with an ad hoc Great Lakes Technical Committee and the second with the public, to discuss the proposed strategy. In addition, the Department has met on several occasions with the Water Subcommittee of the Air and Water Quality Technical Advisory Committee (AWQTAC) to discuss the GLI strategy, and has sent representatives to participate in meetings with the Council of Great Lakes Governors Working Group and Technical Subcommittee, which provides a forum for the states to discuss how each is addressing the GLI requirements. Particular issues were raised and responded to at these meetings.

In addition to these final-form regulations, the Department is incorporating numerous GLI provisions into the statement of policy in Chapter 16 (relating to water quality toxics management strategy). The proposed amendments to the statement of policy were published in the *Pennsylvania Bulletin* on December 28, 1996. The amendments to Chapter 16 are being finalized concurrent with this regulation and are published at 27 Pa.B. 6817 (December 27, 1997).

E. *Summary of Comments and Responses on the Proposed Rulemaking*

The proposed amendments were approved by the Board at its February 18, 1997, meeting, and notice of the proposed rulemaking was published at 27 Pa.B. 1561 (March 29, 1997). The proposal included provisions for a 45-day public comment period and a public hearing to receive additional written and oral testimony on these GLI regulatory amendments. The public hearing was held on May 13, 1997, at the Rachel Carson State Office Building in Harrisburg, but no witnesses came forward to provide testimony. The Board received comments from three commentators during the public comment period the United States Environmental Protection Agency (EPA), Region 3; GENCO, GPU Generation, Inc; and the Independent Regulatory Review Commission (IRRC).

The major comments and responses are summarized as follows: Comments were received concerning definitions for terms included in the regulatory proposal. One commentator stated that the proposed definition for "BCCs" is incomplete because it does not include the specific methodologies for BAFs. The definition has been amended to include reference to the methodologies for BAFs, and has also been moved to § 93.8a(k)(1). Another comment stated that the Department must incorporate the definitions found in 40 CFR 132.2 when state provisions reference GLI requirements. In response, except where a term is defined otherwise in Commonwealth law or regulation, the definitions of terms defined in 40 CFR 132.2 will be utilized in applying Appendix F, Procedure 3.D., and all subparts referenced in that procedure, except when these definitions reference the vacated Procedure 3.C., in which case they will not be used.

As noted by a commentator, there are several water quality regulation amendments under development at

this time. Specific language concerning protection of threatened and endangered species is contained in the antidegradation regulation proposed at 27 Pa.B. 1459. One commentator recommended that, if the entire GLI antidegradation language in Appendix E to 40 CFR Part 132 were not adopted by reference, the Board should explain that position in this order. In accordance with that recommendation, notice is given that implementation measures for the GLI antidegradation provisions will be included in separate guidance documents.

Several comments and recommendations were received concerning Total Maximum Daily Loads (TMDLs) and mixing zones. On June 6, 1997, the United States Court of Appeals for the District of Columbia ruled in *American Iron and Steel Institute v. EPA*, 115 F.3d 979 (1997) that portions of the EPA GLI regulation were invalid. The proposed regulation has been amended accordingly to reflect the court decision. See Part F of this Preamble for details.

The Department has responded to these comments by making appropriate revisions to the proposal as described in Section F of this Preamble. The Department will also develop separate implementation guidance for the GLI provisions.

F. *Summary of Changes to the Proposed Rulemaking*

Based upon questions raised during the public comment period, the development of this final-form rulemaking, and subsequent case law, the Department has revised portions of the proposed regulatory amendments to provide clarification and consistency with the requirements of the GLI provisions as they are to apply in this Commonwealth.

Some of the changes resulted from a court decision. On June 6, 1997, the United States Court of Appeals for the District of Columbia ruled in *American Iron and Steel Institute v. EPA*, that portions of the EPA GLI regulation were invalid. Specifically, the Court vacated: (1) the procedure in Appendix F, Procedure 8.D, insofar as it would impose point source water quality based effluent limitations upon a facility's internal waste streams; (2) the proposed human health and wildlife criteria for polychlorinated biphenyls (PCBs); and (3) Appendix F, Procedure 3.C, and remanded the rule to EPA for further cost-benefit analysis on the effects of eliminating mixing zones for dischargers of BCCs to the Great Lakes Basin.

In light of the *AISI* decision, several changes have been made to the proposed regulation. First, the proposed § 93.8a(k)(1) (relating to development of site-specific water quality criteria) has been eliminated. That section had provided that dischargers of BCCs to waters of the Great Lakes System had to comply with the mixing zone procedures of Appendix F, Procedure 3.C. This change assures that the dischargers are not compelled to follow procedures, including phasing out their mixing zones for BCCs in their discharge by 2007, which have been invalidated. Second, proposed § 93.8a(k)(2) has been modified to provide that TMDLs for Open Waters of the Great Lakes shall be derived following the procedures at Appendix F, Procedure 3.D., including all other subparts referenced in subpart D except Procedure 3.C. This change assures that TMDLs will be derived based on Procedure 3.D, and all subparts referenced in that procedure, except the subpart (3.C) which has been vacated and remanded to EPA for further action.

The revisions from the proposed rulemaking are summarized as follows:

<i>Section</i>	<i>Description of Recommended Revision from Proposed to Final Rulemaking</i>
93.1	<i>Definitions:</i> Definitions for "BAF—bioaccumulation factor," "BCC—bioaccumulative chemicals of concern," "Great Lakes System," and "Open Waters of the Great Lakes" are moved from this section to § 93.8a(k)(1) since they apply specifically to the Great Lakes System. Moreover, except where a term is defined otherwise in Commonwealth law or regulation, the definitions of terms defined in 40 CFR Section 132.2 will be utilized in applying Appendix F, Procedure 3.D., and all subparts referenced in that Procedure, for the derivation of TMDLs in the Open Waters of the Great Lakes System, except when the definitions reference the vacated Procedure 3.C, in which case they will not be used.
93.8	<i>Development of site-specific water quality criteria:</i>
(b)	This paragraph is updated to reference the current version of the EPA Water Quality Standards Handbook (1994).
(f)	For consistency with other revisions, the term "aquatic life" is being deleted from this section which describes site-specific criteria.
93.8a	<i>Toxic substances:</i>
(k)(1)	The new subsection (k), relating to requirements for discharges to the Great Lakes System, is revised by inserting a new § 93.8a(k)(1) adopting the definitions proposed at § 93.1 relating to protection of the Great Lakes System. As a result, the previously proposed paragraphs are renumbered. Proposed (k)(1) is deleted because of new case law.
(k)(2)	A statement is inserted which describes that all other subparts referenced in Subpart D of 40 CFR Part 132, Appendix F, Procedure 3, except Subpart C, shall be followed to derive TMDLs for Open Waters of the Great Lakes System.
(k)(4)	The language relating to economic or social benefits outweighing water quality degradation has been deleted to be consistent with the GLI.

G. *Benefits, Costs and Compliance*

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

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will provide appropriate protection of surface waters in the Great Lakes System, including concerns specific to this Commonwealth.

2. *Compliance Costs*—Discharges to the Great Lakes System, especially to the Open Waters of the Great Lakes, may require alternate disposal methods and the installation of additional technology to meet any more stringent effluent limitations which may result from application of these final-form regulations. Compliance costs may be higher for discharges to these waters, if more stringent effluent limits are needed.

The changes may have some fiscal impact on or create additional compliance costs for the Commonwealth, political subdivisions, local governments and the private sector with wastewater discharges to the Great Lakes System. The number of affected discharges depends on the types and amounts of substances they discharge (whether or

not they are BCCs). Currently, no permitted discharge to the Great Lakes System is known to be discharging BCCs and, therefore, no discharge currently has any effluent limitations for any BCCs.

3. *Compliance Assistance Plan*—The Department plans to educate and assist the affected public with understanding the revised requirements and how to comply with them by developing guidance. Regional Office permitting staff will work with dischargers, where necessary, to assist them in meeting any additional requirements imposed by the GLI. Based on currently available information, significant changes to permit limits and compliance levels are not expected.

4. *Paperwork Requirements*—The regulatory revisions should not have any additional paperwork impacts on the Commonwealth, its political subdivisions and the private sector.

H. *Pollution Prevention*

Pollution prevention approaches to environmental management often provide environmentally sound and longer-term solutions to environmental protection because pollution is prevented at the source. Pollution prevention is defined by the EPA as measures taken to avoid or reduce generation of all types of pollution—solid/hazardous waste, wastewater discharges and air emissions—at their point of origin; however, it does not include activities undertaken to treat, control or dispose of pollution once it is created. The Federal Pollution Prevention Act of 1990 established a National policy and an environmental management hierarchy that promotes pollution prevention as the preferred manner for achieving state environmental protection goals. The hierarchy is as follows:

- a. Pollution should be prevented or reduced at the source.
- b. Pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible.
- c. Pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible to render it less hazardous, toxic or harmful to the environment.
- d. Disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

The short- and long-term health of this Commonwealth's economy depends on clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvanians spend over \$1 billion per year in efforts to control pollutants through regulation of both industrial point discharges and nonpoint sources. To meet the Commonwealth's economic development and environmental protection goals successfully, the Commonwealth needs to adopt programs like pollution prevention that not only protect the environment but also significantly reduce costs and increase the competitiveness of the regulated community. When pollution is prevented up front, it can reduce a company's bottom-line costs and overall environmental liabilities often by getting the company out of the regulatory loop. It also can get the Department out of the business of regulating pollution that may not need to be generated in the first place.

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, these final-form regulations have incorporated the following provisions and incentives to meet that goal:

These final-form regulations are consistent with the GLI provisions that encourage pollution prevention by promoting the development of pollution prevention analysis and activities in the level of detection, mixing procedures and antidegradation. Also, special provisions for BCCs reduce the discharge of these pollutants in the future, and therefore aid in preventing pollution.

I. *Sunset Review*

These final-form regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended. In addition, these final-form regulations are water quality standards which will be reviewed at least triennially, as required by Federal regulations.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 17, 1997, the Department submitted a copy of the proposed rulemaking to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. The notice was published at 27 Pa.B. 1561 (March 29, 1997). In compliance with section 5(b.1) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations, the Board has considered all comments received from IRRC and the public. The Committees did not provide comments on the proposed rulemaking.

These final-form regulations were deemed approved by the House and Senate Committees on October 27, 1997. IRRC met on November 6, 1997, and approved the regulations in accordance with section 5(c) of the Regulatory Review Act.

K. *Findings of the Board*

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 1561.

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

L. *Order of the Board*

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

(a) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapter 93, are amended by amending §§ 93.1, 93.8, and 93.8a to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

JAMES M. SEIF,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

Fiscal Note: Fiscal Note 7-312 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.1. Definitions.

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

* * * * *

Surface waters—Perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds, and constructed wetlands used as part of a wastewater treatment process.

* * * * *

§ 93.8. Development of site-specific water quality criteria.

(a) The Department will consider a request for site-specific criteria for protection of aquatic life, human health or wildlife when a person demonstrates that there exist site-specific biological or chemical conditions of receiving waters or exposure factors which differ from conditions upon which the water quality criteria were based. Site specific criteria may be developed for use only in place of current Statewide or regional (such as the Great Lakes System) criteria. The request for site specific criteria shall include the results of scientific studies for the purpose of:

(1) Defining the areal boundaries for application of the site-specific criteria which will include the potentially affected wastewater dischargers identified by the Department, through various means, including, but not limited to, water quality modeling, the wasteload allocation process or biological assessments.

(2) Developing site-specific criteria which protect its existing use and designated use.

(b) Scientific studies shall be performed in accordance with the procedures and guidance in the Water Quality Standards Handbook (EPA 1994), as amended and up-

dated, guidance provided by the Department or other scientifically defensible methodologies approved by the Department.

(c) This section applies to the criteria in regulations adopted by the EQB, including § 93.5(f) (relating to application of total residual chlorine criteria); § 93.7, Table 3 (relating to specific water quality criteria) or in the statement of policy implementing § 93.8a (relating to toxic substances) set forth at § 16.51 (relating to table) and § 16.61 (relating to water quality criteria for the Great Lakes System); or otherwise forming the basis for effluent limitations established under § 93.7(f). These provisions include criteria developed by the EPA under section 304(a) of the Water Pollution Control Act (33 U.S.C.A. § 1314(a)), and adopted in their original or modified form, and criteria developed by the Department.

(d) Prior to conducting studies specified in subsections (a) and (b), a proposed plan of study shall be submitted to and approved by the Department.

(e) Signed copies of all reports including toxicity test data shall be submitted to the Department within 30 days of completion of the tests.

(f) If as a result of its review of the report submitted, the Department determines that a site-specific criterion is appropriate, the Department will, for site-specific changes to criteria in § 93.5(f) or § 93.7, prepare a recommendation to the EQB in the form of proposed rulemaking, incorporating that criterion for the water body segment. The site-specific changes to the criteria will become effective for the water body segment following adoption by the EQB as final rulemaking and publication in the *Pennsylvania Bulletin*.

(g) A person challenging a Department action under this section shall have the burden of proof to demonstrate that the Department's action does not meet the requirements of this section.

§ 93.8a. Toxic substances.

(a) The waters of this Commonwealth may not contain toxic substances attributable to point or nonpoint source waste discharges in concentrations or amounts that are inimical to the water uses to be protected.

(b) Water quality criteria for toxic substances shall be established under Chapter 16 (relating to water quality toxics management strategy—statement of policy) wherein the criteria and analytical procedures will also be listed. Chapter 16 along with changes made to it is hereby specifically incorporated by reference.

(c) Water quality criteria for toxics substances which exhibit threshold effects will be established by application of margins of safety to the results of toxicity testing to prevent the occurrence of a threshold effect.

(d) Nonthreshold carcinogenic effects of toxic substances, will be controlled to a risk management level of one excess case of cancer in a population of one million (1x10⁻⁶) over a 70-year lifetime. Other nonthreshold effects of toxic substances will be controlled at a risk management level as determined by the Department.

(e) Design conditions for toxics shall be determined under § 93.5(b) (relating to application of water quality criteria to discharge of pollutants), except that for carcinogens, the design stream flow shall be that which results in a lifetime—70 years—average exposure corresponding to the risk management level specified in subsection (d).

(f) The Department will consider both the acute and chronic toxic impacts to aquatic life and human health.

(g) The Department may consider synergistic, antagonistic and additive toxic impacts.

(h) The Department may require effluent toxicity testing as a basis for limiting the addition of toxic substances to waters of this Commonwealth, and may establish water quality based effluent limitations based on the results of effluent toxicity testing.

(i) At intervals not exceeding 1 year, the Department will publish a new or revised water quality criteria for toxic substances, and revised procedures for criteria development in the *Pennsylvania Bulletin*.

(j) A person challenging criteria established by the Department under this section shall have the burden of proof to demonstrate that the criteria does not meet the requirements of this section. In addition, a person who proposes an alternative site-specific criterion shall have the burden of proof to demonstrate that the site specific criterion meets the requirements of this section.

(k) The requirements for discharges to and antidegradation requirements for the Great Lakes System are as follows.

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

BAF—Bioaccumulation Factor—The ratio in liters per kilogram of a substance's concentration in tissues of an aquatic organism to its concentration in the ambient water, when both the organism and its food are exposed and the ratio does not change substantially over time.

BCC—Bioaccumulative Chemical of Concern—A chemical that has the potential to cause adverse effects which, upon entering the surface waters, by itself or its toxic transformation product, accumulates in aquatic organisms by a human health BAF greater than 1000, after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation, under the methodology in 40 CFR Part 132 Appendix B (relating to Great Lakes Water Quality Initiative). Current BCCs are listed in 40 CFR 132.6, Table 6, Subpart A (relating to pollutants of initial focus in the Great Lakes Water Quality Initiative).

Great Lakes System—The streams, rivers, lakes and other bodies of surface water within the drainage basin of the Great Lakes in this Commonwealth.

Open Waters of the Great Lakes—The waters within the Great Lakes in this Commonwealth lakeward from a line drawn across the mouth of the tributaries to the lakes, including the waters enclosed by constructed breakwaters, but not including the connecting channels.

(2) *Total Maximum Daily Loads (TMDLs).* TMDLs for Open Waters of the Great Lakes shall be derived following the procedures in 40 CFR Part 132, Appendix F, Procedure 3, Subpart D (relating to Great Lakes Water Quality Initiative implementation procedures), including all other subparts referenced in Subpart D, except Subpart C.

(3) Statewide antidegradation requirements in Chapters 93 and 95 (relating to water quality standards; and wastewater treatment requirements) and in the Federal regulation in 40 CFR 131.32(a) (relating to Pennsylvania) as applicable, apply to all surface waters of the Great Lakes System.

(4) If, for any BCC, the Quality of the surface water exceeds the levels necessary to support the propagation of

fish, shellfish, and wildlife and recreation in and on the waters, that quality shall be maintained and protected, unless the Department finds that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the surface water is located.

[Pa.B. Doc. No. 97-2079. Filed for public inspection December 26, 1997, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHS. 121—123, 137 AND 139]
Air Quality-RBI 1

The Environmental Quality Board (Board) by this order amends Chapters 121—123, 137 and 139.

The changes to § 121.1 (relating to definitions) conform the definitions related to coke ovens, "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions" to the Federal definitions of these terms. The changes to Chapter 122 (relating to National standards of performance for new stationary sources) incorporate by reference the new source performance standard guidelines established under section 111(d) of the Clean Air Act (42 U.S.C.A. § 7411(d)). The changes to Chapter 123 (relating to standards for contaminants) make this chapter consistent with the maximum achievable control technology (MACT) standards for coke ovens promulgated by the Environmental Protection Agency (EPA) under the Clean Air Act. The change to Chapter 137 (relating to air pollution episodes) eliminates the mandatory requirement for submission of standby plans to address air pollution episodes. The changes to Chapter 139 (relating to sampling and testing) make the provisions for particulate matter testing and monitoring of coke oven emissions consistent with Federal requirements. The changes to Chapter 139 also establish consistent data availability requirements for all continuous emission monitoring systems (CEMS) sources and extend the monitoring provisions applicable to municipal waste incinerators to hospital waste incinerators.

This order was adopted by the Board at its meeting of September 16, 1997.

A. Effective Date

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

B. Contact Persons

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

C. Statutory Authority

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (35 P.S. § 4005(a)(1)), which grants to the Board the authority to

adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. Background and Summary

The Regulatory Basics Initiative (RBI) was announced in August 1995 as an overall review of the Department of Environmental Protection's (Department) regulations and policies. The Department solicited public comments in August of 1995 by giving the regulated community, local governments, environmental interests and the general public the opportunity to identify specific regulations which are either more stringent than Federal standards, serve as barriers to innovation, or are obsolete or unnecessary, or which impose costs beyond reasonable environmental benefits or serve as barriers to adopting new environmental technologies, recycling and pollution prevention.

In February 1996, Governor Ridge executed Executive Order 1996-1 (Regulatory Review and Promulgation) establishing standards for the review, development and promulgation of regulations. The Department's RBI review is consistent with the directions and standards in Executive Order 1996-1. These amendments meet the requirements of Executive Order 1996-1.

These final-form regulations are the first in a series of regulatory proposals implementing changes to the Department's air resource regulations resulting from the RBI. In general, these final changes make the Department's regulations consistent with Federal requirements, delete obsolete and unnecessary provisions and apply the Department's monitoring requirements in a consistent fashion for all affected sources.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of these final-form regulations. At its July 21, 1997, meeting, AQTAC recommended adoption of the final-form amendments.

The Department is modifying the definitions of "coke oven battery," "coke oven gas collector main," "door area," "major modification," "modification," "potential to emit," "responsible official" and "secondary emissions." In each case, the changes make the definitions consistent with Federal definitions of these terms promulgated under the Clean Air Act. The definition of "major modification" does not include the Federal exclusion for combustion of municipal waste and is, therefore, more stringent than the Federal definition. Because of the public concern about municipal waste combustion, the Department is retaining authority to evaluate municipal waste combustion on a case-by-case basis. These final-form regulations also retain the cross reference to § 127.203 for determining what emissions increases are considered significant.

Section § 122.3 (relating to adoption of standards) adopt by reference the Federal new source performance standards promulgated under section 111(b) of the Clean Air Act. The Department is amending § 122.3 to incorporate all Federal standards established under section 111 of the Clean Air Act. The existing language does not incorporate by reference emission guidelines established under section 111(d) of the Clean Air Act. However, Chapter 121 already defines section 111(d) guidelines to be "applicable requirements." The Department's permitting regulations in §§ 127.12(a)(4) and 127.411(a)(5) (relating to content of applications) require permit applicants to demonstrate that they meet all applicable requirements. Consequently, the regulatory modification will simply codify in § 122.3 the Department's existing regulatory requirement. The final-form regulations make clear that

portions of section 111 of the Clean Air Act are applicable to existing air contamination sources.

The amendments to § 123.44 make this regulation consistent with MACT for coke ovens promulgated by the EPA under the Clean Air Act.

The amendments to § 137.4 (relating to standby plans) change the provisions for standby plans to address air pollution episodes. Specifically, in subsection (b), the Department is classifying each county as an area requiring a standby plan based on monitored exceedances of any National ambient air quality standard (NAAQS). The existing regulation lists each pollutant along with its ambient concentration. The Department is referencing the NAAQS as the reference point for determining counties subject to the standby plan requirements. In addition, subsection (c) is being modified to only require standby plans when requested by the Department. This provision will conform § 137.4 to the existing requirements in § 127.411(a)(8). Finally, subsection (f) is being modified to make clear that the standby plan shall be provided to the Department by an individual responsible for the entire facility.

Chapter 139 is being modified in five ways. First, § 139.12 (relating to emissions of particulate matter) deletes a portion of the requirements for particulate matter sampling because the provision is more stringent than the applicable Federal requirement and provides little environmental benefit. Second, §§ 139.61 and 139.62 (relating to requirements; and waiver of certain monitoring requirements) are being deleted. These provisions establish monitoring standards for coke ovens which have been superseded by the promulgation of the coke oven MACT standard by the EPA. This change will make the Commonwealth's regulations consistent with Federal requirements. Third, § 139.101 (relating to general requirements) changes the requirements related to data availability for data captured by a continuous emissions monitor. A general data availability requirement in § 139.101 was adopted in 1990, and CEMS covered in § 139.104 (relating to sulfur dioxide and nitrogen oxides monitoring requirements for combustion sources) were grandfathered. With deletion of § 139.104, the general data availability standard in § 139.101 would apply. CEMS would be required to meet the following minimum data availability requirements: (1) in each calendar month, at least 90% of the time periods for which an emission standard or an operational parameter applies shall be valid; or (2) in each calendar quarter, at least 95% of the hours during which the monitored source is operating shall be valid. Fourth, the Department is deleting the requirements of § 139.104 and establishing these monitoring requirements under the general provisions of § 139.101. Finally, the Department is modifying § 139.111 (relating to waste incinerator monitoring requirements) to apply to hospital waste incinerators as well as municipal waste incinerators. These incinerators, generally, are similar in nature and the monitoring requirements are applicable to both. Section 139.111 also changes the data availability requirements to be consistent with the other proposed changes for continuous emission monitors described previously.

E. Summary of Comments and Responses on the Proposed Rulemaking

The Department received a comment based on section 415 of the Clean Air Act (42 U.S.C.A. § 7651n). The commentator requested a change in the proposed definition of "modification," which is used for purposes of the new source review program, to make the definition

consistent with section 415 of the Clean Air Act. The commentator asserted that under section 415(c) the reactivation of very clean units was exempt from Federal new source review requirements. Section 415 only exempts these units from the new source performance standards (42 U.S.C.A. § 7411) and the requirements for the prevention of significant deterioration contained in Part C of Subchapter I of the Clean Air Act. Section 415 contains no exemption from the new source review requirements of Part D of Subchapter I of the Clean Air Act. In addition, the final rule is consistent with the Federal definition of "major modification."

Another commentator suggested adding a definition of "very clean units." Because there is no corresponding Federal definition, the Department is not making this change. The Department will implement this provision on a case-by-case basis in a manner consistent with Federal guidance developed under the Clean Air Act.

Another commentator recommended changes to § 123.23. The Department's proposal was to implement the MACT standard promulgated by the EPA related to coke oven batteries. The comment received relates to a section of the regulation that was not proposed for amendment; the comment is not required by implementation of the MACT standard for coke oven batteries and relates to pollutants not regulated by the MACT standard. The Department believes this comment enlarges the purpose of the regulatory proposal and cannot be considered at this time. In addition, the Department does not support the change proposed by the commentator because it would allow increased emissions of sulfur oxides from the affected sources. To relax the emission limitations, it would be necessary to submit a revision to the sulfur oxide SIP for the area, including a full modeling demonstration of continued attainment. The commentator has not demonstrated that the increased emissions of sulfur oxides will not jeopardize maintenance of the ambient air quality in the area.

Two commentators suggested modifying the definition of "potential to emit" to include language which would make it clear that secondary emissions are not to be included in the determination of a facility's potential to emit. This change has been made to make the Commonwealth's definition consistent with the Federal definition. One of these commentators also suggested a change to the definition of "fugitive air contaminant." The suggested change would allow fugitive air contaminants if the fugitive emissions did not cause air pollution. The present provisions of § 123.1 (relating to prohibition of certain fugitive emissions) provide for a source operator to obtain an exemption from the prohibition against fugitive emissions if the operator shows that the emissions are not causing air pollution. This proposed change would place the burden on the Commonwealth to prove that fugitive emissions are causing air pollution before action could be taken to require reduction of emissions. The proposed change is not in the best interest of the Commonwealth because it would require excessive resources for the Department to conduct an analysis of each fugitive situation encountered and would eliminate an effective enforcement tool.

One commentator generally supported the revisions, but expressed concerns about elimination of the separate monitoring requirements for NO_x and SO_x from combustion sources and about the practical implications of the proposed revisions to the data availability requirements. The Department believes these revisions are appropriate and has not made modifications to the final-form regulations.

One commentator expressed concern about the Air Pollution Episode Strategy (APES) revisions which would require the submission of plans only at the request of the Department. Presently, essentially all significant sources must develop and maintain plans. Although the requirements for these plans have been in effect for 20 to 25 years, there has not been a need to implement them because of high pollutant levels. The Department believes that there is no compelling reason for requiring the development and submission of plans for facilities in areas for which there is essentially no possibility of ambient pollutant levels exceeding the plan implementation trigger levels. Another commentator pointed out that the Department failed to delete the ozone standard from the APES revisions. The final-form regulations corrects this oversight.

F. Pollution Prevention

The revisions to the definition of "major modification" contained in § 121.1 encourage and support pollution prevention. Under this definition, environmentally beneficial pollution prevention projects do not have to meet Federal requirements related to new source review.

G. Benefits, Costs and Compliance

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

Benefits

Overall, the citizens of this Commonwealth will benefit from these changes because they will make the Department's air quality program consistent with Federal requirements and apply monitoring provisions for affected sources in a consistent manner. These provisions reduce unnecessary paperwork while continuing to provide the appropriate level of air quality protection.

The revisions to the data availability requirements will result in an estimated savings in penalties to the regulated community of approximately \$70,000 per year (1996 data were used). This would be the result of sources under § 139.104 complying with § 139.101. Data from 3rd quarter 1995 through 2nd quarter 1996 were used to estimate savings in penalties.

The revisions to Chapter 122 National standards of performance for new stationary sources provisions are anticipated to result in no additional costs for the regulated community. Savings estimated at \$150,000 to \$250,000/year can be expected after Chapter 122 is revised.

The additional annual cost to coke oven battery operators for providing daily readings to satisfy both current State and Federal regulations is approximately \$190,000. The revisions to the coke oven requirements in §§ 123.44, 139.61 and 139.62 are anticipated to reduce costs to coke oven operators by approximately \$190,000 annually.

The revisions to the particulate sampling requirements in § 139.12 are anticipated to result in annual savings to the regulated community of approximately \$345,000.

The revisions to the APES requirements in Chapter 137 are estimated to reduce costs to the regulated community by approximately \$250,000 annually.

No additional costs or cost savings are predicted to result from the revision of the § 121.1 definitions.

Compliance Costs

These final-form regulations will, in general, reduce compliance costs by deleting unnecessary monitoring, recordkeeping and permitting requirements.

Compliance Assistance Plan

The Department plans to educate and assist the public with understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing regional compliance assistance program.

Paperwork Requirements

The regulatory revisions delete unnecessary paperwork requirements related to permitting standby plans and monitoring.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 1, 1997, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC and the public. These comments are addressed in the comment and response document and Section E of this Preamble. The Committees did not provide comments on the proposed rulemaking.

These final-form regulations were deemed approved by the House and Senate Committees on October 27, 1997. IRRC met on November 6, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

J. Findings of the Board

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 1822.

(4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble and are reasonably necessary to achieve and maintain the National ambient air quality standards.

K. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121—123, 137 and 139, are amended by amending §§ 123.44, 139.12, 139.101 and 139.111 and deleting §§ 139.61, 139.62 and 139.104 to read as set forth at 27 Pa. B. 1822 and by amending § 121.1, 122.3 and 137.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(e) This order shall take effect immediately upon publication.

JAMES M. SEIF,
Chairperson

(Editor's Note: Amendments to § 121.1, which is amended in this document appeared at 27 Pa.B. 5601 (November 1, 1997) and 27 Pa.B. 5683 (November 1, 1997). These amendments will be codified in MTS 278 (January, 1998).)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6128 (November 22, 1997).)

Fiscal Note: Fiscal Note 7-313 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

Coke oven battery—A process consisting of a jointly operated group of slot-type coke ovens, the operation of which results in the destructive distillation of coal by the indirect application of heat to separate the gaseous and liquid distillates from the carbon residue and includes coal preparation, coal charging, coking, separation and cleaning of the distillate, coke pushing, hot coke transfer and coke quenching. A coke oven battery is a single source for the purpose of this article and shall include, but not be limited to, the following, when present: the ovens; coal preheaters; underfiring systems; waste heat stack; offtake piping; flues; closed charging systems; door hoods; and operating equipment including larry cars, jumper pipes, pusher machines, door machines, mud trucks and quench cars associated with the operation of a battery. Existing batteries are identified as follows:

<i>Operator</i>	<i>Plant</i>	<i>Identifying Symbol</i>
Bethlehem Steel	Bethlehem	"2A" (includes batteries #2 and #3), "A"
Erie Coke Corporation	Erie	#1
Koppers Industries	Monessen	#1B, #2 (operated as one battery for purposes of meeting the charging standard)

Coke oven gas collector main—The pipes or ducts by which the gaseous byproducts of coking are transported from the offtake piping of coke ovens to the byproduct plant.

* * * * *

Door area—The vertical face of a coke oven between the bench and the top of the battery and between two adjacent buckstays.

* * * * *

Major modification—

(i) A physical change or change in the method of operation of a major facility that would result in an increase in emissions equal to or exceeding an emission rate threshold or significance level specified in § 127.203.

(ii) A net emissions increase that is significant for VOCs or NO_x will be considered significant for ozone.

(iii) A physical change or change in the method of operation does not include:

(A) Routine maintenance, repair and replacement.

(B) The use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C.A. § 79(a) and (b)) (or any superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act (16 U.S.C.A. §§ 792—825r).

(C) The use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act (42 U.S.C.A. § 7425).

(D) The use of an alternative fuel or raw material by a stationary source which meets one of the following conditions:

(I) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under an operating permit condition.

(II) The source is approved to use under an operating permit.

(E) An increase in the hours of operation or in the production rate, authorized under the conditions of an operating permit.

(F) Any change in ownership at a stationary source.

(G) The addition, replacement or use of a pollution control project at an existing source, unless the Department determines that the addition, replacement or use renders the source less environmentally beneficial, or except when the following apply:

(I) The Department has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emission of any criteria pollutant, VOC or NO_x over levels used for that facility in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any (42 U.S.C.A. §§ 7401—7515).

(II) The Department determines that the increase will cause or contribute to a violation of any National ambient air quality standard or PSD increment, or visibility limitation.

(H) The installation, operation, cessation or removal of a temporary clean coal technology demonstration project, if the project complies with the following:

(I) The SIP.

(II) Other requirements necessary to attain and maintain the National ambient air quality standards during the project and after it is terminated.

(I) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the source. This exemption applies on a pollutant-by-pollutant basis.

(J) The reactivation of a very clean coal-fired electric utility system generating source.

* * * * *

Modification—A physical change in a source or a change in the method of operation of a source which would increase the amount of an air contaminant emitted by the source or which would result in the emission of an air contaminant not previously emitted, except that routine maintenance, repair and replacement are not considered physical changes. An increase in the hours of operation is not considered a modification if the increase in the hours of operation has been authorized in a way that is Federally enforceable or legally and practicably enforceable by an operating permit condition.

* * * * *

Potential to emit—The maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and limitations on hours of operation or on the type or amount of material combusted, stored or processed shall be treated as part of the design if the limitation or the effect it would have on emissions is Federally enforceable or legally and practicably enforceable by an operating permit condition. The term does not include secondary emission from an offsite facility.

* * * * *

Responsible official—An individual who is:

(i) For a corporation: a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or another person who performs similar policy or decision making functions for the corporation, or an authorized representative of the person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for, or subject to, a permit and one of the following applies:

* * * * *

(B) The delegation of authority to the representative is approved, in advance, in writing, by the Department.

* * * * *

(iv) For affected sources:

* * * * *

(B) The designated representative or a person meeting provisions of subparagraphs (i)—(iii) for any other purpose under 40 CFR Part 70 (relating to operating permit programs) or Chapter 127 (relating to construction, modification, reactivation and operation of sources).

* * * * *

Secondary emissions—Emissions which occur as a result of the construction or operation of a major stationary source or major modification of a major stationary source, but do not come from the major stationary source or facility or major modification itself. The secondary emissions shall be specific, well defined, quantifiable and impact the same general area as the stationary source or modification which causes secondary emissions. The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. The term does not include emissions which come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521—7589).

* * * * *

CHAPTER 122. NATIONAL STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

§ 122.3. Adoption of standards.

Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources, promulgated in 40 CFR Part 60 (relating to standards of performance for new stationary sources) by the Administrator of the EPA under section 111 of the Clean Air Act (42 U.S.C.A. § 7411) are adopted in their entirety by the Department and incorporated herein by reference.

CHAPTER 137. AIR POLLUTION EPISODES GENERAL

§ 137.4. Standby plans.

(a) This section applies to the following classes of sources located in the counties identified in subsection (b):

- (1) Coal or oil-fired electric generating facilities.
- (2) Coal or oil-fired steam generating facilities rated at more than 100 million Btu per hour of heat input.
- (3) Manufacturing industries of the following classifications which employ more than 20 employees at any one location:
 - (i) Primary and secondary metals industries.
 - (ii) Petroleum refining and related industries.
 - (iii) Chemical and allied products industries.
 - (iv) Paper and allied products industries.
 - (v) Glass, clay and concrete products industries.
- (4) Municipal and commercial refuse disposal and salvage operations other than incinerators rated at less than 1,000 pounds per hour or refuse.

(5) Other sources determined to be of significance by the Department. The persons responsible for the sources will be so advised by the Department.

(b) The Department will annually classify each county as an area requiring a standby plan based on monitored exceedance of any of the NAAQS.

(c) Any person responsible for the operation of a facility in subsection (a) and located in a county classified in subsection (b) as requiring a standby plan shall submit standby plans for reducing the emission of air contaminants from that facility during alert, warning and emergency levels to the Department within 90 days of the Department's request. The plans shall be designed to reduce or eliminate the emissions of air contaminants in accordance with the objectives in §§ 137.11—137.14 (relating to level actions). The plans shall be in writing on forms published and distributed by the Department and shall identify the approximate amount of reduction of various air contaminants and a description of the manner in which the reductions will be achieved.

(d) If the Department determines that a standby plan does not provide for effectively achieving the objectives in §§ 137.11—137.14, the Department may disapprove the plan, state its reasons for the disapproval and either order the preparation of an amended plan within a time period specified in the order or issue, by order, a plan to replace the disapproved plan.

(e) The Department may amend or otherwise change a standby plan if it determines that good cause exists for the action. An amendment or change will be in writing and will be accompanied by a notice of sufficient cause for the action.

(f) For facilities required to submit standby plans under subsection (e), during a forecast, alert, warning or emergency level, the standby plan shall be made available by the person responsible for the facility to employees of the Department on the premises of the source.

[Pa.B. Doc. No. 97-2080. Filed for public inspection December 26, 1997, 9:00 a.m.]

Title 34—LABOR AND INDUSTRY

UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

[34 PA. CODE CH. 101]

General Requirements

The Unemployment Compensation Board of Review (Board) amends Chapter 101 (relating to general requirements) under the authority of sections 203 and 505 of the Unemployment Compensation Law (law) (43 P. S. §§ 763(d) and 825). These regulations provide guidelines and standards for scheduling and conducting appeal hearings in whole, or in part, by means of telephone.

Purpose of Amendments

The former regulations governing hearings conducted by means of telephone (Subchapter E) expired on April 8, 1994, but telephone hearings continued to be conducted when the parties agreed to be bound by the expired regulations. In addition, minor problems of interpretation were noted in the former regulations. These problems of

interpretation stemmed primarily from minor ambiguities in the regulations that occasionally caused difficulty in application for the parties or the tribunal. These telephone amendments are designed to address these problems by providing clarification and conformity to the *Pennsylvania Code & Bulletin Style Manual*, and, primarily, by improving organization to ensure that telephone hearings are conducted in a uniform manner. The ultimate purpose is to provide fundamental fairness to all parties involved in the appeal process.

Comment and Response Summary

Notice of proposed rulemaking was published at 26 Pa.B. 1141 (March 16, 1996) and afforded a 30-day comment period. Written public comments were received by the Board during the comment period from Carolyn L. Carter, Esquire, of Legal Services, Inc., Lisa Sauder, Esquire, representing various Employment and Security Bureaus of the Department of Labor and Industry (Department), Lea S. Judson (Judson), Irwin W. Aronson on behalf of the Pennsylvania AFL-CIO (AFL-CIO) and Sharon Dietrich, Esquire, of Community Legal Services (CLS). Comments from several unemployment compensation referees (referees) were received outside of the comment period and these were also considered by the Board and the Independent Regulatory Review Commission (IRRC).

The major concerns of the commentators included: (1) out-of-State parties would be scheduled for testimony by telephone even if they were less than 50 miles from the hearing location; (2) the 14-day requirement of notice of a telephone hearing was unnecessarily long; (3) providing stenographic recording of testimony in the event a party objected to their testimony being tape recorded was unnecessary; (4) representation of parties by telephone without approval would be abused by the parties and difficult for the tribunal to administer; (5) the elimination of the sunset and data maintenance provisions might lead to unremedied abuses; and (6) the use of the word "normally" in § 101.127 (relating to purpose and scope) could lead to more telephone hearings.

The final-form regulations were submitted to the standing committees, IRRC and the commentators on or about January 28, 1997. In response to these final-form regulations, comments were received from Carolyn Carter, Lisa Sauder, Lea Judson, Sharon Dietrich and Robert E. Belfanti, Jr. The Board then conferred with IRRC on the points raised by it and the commentators. The major concerns of the commentators for the final-form regulations included: (1) the 7-day requirement of notice of a telephone hearing was too short; and (2) providing an opportunity to waive receipt of the telephone regulations or consent to holding the hearing would be unfair to parties unfamiliar with the telephone hearings.

§ 101.127(a)

The AFL-CIO and IRRC commented that the word "normally" should be deleted from the regulation because there should be an unqualified, regulatory preference for in-person testimony. The AFL-CIO also commented that since the word "compelling" was deleted from the proposed amendments, the word "normally" should also be removed to balance the equation.

The Board retains the word "normally" in this subsection for several reasons as follows: (1) the use of the word "normally" is consistent with the expired regulation and the Board is not aware of any problems associated with its use; (2) the word "normally" is neither a reciprocal nor a balance to the word "compelling," which has been

deleted from the regulation; (3) in-person testimony is normally preferable to telephone testimony, but there can be circumstances, such as those addressed by the regulations, when telephone testimony is entirely appropriate; and (4) these are procedural regulations and rigid policy statements are neither consistent with their purpose nor necessary to their implementation and enforcement.

§ 101.128(a) (relating to scheduling of telephone testimony)

Judson, the AFL-CIO, the CLS and IRRC commented on this subsection. Although very similar to the sunsetted regulation at § 101.122(a), there was concern that the 50-mile limit would not be applied to parties or witnesses that were located just across the State line, and that these parties or witnesses would be permitted to testify by telephone solely because they were located outside of this Commonwealth.

Although the Board does not believe that this "situation" has occurred, or would occur in the future, it has elected to add clarifying language to this subsection. It now provides: "The tribunal may schedule, on its own motion, testimony by telephone of a party or witness when it appears from the record that the party or witness is located at least 50 miles from the location at which the tribunal will conduct the hearing, without regard to State boundaries."

The Board believes that its language is less complex than that suggested by IRRC, yet accomplishes the intent behind the commentators' concern.

The CLS and IRRC also suggested that the Board amend § 101.86 (relating to appeal hearings) to make the regulations more internally consistent. Section 101.86 addresses appeal hearings in general following an appeal from a decision of the Department (Job Center). The Board elects to make no changes to § 101.86 for the following reasons: (1) the Board is reluctant to make unnecessary changes to any regulations outside of those already examined in this rulemaking process; (2) the Board perceives no inconsistency between §§ 101.86 and 101.128(a). Section 101.86 applies to hearings in general. However, if any of the criteria in § 101.128 are inconsistent with § 101.86, the former will control. Therefore, there is no inconsistency between these regulations (See § 101.127(b)); and (3) the Board believes that the language suggested by the CLS would be inconsistent with section 505a of the law (43 P. S. § 825.1), which governs the place of the hearing.

§ 101.128(b)(2)

Judson, the AFL-CIO, some referees and IRRC commented on subsection (b)(2). The major concern of the commentators appears to be that any employment, transportation or medical reason cited by a party or witness would be compelling.

In the final-form regulations submitted by the Board, it amended this subsection to address this perceived ambiguity.

In response to the concerns regarding ambiguity, the Board amended paragraph (2). It now states: "The party or witness is reasonably unable to testify in person due to a compelling employment, transportation, or health reason, or other compelling problem." By modifying the specific problems with the word compelling and "other problems" with the word compelling, it is now clear that any problem must be compelling. The other minor changes to the language were for grammatical purposes.

§ 101.128(c)

Commentators Judson and the AFL-CIO suggested that this subsection requires clarifying language to indicate that only those parties or witnesses scheduled to testify by telephone or identified prior to the taking of testimony may testify by telephone.

The Board added language to clarify this subsection in response to this comment. It now provides: "Only a party or witness scheduled to testify by telephone, or identified prior to the taking of testimony in accordance with § 101.131(f) (relating to conduct of a telephone hearing), may testify by telephone, and the testimony of each other party or witness shall be received in person."

§ 101.128(d)

This was formerly § 101.122(d). The CLS commented that it should be improved and supplemented because in its past experience, the regulation was seldom followed by the referees.

In response, the Board has revised this subsection, utilizing a portion of CLS' proposed language. The subsection now requires the tribunal to promptly rule on a request for telephone testimony after a reasonable attempt has been made to inform the parties of the request, the basis for the request, the regulations under which telephone testimony can be taken, and the right of a party to object. This information and the referee's ruling must also be documented in the record.

§ 101.129(a) (relating to procedures subsequent to scheduling)

The AFL-CIO commented on the changes in wording of this subsection. Although it does not find the change of the word "shall" to "will" objectionable, it is concerned that the word "only" has been deleted. The Board has not made any changes to this subsection in light of this comment, because it does not believe that deleting the word "only" has changed the meaning or purpose of this subsection.

§ 101.130(a) (relating to notice of testimony by telephone and use of documents).

Varying comments were received concerning this subsection. Judson commented that she strongly supports this subsection as proposed. The AFL-CIO commented that the requirement in paragraph (2) is superfluous. Some referees and IRRC commented that the 14-day notice of hearing requirement is too long and unduly delays hearings, and suggested a shorter notice period.

After final-form submission, many commentators expressed the opinion that a 7-day notice period was too short, especially because the regulations require that parties submitting documents must do so 5 days before the hearing.

First, addressing the AFL-CIO's comment, the Board does not agree that having the hearing notice indicate the names of counsel, authorized agents, parties, and witnesses, if known, who are scheduled to appear or testify by telephone is superfluous. Informing parties of information that is known is beneficial to all involved and the Board declines to eliminate this part of the subsection.

With regard to the comments concerning the length of the notice period, after considering the arguments for a 14-day notice period and the arguments for a shorter notice period, the Board has chosen to retain the 14-day notice period as proposed.

Although the Board believes that a shorter notice period could be workable in most cases, after reviewing comments and speaking with IRRC, it realizes that in a small number of instances, 14 days may be needed for mailing the notice. To ensure that parties in all cases receive adequate notice, the Board has reluctantly reinstated the 14-day notice period.

In addition to these comments, some of the referees also indicated that identifying all relevant time zones could prove problematic in that errors can occur in attempting to identify times in other states.

The Board has retained this provision in the regulation but, at the suggestion of IRRC, has rewritten it to require that the hearing notice indicate "the date and time of the hearing in prevailing Eastern time." This revision has been made to address the referees' concerns and to ensure that there will be less confusion on the part of parties and witnesses as to what time they will be contacted to testify by telephone.

The Board has also added two new provisions to this subsection at the suggestion of IRRC. Section 101.130(a)(3), revised since the first submission of final-form regulations, indicates that the notice of hearing will indicate the deadline by which the tribunal is to receive documents, if any, from all parties. Although this information has been a part of the notice of hearing in the past, it will now be a required part of the notice of hearing. The change in language from the first final-form submission is for clarification purposes.

Section 101.130(a)(4) indicates that the notice of hearing will state that the hearing will be tape recorded. This will ensure that all parties will be aware that their telephone testimony will be recorded, before the hearing begins. The Board has declined to include IRRC's suggestion that the regulation should include a statement that a written transcript would be prepared, because a written transcript of a hearing is prepared only if a timely appeal is taken from the referee's decision.

§ 101.130(b)

Judson commented that she strongly supported this subsection as written in the proposed regulations. The AFL-CIO commented that, as written, this subsection provides the referees with discretion to exclude testimony and evidence from consideration if a copy of this subchapter has not been provided to the parties or their counsel/agent, if known. It does not, however, provide any standards by which this discretion is to be exercised.

In an attempt to remedy this problem, the Board had rewritten the second sentence, stating: "If a copy of this subchapter has not been provided to the parties and/or their counsel or authorized agent, if known, in advance of the hearing, testimony and evidence given or taken at the hearing will be excluded from consideration, unless the parties consent or the issue has been waived, and a new hearing in compliance with this subchapter will be scheduled." This final form language gave rise to comments that conveyed a concern that uninformed parties would waive rights of which they were not aware. In an effort to address these concerns, the Board has rewritten this section, which now states: "When testimony by telephone is to be taken, the tribunal will send a copy of this subchapter with the notice of hearing. If the tribunal finds that an unrepresented party has not received a copy of this subchapter, a copy will be provided and the hearing will be rescheduled."

This language will ensure that the unrepresented parties the commentators are concerned about will not be

permitted to waive any rights or give uninformed consent. Those unrepresented parties will be provided a copy of the regulations and another hearing will be scheduled.

§ 101.130(c)

Judson commented that she strongly supports this subsection. Legal Services, Inc. questioned whether "in advance of the beginning of the hearing" was intended to mean the same as "before the beginning of testimony" found in § 101.131(f) (relating to conduct of a telephone hearing), and whether these provisions should be parallel.

"[I]n advance of the beginning of the hearing" is not intended to mean the same thing as "before the beginning of testimony" found in § 101.131(f). The purpose of this subsection, and the language requiring that the parties intending to provide telephone testimony supply the tribunal with those names, locations and telephone numbers "in advance of the beginning of the hearing," is to ensure that the referee will have the names and telephone numbers necessary to make all of the required telephone connections at or shortly before the hearing is scheduled to begin. Without this information in advance, the referee will not know whom to contact, important testimony may be missed, and unnecessary delays may result.

IRRC suggested that this language is intended to prevent surprise and possible prejudice. This is not the case. This position is more accurate in describing the reasoning for the language used in § 101.131(f). See explanation for § 101.131(f).

IRRC also suggested that a minimum time period should be set in advance of the beginning of the hearing in which parties must supply this information. The Board declines to create any arbitrary minimum time period. There are few, if any, problems of parties failing to supply the needed information in reasonable time. Setting an arbitrary time period may create problems where none exist. Therefore, the Board makes no changes to this subsection. See also comments to § 101.131(f).

§ 101.130(d)

Judson and the AFL-CIO commented on this subsection. The AFL-CIO noted that the subsection should state that copies of the documents upon which the initial determination was based should also be sent to the parties' counsel or authorized agent, if known. The Board agrees and has added the necessary language to the end of the second sentence of the subsection. This makes this subsection consistent with the other subsections in this subchapter that require that notification or documents be sent to counsel or authorized agents, if known.

Judson commented that this subsection should clarify that copies of the documents will accompany the notice of hearing whether a party is appearing in person or by telephone.

The subsection provides that copies of the documents will accompany the notices of hearing to all parties. The Board is of the opinion that "all parties" clearly indicates that, regardless of whether parties will appear by telephone or in person, they will receive the documents. Additional language would be redundant.

§ 101.130(e)

The CLS, Judson, the AFL-CIO and IRRC commented on this subsection.

The AFL-CIO commented that by requiring all parties appearing in person to provide documents before the hearing cured a fundamental unfairness. Judson concurred.

The CLS commented that it found the subsection to be confusing as to whether it covers hearing exhibits. The CLS also commented that the subsection is unfair for persons appearing in person to be required to provide documents in advance of the hearing. During a discussion with IRRC after the first final-form submission, it also expressed concern about this language.

Addressing both the comment that the subsection is confusing and IRRC's concerns, the Board has again reworded the regulation in an attempt to clarify and implement its intent. It now states: "When any testimony will be given from or with the aid of a document not previously distributed to the parties by the tribunal, the party expecting to introduce the document shall deliver it to the tribunal, and the tribunal shall distribute it to each other party and, if known, counsel or authorized agent, before or at the beginning of the testimony. The tribunal may require that the documents be delivered up to 5 days in advance of the hearing."

Addressing the fairness of the requirement that all parties be required to provide documents in advance of the hearing, the Board is of the opinion that requiring only the party testifying by telephone to provide documents early would unfairly prejudice that party by denying it access to the in-person party's documents. Clearly, this is not the intent of the telephone regulations.

The Board has provided a notice provision in § 101.130(a), at the suggestion of IRRC, so that all parties will be aware of the document distribution requirement.

The Board has also changed the word "request" in the proposed subsection, to the word "require," which is the word used in sunsetted § 101.124(d). The Board has changed this word to give the tribunal more authority to ensure that the documents are delivered for distribution to all of the parties.

§ 101.131(a)

Commentator Judson suggested additional language for improved clarity. The Board agrees with IRRC that the suggested, additional language is unnecessary and redundant. Therefore, no changes have been made to this subsection.

§ 101.131(b)

The AFL-CIO commented, and IRRC agreed, that in this subsection, if an objection to telephone testimony is sustained, it would be inappropriate to allow another telephone hearing to take place after sustaining the original objection. The Board does not agree with this assessment for the following reasons.

Just because an objection to telephone testimony is sustained, the scheduling of another telephone hearing is not automatically precluded. There are many possible objections. The facts or defects leading to those objections could well be cured and a new telephone hearing scheduled. Examples include: (1) If a party does not receive notice in the required time period, when brought to the attention of the tribunal, a new notice can be sent within the required time; (2) If documents to be used at the hearing were not properly distributed before the hearing, the documents can then be distributed properly. If the problem giving rise to the objection cannot be cured, the regulation, as written, does provide that the hearing can be scheduled in person.

The Board has added, as was suggested in IRRC's comments, the language "in accordance with this subchapter," at the end of this subsection. This was added for clarification purposes.

§ 101.131(c)

Some referees commented that this subsection is time-consuming and should be the subject of an internal procedure.

The purpose of this subsection is to create a clear record of the attempts by the tribunal to complete the telephone contact in an effort to decrease the number of remand hearings due to parties alleging that they were available for the hearing, but did not receive a call from the tribunal.

The Board declines to eliminate this provision from the regulations in light of its stated purpose.

§ 101.131(d)

Comments to this subsection were received from the AFL-CIO, Judson, CLS, the referees and IRRC. The comments addressed the provision for stenographic recording of the hearing if a party or witness objects to having its testimony tape recorded and the objection is sustained by the tribunal, and the fact that the parties and witnesses do not know that their testimony will be tape recorded until the hearing starts since the hearing notice does not provide the information.

Addressing the comment concerning the notice of hearing, the Board has provided in § 101.130(a) that the notice of hearing will now indicate that the hearing will be tape recorded.

IRRC also suggested that the Board retain only the first two proposed sentences of this subsection and delete the remainder, which addresses the tribunal's response to objections and provides stenographic recording as an alternative to tape recording. The Board is in agreement with IRRC's comments concerning the Commonwealth's wiretap statute and its inapplicability to the taping of telephone testimony. Therefore, the Board will delete all but the first two sentences of this proposed subsection.

§ 101.131(f)

Comments were received from Legal Services, Inc., the Department, Judson and the AFL-CIO. Judson supported this subsection and Legal Services, Inc.'s comment was the same as was discussed in § 101.130(c). For the reasons stated therein, the Board declines language changes.

The Department commented that this subsection, as proposed, precludes the possibility of a party reacting to facts provided at the hearing and obtaining a witness for rebuttal.

The hearing notice contains instructions to the parties that they should produce all witnesses with firsthand testimony. In the event that facts of which a party was not aware first surface at a hearing, and the opposing party has not brought those witnesses to rebut the facts, the opposing party may request a continuance to provide or subpoena those witnesses. If the referee denies a continuance and that party receives an unfavorable decision, the aggrieved party can request a remand hearing from the Board. This is the same remedy available for in-person hearings.

For these reasons, the Board declines to make any exceptions to this regulation as suggested by this commentator.

The AFL-CIO expressed concerns that there is no reference to counsel or representatives. This subsection discusses only witnesses and parties, because it addresses situations where testimony is taken from unidentified

witnesses or parties. Since counsel and representatives do not provide testimony, this subsection does not apply to them.

§ 101.131(g)

Judson and the AFL-CIO both asked if, in the absence of any objection from a party, the tribunal would fail to exclude testimony taken in violation of this subsection.

The Board has changed the subsection for clarification. It now states: "No person may prompt or direct the testimony of a witness testifying by telephone. Testimony taken or given in violation of this subsection may be excluded from consideration, with or without an objection from a party."

This change has been made so that it is clear that the tribunal may exclude testimony in violation of this subsection even without an objection from a party.

§ 101.131(h)

The AFL-CIO commented that if testimony taken from a document in violation of the regulations is excluded from consideration, the document from which the testimony is taken should also be excluded, but that the proposed regulation does not so state.

To remedy this deficiency, the Board has added "as will be the document" to the end of the second sentence of this subsection. The subsection now provides that the document from which excluded testimony was taken will itself also be excluded. It is not the intent to exclude otherwise admissible documents.

In addition, the Board, has removed the words "or writing" from this subsection to avoid redundancy.

§ 101.131(i)

In response to the proposed regulations, the AFL-CIO and the Department commented that this subsection seems to require all witnesses to take an oath prior to providing testimony, and that this may prove troublesome to persons who will not or are not permitted to take oaths. In addition, IRRC questioned the use of the word "special."

In response to the submission of final-form regulations, the Department raised the issue that the truthfulness of the testimony should be included in the regulations.

After reviewing the subsection and the various comments, the subsection now states: "The oath or affirmation administered to parties or witnesses testifying by telephone shall indicate that the parties or witnesses will not testify from documents that are not in the record and that their testimony will not be prompted or directed during the hearing by any other person."

An oath or affirmation is administered by the referee at the beginning of every hearing under sections 201, 203 and 506 of the law (43 P. S. §§ 761, 763 and 826). In the instance of a telephone hearing, in addition to the oath or affirmation always being administered, the referee will now include language that the parties or witnesses will not testify from documents not in the record and will not have their testimony prompted or directed by another person. This additional language is to emphasize the restrictions on anyone testifying by telephone and to help ensure that they will comply with the restrictions.

The change in language from the first final-form submission has occurred because, after much consideration, the Board concluded that it was very reluctant to require people to swear or affirm under oath that they would

comply with procedural regulations that are subject to interpretation. The new language now requires people to specifically swear or affirm that they will follow these two specific requirements while testifying by telephone.

In response to IRRC's suggestion that the word "special" be deleted, the Board has done so as it does not find the word "special" necessary.

In response to the comment that some people cannot or will not take an oath, the words "or affirmation" have been added.

In response to the comment that the truthfulness of testimony should be included, the Board again declines to include that in this subsection. The oath administered at every hearing includes a provision that the witnesses will tell the truth. This specific subsection only addresses what needs to be added in the case of a telephone hearing. To add a truthfulness provision would be redundant.

§ 101.132 (relating to representation by telephone)

The AFL-CIO, Judson, CLS, the referees and IRRC were concerned that allowing representation by telephone with no restrictions and for the convenience of the representatives might allow abuse of the use of the telephone hearings for representation, increase costs, increase delays in holding hearings, cause more disruptions and unduly burden the referees in the scheduling and conducting of telephone hearings.

In response to these concerns, the Board has deleted proposed § 101.132 in its entirety, and has replaced it with sunsetted § 101.122(f), which states: "The counsel or authorized agent of a party may appear at a hearing by telephone, with the approval of the tribunal." Thus, approval of the tribunal will be required before a party is permitted to be represented by telephone.

§ 101.133 (relating to data maintenance requirement)

The CLS commented that it opposed the elimination of the data maintenance requirement and the sunset provision because of the potential for abuses in telephone hearings and because of the revisions in the proposed amendments.

IRRC agreed that the Board should continue to maintain data concerning telephone hearings, but stated that it believed the sunset provision to be unnecessary given the fact that these regulations have worked reasonably well in the past and are now being fine-tuned.

In response to IRRC's comments, the Board has added § 101.133 to the final-form regulations. This added section requires the Board to compile and maintain data concerning telephone hearings. The mechanisms for this data gathering are already in place. Nevertheless, the Board rejects the assumption that abuse will occur absent there being regulatory checks in place.

Production of documents under subpoena in a telephone hearing.

The AFL-CIO commented that the regulations do not address the situation where documents are subpoenaed through a subpoena duces tecum, and how these documents should be distributed when a telephone hearing has been scheduled. The AFL-CIO suggested that a regulation is needed to address this situation. IRRC believed the AFL-CIO's comment had merit.

The Board declines to add a regulation addressing this comment for several reasons. First, the Board is aware of no more than a few instances where this situation has presented a problem. Second, in response to those few

instances, administrative steps were taken to cure the problem, that is, including typed instructions on the subpoena itself informing the parties and witnesses that the subpoenaed documents must be delivered to the tribunal in advance of the hearing, for distribution to all parties. It is the Board's opinion that these administrative steps have cured this minor problem and a regulation is not necessary. Regulations that address every potential eventuality would be cumbersome.

Who is Affected by the Final-Form Regulations

Unemployment compensation claimants, employers and their respective representatives (attorneys, paralegals, union representatives, tax consultants, and the like), the Department, and witnesses who participate in appeal hearings where testimony or representation will occur by means of a telephone will be affected. Telephone hearings constitute approximately 6.5% of all hearings conducted.

The final-form regulations will ensure that parties involved in a hearing where testimony is received by means of a telephone will have a fair hearing.

Cost and Paperwork Requirement

There will be negligible cost to the agency to revise the existing regulations and a small number of forms. There will be no costs to local government, the private sector or the general public. Parties who appear by telephone can potentially save money in travel costs and time because their presence at a central location will not always be required.

Sunset Date

The effectiveness of the amendments will be reviewed periodically by the Board. Thus, no sunset date is necessary.

Contact Persons

The contact persons are Clifford F. Blaze, Esq. (717) 783-1232 or Linda S. Lloyd, Esq. (717) 787-8510, Room 1623 Labor and Industry Building Seventh and Forster Streets, Harrisburg, PA 17121.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 26 Pa.B. 1144 to IRRC and the Chairperson of the House Labor Relations Committee and the Senate Labor and Industry Committee for review and comment. In compliance with section 5 (b.a) of the Regulatory Review Act, the Board also provided and the Committees with copies of the comments received.

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

These final-form regulations were deemed approved by the House and Senate Committees on November 20, 1997. IRRC met on November 20, 1997, and approved the regulations in accordance with section 5(c) of the Regulatory Review Act.

Order

The Board orders that:

(a) The regulations of the Board, 34 Pa. Code Chapter 101, are amended by deleting §§ 101.121—101.126 and by adding §§ 101.127—101.133 to read as set forth in Annex A.

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

(c) This order and Annex A shall be certified and deposited with the legislative Reference Bureau as required by law.

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

WILLIAM A. HAWKINS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 6385 (December 6, 1997).)

Fiscal Note: Fiscal Note 12-43 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VI. UNEMPLOYMENT COMPENSATION

CHAPTER 101. GENERAL REQUIREMENTS

Subchapter E. TELEPHONE HEARINGS

§§ 101.121—101.126. (Reserved).

§ 101.127. Purpose and scope.

(a) In-person testimony is normally preferable to testimony by telephone; however, there can be reasons to justify receiving testimony by telephone. This subchapter is promulgated to provide the conditions under which testimony by telephone will be scheduled and received, to safeguard the due process rights of the parties, and to ensure that testimony by telephone is received under uniformly applied rules. Testimony by telephone may be received only if specifically authorized by this subchapter.

(b) When the general rules of this chapter conflict with this subchapter, this subchapter controls.

§ 101.128. Scheduling of telephone testimony.

(a) The tribunal may schedule, on its own motion, testimony by telephone of a party or witness when it appears from the record that the party or witness is located at least 50 miles from the location at which the tribunal will conduct the hearing, without regard to State boundaries.

(b) The tribunal may schedule testimony by telephone of a party or witness, at the request of one or more parties, when one of the following applies:

(1) The parties consent to the receipt of testimony by telephone.

(2) The party or witness is reasonably unable to testify in person due to a compelling employment, transportation, or health reason, or other compelling problem.

(c) Only a party or witness scheduled to testify by telephone, or identified prior to the taking of testimony in accordance with § 101.131(f) (relating to conduct of a telephone hearing), may testify by telephone, and the testimony of each other party or witness shall be received in person.

(d) The tribunal will promptly rule on a request that testimony be taken by telephone after a reasonable attempt has been made to inform the parties of the request, the basis for the request, the regulations under which telephone testimony can be taken, and the right of a party to object. The basis for the request, the position of the parties, if known, and the ruling will be documented on the record.

(e) A party or witness scheduled to testify by telephone will be permitted to testify in person.

§ 101.129. Procedures subsequent to scheduling.

(a) If a party moves to withdraw consent to the receipt of testimony by telephone prior to the taking of testimony, the tribunal will allow the withdrawal if it is found that the consent was not freely and knowingly given.

(b) An objection to the receipt of testimony by telephone shall set forth the reasons in support thereof and shall be promptly communicated to the tribunal, but may not be asserted subsequent to the taking of testimony.

(c) The tribunal will promptly rule on objections to testimony by telephone after a reasonable attempt to obtain the position of the other party. The basis for the objection, the position of the other party, if known, and the ruling will be documented on the record.

§ 101.130. Notice of testimony by telephone and use of documents.

(a) When testimony by telephone is to be taken, the tribunal will mail the notice of hearing to the parties and, if known, to their counsel or authorized agent at least 14 days in advance of the hearing. The hearing notice will indicate:

(1) The date and time of the hearing in prevailing Eastern time.

(2) The names of counsel, authorized agent, parties, and witnesses, if known, who are scheduled to appear or testify by telephone.

(3) The deadline by which the tribunal is to receive documents, if any, from all parties.

(4) The hearing will be tape recorded.

(b) When testimony by telephone is to be taken, the tribunal will send a copy of this subchapter with the notice of hearing. If the tribunal finds that an unrepresented party has not received a copy of this subchapter, a copy will be provided and the hearing will be rescheduled.

(c) A party intending to testify, to offer the testimony of witnesses, or to be represented by telephone, shall, in advance of the beginning of the hearing, supply the tribunal with the name, location and telephone number of the persons who will so appear.

(d) When scheduling a telephone hearing, the tribunal will enclose with the notice of hearing copies of the documents upon which the initial determination was based. These copies will accompany the notices of hearing to all parties, and their counsel or authorized agent, if known.

(e) When any testimony will be given from or with the aid of a document not previously distributed to the parties by the tribunal, the party expecting to introduce the document shall deliver it to the tribunal, and the tribunal shall distribute it to each other party and, if known, counsel or authorized agent before or at the beginning of the testimony. The tribunal may require that the documents be delivered up to 5 days in advance of the hearing. See § 101.131(h) (relating to conduct of a telephone hearing).

§ 101.131. Conduct of a telephone hearing.

(a) Before testimony is received, the tribunal will advise all parties of the right to object to telephone testimony and to request an in-person hearing in compliance with Subchapter B (relating to provisions governing hearings before the Department or referee).

(b) A party may pursue an objection to telephone testimony at the hearing and shall set forth reasons in support thereof. If the objection is sustained, the tribunal will reschedule the hearing at a later date, either in person or by telephone, in accordance with Subchapter B or this subchapter. If the objection is not sustained, the tribunal may proceed with the hearing in accordance with this subchapter.

(c) At the start of the hearing, the tribunal will state on the record the time and telephone numbers at which the tribunal initiates the contact with any party, witness, legal counsel or authorized agent who is to testify or appear by telephone.

(d) The proceedings of the hearing will be tape recorded to preserve the record. A person testifying or appearing by telephone will be advised by the tribunal that the proceedings are being tape recorded.

(e) The tribunal will permit parties a reasonable opportunity to question other parties or witnesses testifying by telephone for the purpose of verifying the identity of the parties or witnesses. Falsification of identity may subject the parties or witnesses to prosecution and punishment.

(f) A party or witness not identified to the tribunal and all other parties before the beginning of the testimony will not be permitted to testify by telephone. Testimony taken or given in violation of this subsection will be excluded from consideration.

(g) A person may not prompt or direct the testimony of a witness testifying by telephone. Testimony taken or

given in violation of this subsection may be excluded from consideration by the tribunal, with or without an objection from a party.

(h) A document not provided as required by § 101.130(e) (relating to notice of testimony by telephone and use of documents) may not be admitted nor testimony given or taken from it unless consent has been requested from and given by all parties. Testimony taken or given in violation of this subsection will be excluded from consideration, as will the document.

(i) The oath or affirmation administered to parties or witnesses testifying by telephone shall indicate that the parties or witnesses will not testify from documents that are not in the record and that their testimony will not be prompted or directed during the hearing by any other person.

§ 101.132. Representation by telephone.

The counsel or authorized agent of a party may appear at a hearing by telephone, with the approval of the tribunal.

§ 101.133. Data maintenance requirement.

The Board will compile and maintain data on the scheduling and receipt of testimony by telephone.

[Pa.B. Doc. No. 97-2081. Filed for public inspection December 26, 1997, 9:00 a.m.]

STATEMENTS OF POLICY

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION
[25 PA. CODE CH. 16]

Water Quality Toxics Management Strategy (Great Lakes Initiative (GLI))

The Department of Environmental Protection (Department) is amending Chapter 16 (relating to water quality toxics management strategy—statement of policy) to implement the Federal Great Lakes Water Quality Guidance (GLI).

The Commonwealth's water quality standards, which are set forth in part in Chapter 93 (relating to water quality standards), implement sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards consist of these designated uses of the surface waters of this Commonwealth and the specific numeric and narrative criteria necessary to achieve and maintain those uses. Chapter 16 is a water quality policy for regulating toxic pollutants in wastewater discharges. It sets forth the guidelines for the development of criteria for toxic substances, and lists water quality criteria and analytical methods and detection limits for toxic substances. Chapter 16 is directly referenced as a support policy document in the Department's toxic substances regulation in § 93.8a (relating to toxic substances).

The GLI requirements, promulgated on March 23, 1995 (60 F. R. 15366), provide for consistent protection for fish and shellfish in all waters of the Great Lakes System and for the people and wildlife who consume them. The GLI focuses on long lasting-pollutants called bioaccumulative chemicals of concern (BCCs) that accumulate in the food web of large lakes. The major elements of the GLI are water quality criteria to protect human health, aquatic life and wildlife, methodologies for criteria development, procedures for developing effluent limits for point sources, and antidegradation policies and procedures. States are required to adopt water quality standards, antidegradation policies and implementation procedures "as protective as" the GLI.

The Commonwealth's GLI strategy has two major objectives. The first is to, wherever possible, maintain Statewide consistency (including equal human health protection), so that unequal requirements are not focused on specific regions of this Commonwealth. The second is to provide a special degree of protection to the unique resource known as the Great Lakes System in this Commonwealth. To meet these objectives, the Department proposes applying scientifically sound methodologies, from both current practice and as identified in the GLI, Statewide. Exceptions to Statewide procedures are made when the unique character of the Great Lakes System demands special consideration. For example, BCCs pose a particular threat to the Great Lakes because of the long retention of pollutants in the Lakes, which contrasts with the ability of streams to flush out those pollutants via their flow. For this reason, application of procedures for BCCs is different for the Great Lakes than in other waters of this Commonwealth.

Prior to publication of the proposed changes, the Air and Water Quality Technical Advisory Committee (AWQTAC) was briefed on several occasions on the GLI and the Commonwealth's proposals. The AWQTAC submitted comments to the Department, which were considered during the development of the policy statement. Public input was solicited through a public meeting in Erie on September 5, 1995, on the requirements of the GLI; the availability of a proposed strategy and request for comments in February 1996 on the Department's Web site; and two meetings on June 5, 1996, one with an ad hoc Great Lakes Technical Committee and the second with the public, to discuss the proposed strategy. In addition, the Department has sent representatives to participate in meetings with the Council of Great Lakes Governors Working Group and Technical Subcommittee, which provide a forum for the states to discuss how each is addressing the requirements of the GLI.

A description of proposed changes to Chapter 16 designed to implement the GLI was published at 26 Pa.B. 6220 (December 28, 1996) (the proposed policy). The proposed changes were developed to complement proposed regulatory changes to Chapter 93. Final GLI regulatory changes were approved by the Environmental Quality Board (Board) on September 16, 1997. Finalization of these changes to Chapter 16 completes the Commonwealth's adoption of GLI related provisions.

The proposed policy provided for a 45-day public comment period. A public hearing on the proposal was held on February 12, 1997, in Erie. During the public comment period, the Department received comments from eight commentators. Based on the comments received, the Department has made several revisions to the proposed policy. The Department will also be developing separate implementation guidance for several of the new GLI provisions.

Contact Persons

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, PO Box 8555, Harrisburg, PA 17105-8555 (express mail: Rachel Carson State Office Building, 400 Market Street, 10th Floor, Harrisburg, PA 17101-2301), (717) 787-9637, or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th floor Rachel Carson State Office Building, PO Box 8465, Harrisburg, PA 17105-8465, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The statement of policy is also available electronically through the Department's Web site (<http://www.dep.state.pa.us>).

Summary of Major Changes and Amendments

Two of the amendments the Department is making to the proposed policy can be considered to be major amendments which involve changes to aquatic life and human health criteria and methodologies for Great Lakes waters.

1. Changes to Aquatic Life Criteria and Methodologies

In the proposed policy, the Department indicated it was not proposing any major changes to the current Statewide aquatic life criteria development procedures and water quality criteria. It also indicated it would not be using the refined database that is included in the GLI, or changing its present policy for using residue based values in the derivation of criteria continuous concentrations (chronic criteria) for mercury. The Department's reasons for not

proposing changes were: (1) the Environmental Protection Agency (EPA) had not endorsed the refined database (which is not Great Lakes specific) for National application; and (2) since the refined database does not provide for any special provisions for the Great Lakes system, Statewide consistency should be maintained.

During the comment period, the Department received several comments that supported its position on maintaining Statewide consistency in the development and application of aquatic life criteria. However, it also received comments from the EPA indicating that some of the criteria the Department proposed retaining were not "as protective as" those required by the GLI. Also, the EPA has now made the new data used in the GLI available for use on a National basis.

On the basis of the EPA's comments, and the fact that the refined data is available for use on a National basis, the Department has changed its position, and is now incorporating (with some minor exceptions) the GLI aquatic life criteria into Chapter 16. This change will, at least temporarily, cause the criteria for the Great Lakes portion of this Commonwealth to be different from the criteria in the remainder of this Commonwealth. The Department will seek public comments on any future proposals to incorporate the GLI criteria Statewide.

2. Changes to Human Health Criteria and Methodologies

In its proposed policy, the Department indicated that, with the exception of health based criteria for BCCs, it intended to retain and use its existing Statewide human health criteria as well as the basis for the criteria, which includes an average daily fish consumption rate of 6.5 grams/day.

In its comments, the EPA indicated that the Department's proposal was satisfactory for carcinogens because (the numerical values of) the Commonwealth's criteria are more stringent than the values in the GLI. (The GLI carcinogen criteria are based on a fish consumption rate of 15 grams/day and a 10^{-5} cancer risk level). However, the EPA also indicated that the Department's proposal for continued use of Statewide criteria for threshold human health pollutants would not be satisfactory, because the statewide values are not as stringent as those included in the GLI. The EPA suggested that for threshold human health criteria, the Commonwealth adopt a fish consumption rate of 15 grams/day.

Two other comments on human health criteria were also received. In one, it was recommended that the Commonwealth adopt the GLI standards (15 grams/day of fish consumption together with a 10^{-5} cancer risk level). In the other, it was recommended that the Commonwealth retain the current Statewide 10^{-6} level of protection, but that it be applied in the Great Lakes region using a fish consumption rate of 15 grams/day.

Based on these comments, the Department has modified the proposed policy. Specifically, the basis for calculation of human health criteria in the Great Lakes system has been modified so that all human health criteria are based on a fish consumption rate of 15 grams/day (and ingestion of 2 liters of water per day). When coupled with 10^{-6} cancer risk level specified in § 93.8a, this increased fish consumption rate results in human health carcinogen criteria for the Great Lakes system that are (about) two times more stringent than in the rest of this Commonwealth, and 10 times more stringent than provided for in the GLI. Threshold human health criteria for the Great Lakes system are also (about) two times more stringent than the rest of this Commonwealth.

The Department believes that this change is consistent with the two objectives enunciated for the GLI. Statewide consistency is being maintained in terms of cancer risk levels, while at the same time, special Great Lakes specific circumstances are being accounted for.

The human health and aquatic life criteria changes described in this summary have been incorporated into § 16.61(b)(4) (relating to special provisions for the Great Lakes System). The previously proposed table of "Great Lakes Human Health Criteria for BCCs" has been deleted and a new table of "Great Lakes Aquatic Life and Human Health Criteria" has been added. The new table contains all criteria developed to this time for the Great Lakes System. Additional criteria will be developed as needed following the methods in § 16.61(b). In addition, a new § 16.61(c) has been added to assure that guidances to implement the GLI will be as protective as the GLI. Additional information about these changes is presented as follows.

Description of Amendments

In addition to the major changes previously described, several other changes have been made to the proposed policy. These changes, and the reasons for them, are described as follows:

<i>Section</i>	<i>Description of Changes</i>
	<i>Changes with Statewide Applicability</i>
16.22(4)	<i>(Aquatic Life) Criteria Development:</i> In the proposed policy, changes were proposed to reference the use of current EPA procedures for whole effluent toxicity testing (WETT) in 40 CFR Part 136. During the review period, it was decided to amend and move these revisions to a new § 16.52 (relating to whole effluent toxicity testing (WETT)). (See Table 1 of Appendix A.)
16.23	<i>Sources of Information:</i> In the proposed policy, the Great Lakes Clearinghouse was proposed to be added as a data source to be used in the future for criteria development. Based on comments and suggestions received during the public comment period, additional modifications have been made to: (1) assure that any updates in the EPA Ambient Water Quality Criteria Development Documents are used in criteria development; and (2) clarify that the Aquatic Toxicity Information Retrieval Data Base (AQUIRE) and the Great Lakes Initiative (GLI) Clearinghouse are examples of aquatic life toxicity data available from the EPA computerized databases.
16.32	<i>Threshold level toxic effects:</i> In the proposed policy, the Department generally retained the procedures and criteria for human health Statewide. A few changes were proposed to incorporate the most recent scientific understanding on certain issues. Subsection (b) was proposed to be modified to add the use of bioaccumulation factors (BAF) in criteria development. Subsection (d) was also proposed to be updated to add the Great Lakes Clearinghouse.

<i>Section</i>	<i>Description of Changes</i>	<i>Section</i>	<i>Description of Changes</i>
	<p>As previously indicated, the Department has revised its proposal regarding human health criteria, and will now use an average fish consumption rate of 15 grams/day for the development of human health criteria for Great Lakes waters. To facilitate this change, language has been added to subsection (b) to create a special fish consumption rate of 15 grams/day for the Great Lakes system.</p> <p>During the public comment period, one commentator pointed out that the reference to a 70 year lifetime exposure is not appropriate for threshold human health criteria. The Department agrees with the comment, and has, therefore, deleted this phrase from subsection (b).</p>		<i>Great Lakes Specific Changes</i>
16.33	<p>Nonthreshold effects (cancer): The proposed policy included minor word changes to subsection (j), and added the use of BAFs in criteria development for carcinogens. The final language includes an updated reference to § 93.8a, which specifies the cancer risk level to be used for the development of carcinogen criteria, and language providing an exception, which is described in § 16.61.</p>	16.61	<p><i>Water Quality Criteria for the Great Lakes System:</i> Several comments were received on the language in this section proposed in December. Some have already been discussed in this description under the major changes and amendments summary.</p> <p>In their comments on subsection (a), the EPA indicated that the proposed paragraph did not include the methodology for deriving criteria for BAFs using 40 CFR Part 132, Appendix B, which apply to all pollutants in the Great Lakes system. In response to this comment, the originally proposed subsection (a) has been deleted. In its place, definitions of "BAF—Bioaccumulation factor," "BCC—bioaccumulative chemical of concern" and "Great Lakes System" have been substituted. These definitions are the same as those in Chapter 93 which were adopted by the EQB as final rulemaking on September 16, 1997.</p> <p>In commenting on proposed § 16.61(b)(1), the EPA emphasized that State procedures for developing aquatic life criteria must produce results that are equal to or more stringent than the GLI criteria developed under GLI methodologies. The criteria for several parameters (Arsenic (III), Chromium (III), Copper, Dieldrin, Mercury (II), Nickel and Parathion) were listed as not meeting this requirement. In response to this comment, the Commonwealth is adopting, with one exception, the GLI aquatic life criteria for Great Lakes waters in this Commonwealth. The GLI Chromium III criteria is not being adopted because Chromium III is controlled by regulating Chromium VI, which is 60 times more toxic than Chromium III.</p> <p>In commenting on proposed § 16.61(b)(2), the EPA stated that State procedures must produce criteria that are equal to or more stringent than the GLI criteria for all human health related parameters. In response to this comment, the Commonwealth is modifying its human health related criteria development methodology so that, for Great Lakes waters only, human health criteria will be based on the consumption of an average of 15 grams/day of fish flesh (as well as 2 liter/day of water.) Specific language providing for this site specific fish consumption rate has been added to § 16.61(b)(2).</p>
16.51	<p><i>Table:</i> In the proposed policy, the discussion preceding the table was amended to include reference to the new Great Lakes System section. During the public comment period, it was pointed out that the reference in the paragraph to Great Lakes waters was incomplete, because it did not include reference to the Genesee River Basin. Appropriate language to include the Genesee Basin has been added.</p>		
Appendix A Table 1	<p><i>Water Quality Criteria for Toxic Substances:</i> In the proposed policy, the table was proposed to be amended to add numeric criteria for Whole Effluent Toxicity Testing (WETT). Two commentators recommended that WETT criteria be included in narrative form in the section that describes WETT. According to the commentators, this would allow the Department to use chemical-specific criteria and effluent limitations in place of WETT limits where it believes that this will provide sufficient aquatic life protection.</p> <p>The Department agrees with the comments and has amended and moved the WETT criteria to a new § 16.52.</p>		
(New) 16.52	<p><i>Whole Effluent Toxicity Testing (WETT):</i> This is a new section which, as indicated in this description, replaces existing § 16.22 (4) (relating to criteria development). It indicates when the Department may require WETT and the basis for evaluating test results. This section also updates the references to the EPA and other test procedures and protocols.</p>		

Section Description of Changes

In commenting on § 16.61(b)(1) and (2), the EPA stated that the GLI requires that where insufficient data are available to develop criteria for a toxic substance, a Tier II value must be developed. The EPA also indicated that the Commonwealth needs to have a procedure consistent with Appendix F, Procedure 5.C for developing data to calculate Tier II values if such data does not currently exist. In response to these comments, the Commonwealth has modified § 16.61(b)(1) to make it clearer that aquatic life criteria for Great Lakes waters will be developed in accordance with the methodologies contained in the GLI and that Tier II values will be developed in accordance with GLI specified methodologies when sufficient data is not available to develop a Tier I criteria, except when whole effluent toxicity testing (for non-BCCs) indicates that development of a Tier II value is not necessary to assure aquatic life protection.

The previously proposed table of "Great Lakes Human Health Criteria for BCCs" has been deleted and a new table of "Great Lakes Aquatic Life and Human Health Criteria" has been added. The new table contains all criteria developed to this time for the Great Lakes System. Additional criteria will be developed as needed following the methods in § 16.61(b). In addition, a new § 16.61(c) has been added to assure that guidances to implement the GLI will be as protective as the GLI.

During the comment period, the EPA requested assurances that the Department would follow implementation guidances that are "as protective as" the methods and procedures contained in the GLI. A new subsection (c) has been added to this section to provide this assurance.

Comment and Response Summary

The Department has prepared a Comment and Response document, which lists all of the comments and responses received on the proposed changes to Chapter 16 that was published on December 28, 1996. Copies are available from the Division of Water Quality Assessment and Standards at the telephone number and address listed in the "Contact Persons" section of this Preamble.

JAMES M. SEIF,
Secretary

(Editor's Note: The regulations of the Department, 25 Pa. Code Chapter 16, are amended by amending §§ 16.22, 16.23, 16.32, 16.33 and 16.51; and by adding 16.52 and 16.61 to read as set forth in Annex A, with ellipses referring to the existing text of the statement of policy.)

Fiscal Note: 7-506. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart A. PRELIMINARY PROVISIONS

ARTICLE I. ADMINISTRATIVE PROVISIONS

CHAPTER 16. WATER QUALITY TOXICS MANAGEMENT STRATEGY—STATEMENT OF POLICY

GUIDELINES FOR DEVELOPMENT OF AQUATIC LIFE CRITERIA

§ 16.22. Criteria development.

The Department will establish criteria for toxic substances to provide for protection of aquatic life in accordance with the following guidelines:

(1) For those toxics for which the EPA has developed criteria in accordance with the National guidelines as set forth in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" (1985), the Department will review and evaluate the criteria. If the Department determines that the criteria are adequate to protect indigenous aquatic communities in the State's waters, these criteria will serve as the basis for establishing effluent limitations. If the Department determines that the EPA National criteria are inappropriate (too lenient or too stringent) the Department will adjust these criteria in accordance with the National guidelines to reflect the levels required for protection of aquatic life in this Commonwealth's waters.

(2) For those toxics for which the EPA has not developed criteria due to an inadequate database to fit the National guidelines, the Department will develop aquatic life criteria using the best scientific information available.

(i) "Best scientific information available" is defined as consisting of all the following components:

(A) Bioassay tests conducted in accordance with standardized methods and procedures.

(B) Bioassay tests conducted with species representative of Commonwealth waters.

(C) Bioassay tests with minimum duration of 48 hours.

(ii) In-stream levels for aquatic life protection will be developed by averaging relevant toxicity data and multiplying by an appropriate application factor. Pollutant specific application factors will be employed if acute and chronic data are available to calculate such a factor. In the absence of the data, the general application factors specified in the NAS "Water Quality Criteria 1972" will be used—0.1 (max) and 0.05 (avg) for nonpersistent pollutants; and 0.05 (max) and 0.01 (avg) for persistent pollutants. A persistent pollutant is defined to be consistent with the previously cited reference as a substance having a half-life of greater than 4 days. Pollutants will be assumed to be persistent unless specific data are available which indicate otherwise.

(3) For those toxics for which there are insufficient data to fit the EPA National Guidelines or Departmental guidelines specified in paragraph (2), the Department will impose criteria to protect Statewide uses in § 93.4 (relating to Statewide water uses), monitor-only requirement-sor technology-based limits until sufficient data become available to develop in-stream criteria for aquatic life protection.

§ 16.23. Sources of information.

The Department will use the following sources of information in establishing criteria for aquatic life protection:

- (1) United States EPA 1986 Quality Criteria for Water (Goldbook).
- (2) United States EPA Quality Criteria for Water—1976 (Redbook).
- (3) Water Quality Criteria 1972 (Bluebook).
- (4) United States EPA Ambient Water Quality Criteria Development Documents and updates.
- (5) Aquatic life toxicity data available in the published scientific literature.
- (6) Aquatic life toxicity data available on EPA computerized databases (for example, AQUIRE, Great Lakes Initiative (GLI) Clearinghouse).

GUIDELINES FOR DEVELOPMENT OF HUMAN HEALTH-BASED CRITERIA

§ 16.32. Threshold level toxic effects.

(a) A threshold effect is defined as an adverse impact that occurs in the exposed individual only after a physiological reserve is depleted. For these effects there exists a dose below which no adverse response will occur. Threshold toxic effects include most systemic effects and developmental toxicity, including teratogenicity. Developmental toxicity includes all adverse effects in developing offspring resulting from prenatal exposure to a causative agent.

(b) Control of threshold toxics is based upon animal testing or epidemiological studies that report no- or low-observed adverse effect levels of the substance (NOAEL or LOAEL). In evaluating a particular toxic, toxicologists weigh the merits of all the tests, and choose, in their best professional judgment, the safe level. By applying standard margins of safety to the NOAEL, extrapolations from the laboratory animals to humans (factor of 10), for sensitive subpopulations (10), and from short-term to chronic studies (10) can be taken into account. An additional factor of 10 is used if only a LOAEL is available. Modifying factors (1—10), which account for deficiencies in the toxicity studies, are also considered in determining an acceptable exposure level. The current term for this acceptable level is reference dose (RfD); it was previously called the acceptable daily intake (ADI). The RfD is adjusted for protection of an average (70 Kg) person. It is then divided by expected exposure condition to result in an applicable criterion. Except as provided in § 16.61(b)(2) (relating to special provisions for the Great Lakes System), exposure conditions via water include 2 liters per day of drinking water and consumption of 6.5 grams of fish per day. Bioaccumulation of toxics in edible portions of fish is accounted for by use of bioaccumulation factors (BAF). BAF is the ratio in liters per kilogram of a substance's concentration in tissues of an aquatic organism to its concentration in

the ambient water, in situations where both the organism and its food are exposed and the ratio does not change substantially over time.

(c) The Department will establish criteria for threshold toxics in accordance with the following guidelines:

(1) If the EPA or other experts have developed criteria, the Department will evaluate and accept the criteria when it is determined that they are adequate to protect the designated water uses.

(2) If the EPA criteria have been evaluated, and have been determined to be inadequate to protect designated uses, or when no criteria have been developed, the Department will collect applicable risk assessment data and develop criteria following standard toxicological procedures.

(3) If no data are available to characterize the hazard of a chemical, no criterion will be developed. The more stringent of technology limits or a criterion to protect the next most sensitive use will be substituted. A threshold criterion will be developed at a future date if information becomes available.

(4) A taste and odor value may be used to establish a criterion when this value is more critical than the threshold criterion, or in the absence of sufficient toxicity data.

(d) The sources the Department uses to obtain relevant risk assessment values for protection for threshold level toxic effects to human health are as follows:

(1) Verified reference doses, listed in the EPA agency-wide supported data system known as IRIS (Integrated Risk Information System), provide the most current risk assessment values for more than 300 chemicals. These values are a primary source for criteria development.

(2) Finalized drinking water health values; that is, Maximum Contaminant Level Goals (MCLGs), are the result of peer-reviewed evaluations of the toxicity of chemicals and are good sources of risk data for ambient water criteria development.

(3) CWA 304(a) health criteria were set in 1980 by the EPA based upon the most current scientific data and are a good source of this information. The EPA updates and additions to the 1980 criteria and development documents and the Great Lakes Initiative Clearinghouse are also good current sources of data.

(4) Teratology data from a peer-reviewed source provide information on criteria for teratogens.

(5) Other sources of toxicity information, such as drinking water health advisories and ambient water quality advisories, are investigated and may be used to set criteria.

§ 16.33. Nonthreshold effects (cancer).

* * * * *

(j) The Department uses a 1×10^{-6} cancer risk level as specified in § 93.8a(d). Attainment of this risk level is predicated on exposure that includes drinking 2 liters of water and ingesting 6.5 grams of fish per day over a 70-year lifetime, except as provided in § 16.61(b)(2) (relating to special provisions for the Great Lakes Systems). Bioaccumulation of carcinogenic toxics in edible portions of fish are accounted for by use of bioaccumulation factors (BAFS).

* * * * *

WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

§ 16.51. Table.

Appendix A, Table 1 lists the human health and aquatic life criteria for toxic substances which the Department will use in development of effluent limits in NPDES Permits. The human health criteria are further defined as to the specific effect (that is, carcinogenicity, taste and odor, general health). For those aquatic life criteria which are hardness related and specified as a formula, such as several of the heavy metals, the Department will use the specific hardness of the receiving stream in calculating criteria on a case-by-case basis. The priority pollutant numbers (PP NO) used by EPA to identify priority pollutants are included in Table 1 for reference purposes. Some of these criteria may be superseded for Drainage Lists E and G (Delaware Estuary), W (Ohio River Basin), X (Lake Erie Basin) and Y (Genesee River Basin) under interstate and international compact agreements with the Delaware River Basin Commission, Ohio River Valley Sanitation Commission and International Joint Commission respectively. See Sections 93.9a—93.9z (relating to drainage lists) for specific parameters and criteria. The criteria in Table 1 are not applicable to the Great Lakes System. Water quality criteria for the Great Lakes System are contained in § 16.61. Criteria may be developed for the Great Lakes System for substances other than those listed in § 16.61 (relating to special provisions for the Great Lakes System) under the methodologies in § 16.61(b).

§ 16.52. Whole Effluent Toxicity Testing (WETT).

The Department may impose WETT requirements on wastewater discharges where it is determined that the testing is necessary to assure the protection of aquatic life. Where WETT is required, the Department will use the criteria of $0.3 TU_A$ (Toxic Units Acute) and $1 TU_C$ (Toxic Units Chronic) as a basis for evaluating test results. WETT shall be conducted in accordance with 40 CFR Part 136 (relating to the establishment of test procedures for the analysis of pollutants), Quality Assurance Quality Control (QA/QC) guidance issued by the Department, or other protocols approved by the Department.

GREAT LAKES SYSTEM

§ 16.61. Special provisions for the Great Lakes System.

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

BAF—Bioaccumulation Factor—The ratio in liters per kilogram of a substance's concentration in tissues of an aquatic organism to its concentration in the ambient water, when both the organism and its food are exposed and the ratio does not change substantially over time.

BCC—Bioaccumulative Chemical of Concern—A chemical that has the potential to cause adverse effects which,

upon entering the surface waters, by itself or its toxic transformation product, accumulates in aquatic organisms by a human health BAF greater than 1000, after considering metabolism and other physiochemical properties that might enhance or inhibit bioaccumulation, under the methodology in 40 CFR Part 132 Appendix B (relating to Great Lakes Water Quality Initiative). Current BCCs are listed in 40 CFR 132.6, Table 6 Subpart A (relating to pollutants of initial focus in the Great Lakes Water Quality Initiative).

Great Lakes System—The streams, rivers, lakes and other bodies of surface water within the drainage basin of the Great Lakes in this Commonwealth.

(b) *Water quality criteria for the Great Lakes System.*

(1) *Aquatic life criteria.* Aquatic life criteria for toxic substances in the Great Lakes System will be developed under the methodologies in § 16.22 (relating to criteria development) to the extent they are consistent with 40 CFR Part 132, Appendix A (relating to Great Lakes Water Quality Initiative methodologies for developments of aquatic life values). If there are insufficient data to develop aquatic life criteria for a toxic substance identified in a discharge into these waters, the Department will develop or require a discharger to develop, subject to Department approval, protective aquatic life values using the methodologies in 40 CFR Part 132, Appendix A and guidance issued by the Department. For non-BCCs, WETT may be used in lieu of Tier II values to determine aquatic toxicity.

(2) *Human health criteria.* Human health criteria for the Great Lakes System will be developed using the methods in §§ 16.32 and 16.33 (relating to threshold level toxic effects; and nonthreshold effects (cancer)), except that fish consumption is 15 grams per day. If there are insufficient data to develop human health threshold criteria for a toxic substance identified in a discharge into these waters, the Department will develop, or require the discharger to develop, subject to Department approval, protective human health values using the methodologies in 40 CFR Part 132, Appendix C, Part III, as it relates to Tier II values, and guidance issued by the Department.

(3) *BAFs.* Human health criteria for BCCs will be developed under the methodologies in 40 CFR Part 132, Appendix B relating to bioaccumulation factors, and will be listed by EPA in the GLI Clearinghouse. Because substances other than BCCs (Non-BCCs) bioaccumulate to a much lesser degree, BAFs for Non-BCCs are similar to bioconcentration factors (BCFs). Field measured BAFs, or BAFs equal to BCFs will be used for the development of non-BCC criteria in the Great Lakes.

(4) *Criteria for Great Lakes System.* Human health and aquatic life criteria for the Great Lakes System are contained in the following table. For any pollutant not listed in the table, criteria to protect existing and designated uses will be developed by the Department as needed in accordance with this section.

GREAT LAKES AQUATIC LIFE AND HUMAN HEALTH CRITERIA

FISH AND AQUATIC LIFE CRITERIA

PP NO	CHEMICAL NAME	CAS NUMBER	CRITERIA CONTINUOUS CONCENTRATION (ug/L)	CRITERIA MAXIMUM CONCENTRATION (ug/L)	HUMAN HEALTH CRITERIA (ug/L)	
2M	ARSENIC	07440382	*148 (As3+)	*340 (As3+)	N/A	
4M	CADMIUM	07440439	*{1.101672-(1n[H]x0.041838)}x Exp(0.7852x1n[H]-2.715) (ex: @H=100, CCC=2.24)	*{1.136672-(1n{H}x0.041838)}x Exp(1.128x1n[H]-3.6867) (ex: @H=100, CMC=4.26)	N/A	
5M	CHROMIUM, VI	18540299	*10.56	*15.73	N/A	
6M	COPPER	07440508	*0.960xExp(0.8545x1n[H]-1.702) (ex: @H=100, CCC=8.96)	*0.960xExp(0.9422x1n[H]-1.7) (ex: @H=100, CMC=13.44)	N/A	
8M	MERCURY	07439976	*0.77	*1.44	0.004	H
9M	NICKEL	07440020	*0.997xExp(0.846x1n[H]+0.0584) (ex: @H=100, CCC=52.01)	*0.998xExp(0.846x1n[H]+2.255) (ex: @H=100, CMC=468.24)	N/A	
10M	SELENIUM	07782492	*4.61	*18	N/A	
13M	ZINC	07440666	*0.986xExp(0.8473x1n[H]+0.884) (ex: @H=100, CCC=118.14)	*0.978xExp(0.8473x1n[H]+0.884) (ex: @H=100, CMC=117.18)	N/A	
14M	CYANIDE, FREE	00057125	5.2	22	700	H
3A	2,4-DIMETHYLPHENOL	00105679	N/A	N/A	400	T&O
5A	2,4-DINITROPHENOL	00051285	N/A	N/A	70	H
9A	PENTACHLOROPHENOL	00087865	Exp(1.005[pH]-5.134) @pH= 6.5 7.8 9.0 Crit = 4.05 14.95 49.95	Exp(1.005[pH]-4.869) @pH= 6.5 7.8 9.0 Crit = 5.28 19.49 65.10	N/A	
3V	BENZENE	00071432	N/A	N/A	1	CRL
7V	CHLOROBENZENE	00108907	N/A	N/A	20	T&O
22V	METHYLENE CHLORIDE	00075092	N/A	N/A	5	CRL
25V	TOLUENE	00108883	N/A	N/A	6000	H
29V	TRICHLOROETHYLENE	00079016	N/A	N/A	3	CRL
33B	HEXACHLOROBENZENE	00118741	N/A	N/A	0.00005	CRL
36B	HEXACHLOROETHANE	00067721	N/A	N/A	0.5	CRL
4P	gamma-BHC (LINDANE)	00058899	N/A	0.95	0.5	H
6P	CHLORDANE	00057749	N/A	N/A	0.00002	CRL
7P	4,4'-DDT	00050293	N/A	N/A	0.00001	CRL
10P	DIELDRIN	00060571	0.056	0.24	0.000006	CRL
14P	ENDRIN	00072208	0.036	0.086	N/A	
18P	PCBs	53469219	N/A	N/A	0.000003	CRL
25P	TOXAPHENE	08001352	N/A	N/A	0.000007	CRL
PP	2,3,7,8-TCDD	01746016	N/A	N/A	9E-10	CRL
—	PARATHION	00056382	0.013	0.065	N/A	

Acronyms and Footnotes to Table

*Indicates dissolved metal criterion; others are total recoverable metals. Each listed dissolved criterion in the Table is equal to the corresponding total recoverable criterion before rounding (from the EPA National Ambient Water Quality Criteria Documents) multiplied by the conversion factor (from the Conversions Factors Table); a criterion that is expressed as a hardness (H)-based equation is shown in the Table as the conversion factor (listed) multiplied by the hardness criterion equation; an example criterion at hardness=100 mg/L is included.

H—Threshold effect human health criterion; incorporates additional uncertainty factor for some Group C carcinogens.

CRL—Cancer risk level at 1 x 10⁻⁶

T&O—Taste and odor criterion.

N/A—Insufficient data to develop criterion.

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(5) *Wildlife criteria.* Wildlife criteria will be developed for the BCCs in the Great Lakes System using methodologies contained in the Great Lakes guidance in 40 CFR Part 132, Appendix D (relating to Great Lakes Water Quality Initiative methodology for the development of wildlife criteria). The wildlife criteria are contained in the following table:

GREAT LAKES WILDLIFE CRITERIA TABLE

PP NO.	CHEMICAL NAME	CRITERION (ug/L)
7-9P	DDT & METABOLITES	0.000011
8M	MERCURY	0.0013
18-24P	PCBS (TOTAL)	0.00012
PP	2,3,7,8-TCDD	3.1 E-9

(6) *Additional requirements.* Additivity of toxic effects for chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans will be accounted for under 40 CFR Part 132, Appendix F, Procedure 4 (relating to Great Lakes Water Quality Initiative implementation procedures).

(c) The Department will follow guidance that is as protective as the final water quality guidance for the Great Lakes System in 40 FR 15366 (March 23, 1995), as updated and amended.

[Pa.B. Doc. No. 97-2082. Filed for public inspection December 26, 1997, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH 60]

Commercial Motion Pictures

The Department of Revenue (Department) has adopted a statement of policy under the authority contained in § 3.2 (relating to statements of policy) regarding commercial motion pictures to read as set forth in Annex A.

This statement of policy adds § 60.22 (relating to commercial motion pictures) and will take effect upon publication in the *Pennsylvania Bulletin*.

The Department is setting forth its interpretation of section 204(54) of the Tax Reform Code (72 P. S. § 7204(54)) as amended by the act of May 7, 1997 (P.L. _____, No. 7) regarding the sales and use tax exclusion for the sale at retail to or use by a producer of commercial motion pictures of any tangible personal property directly used in the production of a feature-length commercial motion picture distributed to a National audience.

Subsection (a) sets forth the definition of various terms for use in § 60.22. Subsection (b) details the scope of the exclusions for commercial motion pictures. To effect Legislative intent, the Department has added language in § 60.22(b)(2)(ii). If this subparagraph were not added, the purchase of the tangible personal property would be exempt but the repair or alteration would be subject to tax. For example, the purchase of film would be exempt but the development charges would be subject to tax which clearly is not the Legislative intent. Subsection (c) describes the treatment of property and services purchased for resale. Subsection (d) provides that charges to install, repair, maintain or service equipment, parts, tools and supplies directly used in the production of a commercial motion picture are exempt from tax. Subsection (e)

explains that utilities used directly and exclusively in the production of a commercial motion picture are exempt from tax. Examples of taxable and exempt electricity usage are provided. An explanation regarding the use of exemption certificates is set forth in subsection (f).

Specific questions relating to information provided in this statement of policy may be directed to the Department of Revenue, Office of Chief Counsel, Dept. 281061, Harrisburg, PA 17128-1061.

ROBERT A. JUDGE, Sr.,
Secretary

Fiscal Note: 15-401. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE II. SALES AND USE TAX

CHAPTER 60. SALES AND USE TAX

PRONOUNCEMENTS—STATEMENTS OF POLICY

§ 60.22. Commercial motion pictures.

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

Commercial motion picture—A series of related images at least 40 minutes in length either on film, tape or other similar medium, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced for distribution to a National audience. The term does not include motion pictures produced for private noncommercial use, including motion pictures of weddings or graduations to be used as family mementos, accident reconstruction videotapes to be used for legal analysis or student films to be used for class projects.

Distribution to a National audience—Distribution by means of theatrical release or for exhibition on National television by a television network or through syndication.

Producer—A purchaser who is responsible for the production of a commercial motion picture.

(b) *Scope.*

(1) The sale at retail to or use by a producer of tangible personal property directly used in the production of a commercial motion picture distributed to a National audience is exempt from sales and use tax.

(2) The production of a commercial motion picture involves the process of recording the actions taken place within the motion picture and includes the actual shooting of the picture, either on location or at a motion picture studio, as well as the editing, dubbing and mixing of the motion picture.

(i) Examples of tangible personal property that may be directly used in the production of a commercial motion picture include film and tape products; set construction equipment and supplies; props, including livestock, motor vehicles, books, paintings and other tangible personal property when photographed as part of a scene; wardrobe; grip and lighting equipment; cameras; camera mounts including tripods; jib arms; steadicams; cranes; dollies; generators; walkie talkies; boats, trains, helicopters, airplanes, vans, trucks or other motor vehicles specifically equipped for motion picture production or used solely for production activities, wardrobe and makeup trailers, special effects and stunt equipment, video assists, videotape

recorders, cables and connectors, sound recording equipment, and editing, dubbing and mixing equipment.

(ii) Examples of services performed upon tangible personal property that may be directly used in the production of a commercial motion picture include sound or music recording; creation of special effects or animation on film, tape or other audiovisual medium, including animation drawings, inkings, paintings, tracing and celluloid "cels"; preparation of storyboards for either animation or live photography; technological modification, including colorizing; computer graphics, including transfers of computer graphics on computer-generated media; sound dubbing or sound mixing; sound or music or effect transferring; film or tape editing or cutting; developing or processing of negative or positive prints; timing; coding or encoding; creation of opticals, titles, main or end credits; captioning; and medium transfers (for example, film to tape, tape to tape).

(3) The exclusion from sales and use tax provided for property and services directly used in production does not apply to either of the following:

(i) The purchase of property used for administrative purposes. Administrative purposes include such activities as sales promotions, general office work, ordering and receiving materials, making travel arrangements, the preparation of shooting schedules and the preparation of work and payroll records.

(ii) The purchase of catering services, as well as secretarial services, disinfecting or pest control services, building maintenance or cleaning services, help supply services, lawn care services, self-storage services and employment agency services, as such terms are defined under section 201 of the TRC (72 P. S. § 7201). Charges for employment agency services provided by theatrical employment agencies and motion picture casting bureaus are not subject to sales or use tax.

(4) When a single unit of tangible personal property is used in two different activities, one of which is a direct use and the other of which is not, the property is not excluded from tax unless the producer makes use of the property more than 50% of the time directly in the production phase of a commercial motion picture.

(c) *Property and services purchased for resale.*

(1) A producer may make certain purchases for resale. Materials and services on these materials that will become a component of the product sold may be purchased exempt from tax, if a properly completed exemption certificate, Form PA-1220, is issued to the supplier.

(2) For example, the original negative is the medium (film, tape, and the like) first used in the camera when photographing live action, special effects, animation, com-

puter generated images, and the like. The developing of the film is a service that is purchased for resale because the producer is selling the film on which the service is being performed.

(d) *Installation, repair, maintenance and service of tangible personal property.* Charges to install, repair, maintain or service equipment, parts, tools and supplies directly used in the production of a commercial motion picture are exempt from sales and use taxes. Examples of these services include:

(1) Installing illumination lighting and sound equipment.

(2) Installing special effects riggings.

(3) Connecting wiring from electrical sources to production equipment.

(e) *Utilities used in production.* Utilities used directly and exclusively in the production of a commercial motion picture are exempt from tax. The following are examples of taxable and exempt electricity usage:

(1) Electricity used for set lighting is exempt.

(2) Electricity used in a mobile trailer maintained for actors is taxable.

(3) Electricity used to light and heat a temporary or permanent office is taxable.

(f) *Exemption certificates.*

(1) A producer shall furnish a properly completed Pennsylvania exemption certificate, Form PA-1220, to its vendors to:

(i) Exclude purchases of tangible personal property that becomes a physical component part of the commercial motion picture and is actually transferred to the customer (for example, resale).

(ii) Exclude purchases of qualifying production machinery, equipment, parts, tools or supplies for use directly in the production of a motion picture. This certificate shall also be furnished to those who install, repair, maintain or service the exempt machinery, equipment, parts, tools or supplies. To claim this exclusion, the producer shall state on the certificate in the space marked "Other" the following: "Property or services shall be directly used in the production of a commercial motion picture under section 204(54) of the TRC (72 P. S. § 7204(54))."

(2) A properly completed exemption certificate shall be furnished and accepted in good faith no later than 60 days after delivery of the property or service or the sale will be considered a taxable sale.

[Pa.B. Doc. No. 97-2083. Filed for public inspection December 26, 1997, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 16, 1997.

BANKING INSTITUTIONS

Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-16-97	PSB Interim Bank East Berlin Adams County	East Berlin	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-10-97	Peoples State Bank of Wyalusing Wyalusing Bradford County Purchase of assets/assumption of liabilities of three branch offices of Northern Central Bank, Williamsport, located at: Route 220 P. O. Box A New Albany Bradford County Main Street Ulster Bradford County	Wyalusing Eagles Mere Avenue Eagles Mere Sullivan County	Filed
12-11-97	Port Richmond Savings, Philadelphia, and Fillmore Building and Loan Association, Philadelphia Surviving Institution— Port Richmond Savings, Philadelphia	Philadelphia	Effective
12-16-97	Farmers Trust Bank, Lebanon, and Lebanon Valley National Bank, Lebanon Surviving Institution— Farmers Trust Bank, Lebanon, with a change in corporate title to "Lebanon Valley Farmers Bank"	Lebanon	Filed
12-16-97	Fulton Bank Lancaster Lancaster County Purchase of assets/assumption of liabilities of 11 branch offices of Lebanon Valley Farmers Bank, located at: 922 Columbia Avenue Lancaster Lancaster County	Lancaster 201 West Main Street New Holland Lancaster County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	2296 South Market Street Elizabethtown Lancaster County	4807 Jonestown Road Harrisburg Dauphin County	
	1713 West Main Street Ephrata Lancaster County	38 East Roseville Road Lancaster Lancaster County	
	792 New Holland Avenue Lancaster Lancaster County	Route 23 & Summit Drive Silver Spring Lancaster County	
	1212 Cocoa Avenue Hershey Dauphin County	Route 501 at Newport Rd. Lititz Lancaster County	
	1195 Manheim Pike Lancaster Lancaster County		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-11-97	Berks County Bank Reading Berks County	742 E. Philadelphia Ave. Douglass Township Montgomery County	Filed
12-12-97	Jefferson Bank Haverford Montgomery County	7500 Bustleton Avenue Philadelphia Philadelphia County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-15-97	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	<i>To:</i> 729 Locust St. West Cornwall Twp. Lebanon County	Authorization Rescinded
		<i>From:</i> 36 Burd Coleman Road Cornwall Lebanon County	

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-12-97	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	36 Burd Coleman Road Cornwall Lebanon County	Filed
12-15-97	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	1288 North Mountain Rd. Harrisburg Dauphin County	Filed
12-15-97	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	20 East Main Street Fairfield Adams County	Filed
12-15-97	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	1150 Muhlenberg Street Reading Berks County	Filed

SAVINGS ASSOCIATIONS
Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
12-11-97	Feltonville Building and Loan Association, Philadelphia, and Cornerstone Building and Loan Association, Glenside— Surviving Institution— Feltonville Building and Loan Association, Philadelphia, with a change in corporate title and principal place of business to "Cornerstone-Feltonville Building and Loan Association," Glenside	Philadelphia	Approved

CREDIT UNIONS

No activity.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 97-2084. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF BANKING

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of January 1998

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of January, 1998, is 8 3/4%.

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 his 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 6.18 to which was added 2.50 percentage points for a total of 8.68% that by law is rounded off to the nearest quarter at 8 3/4%.

RICHARD C. RISHEL,
Secretary

[Pa.B. Doc. No. 97-2085. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

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

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

PA 0055166. Sewage, **Andrew C. Azzara**, 1650 Mill Road West, Furlong, PA 18925.

This application is for renewal of an NPDES permit to discharge treated sewage from Azzara Residence STP into dry swale tributary to Neshaminy Creek in Buckingham Township, **Bucks County**. This is an existing discharge to Dry Swale to Neshaminy Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 500 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N) (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 2.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

Other Conditions:

The EPA waiver is in effect

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.

PA 0061930. Sewerage, **Golden Oaks Village, Inc.**, R. R. 5, Box 5199, 209 Executive Plaza, East Stroudsburg, PA 18301.

This proposed action is for issuance of an NPDES permit to discharge treated sewage into Black Creek in Kidder Township, **Carbon County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing proposed downstream potable water supply (PWS) considered during the evaluation is Northampton Municipal Authority located on the Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of .0497 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	6
NH ₃ -N (5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Dissolved Oxygen	a minimum of 6 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—9.0 standard units at all times	

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	1.2	2.8

The EPA waiver is in effect.

PA 0025224. Sewerage, **St. Clair Sewer Authority**, 16 South Third Street, St. Clair, PA 17970.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Mill Creek in East Norwegian Township, **Schuylkill County**.

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

The proposed effluent limits for Outfall 001 based on a design flow of 0.68 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0—9.0 standard units at all times		
Total Residual Chlorine (1st Month—24th Month)	monitor and report		
(25th Month—Expiration)	1.0		2.0

Point sources 002 through 008 serve as combined sewer reliefs necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. In accordance with the Department's EPA approved CSO strategy, a special permit requirement is included in Part C of this permit. The permittee shall develop and submit a plan of action and an implementation schedule as provided for in the permit.

This permit is also subject to the following Part C Special Conditions: Combined Sewer Overflows.

The EPA waiver is in effect.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

PA 0087718. Industrial waste, SIC: 2421, **Genwove U. S. Ltd.**, Route 915, Intersection I-70, Crystal Spring, PA 15536.

This application is for issuance of an NPDES permit for a new discharge of treated industrial waste to dry ditch and into a natural wetland, in Brush Creek Township, **Fulton County**.

The receiving stream is classified for HQ-CWF, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the proposed downstream potable water supply intake considered during the evaluation was at Saxton located in Raystown Branch at Juniata. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.00075 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD ₅	monitor and report	XXX	monitor and report
COD	monitor and report	XXX	monitor and report
Total Zinc	monitor and report	XXX	monitor and report
Total Copper	monitor and report	XXX	monitor and report
pH		6.0—9.0 su	

The EPA waiver is in effect.

The proposed effluent limits for Outfall 002 for stormwater are:

<i>Parameter</i>	<i>Units</i>	<i>Sample Type</i>	<i>Measuring Frequency</i>
CBOD ₅	mg/l	1 grab	1/6 months
COD	mg/l	1 grab	1/6 months
Oil and Grease	mg/l	1 grab	1/6 months
pH	S.U.	1 grab	1/6 months
Nitrate plus Nitrite Nitrogen	mg/l	1 grab	1/6 months
Total Suspended Solids	mg/l	1 grab	1/6 months
Dissolved Iron	mg/l	1 grab	1/6 months

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 327-3666.

PA 0209520. Sewerage, SIC: 4952, **LeRaysville Borough**, P. O. Box 42, LeRaysville, PA 18829-0042.

This proposed action is for new of an NPDES permit for a new discharge of treated sewage wastewater to Unnamed Tributary of Rockwell Creek in LeRaysville Borough, **Bradford County**.

The receiving stream is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is assumed to be NY/PA border.

The proposed effluent limits for Outfall 001, based on a design flow of 0.035 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
TSS	30	45	60
Ammonia-N			
(6-1 to 10-31)	3	4.5	6
(11-1 to 5-31)	9	13.5	18
Total Cl ₂ Residual	0.3		0.8
Fecal Coliforms			
(5-1 to 9-30)		200 col/100 ml as a geometric mean	
(10-1 to 4-30)		2,000 col/100 ml as a geometric mean	
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0209511. SIC: 4952, **Sullivan Township**, P. O. Box 84, Mainesburg, PA 16932.

This proposed action is for a new NPDES permit for discharge of treated sewage to Corey Creek in Sullivan Township, **Tioga County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is located at Mansfield.

The proposed effluent limits for Outfall 001, based on a design flow of 0.015 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Total Chlorine Residual	1.0		2.3
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	
pH		6.0—9.0 su at all times	

The EPA waiver is in effect.

PA 0209546. Sewerage, SIC: 4952, **Gerhard Scherffel**, R. D. 1, Box 247, Mansfield, PA 16933.

This proposed action is for issuance of an NPDES permit for a new discharge of treated sewage wastewater to unnamed tributary of North Elk Run in Charleston Township, **Tioga County**.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is the PA/NY border located on the Tioga River 30 river miles downstream.

The proposed effluent limits for Outfall 001, based on a design flow of 1,300 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	10		20
TSS	20		40
Free Cl ₂ Residual		report	
Fecal Coliforms		200 col/100 ml as a geometric mean	
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

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

PA 0204943. Industrial waste, SIC: 4914, **Borough of Glen Campbell**, P. O. Box 43, Glen Campbell, PA 15742-0043.

This application is for renewal of an NPDES permit to discharge treated process water from Glen Campbell in Glen Campbell Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to Cush Creek, classified as a cold 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 Clearfield Municipal Authority, located at Clearfield, 46 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.0009 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 (mgd)	monitor and report				
Aluminum			4.0		8.0
Iron			2.0		4.0
Manganese			1.0		2.0
Total Suspended Solids			30		60
Total Residual Chlorine (1st month—36th month)	monitor and report				
(37th month—expiration)			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

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

PA 0222399. Industrial waste, SIC: 4151, **Decker Transportation, Inc.**

This application is for a new NPDES permit, to discharge industrial waste to an unnamed tributary to Kiantone Creek in Farmington Township, **Warren County**. This is a new discharge.

The receiving water is classified for the following uses: CWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at Emlenton, approximately 138 miles below point of discharge.

The proposed discharge limits, based on a design flow of 0.0186 mgd, are:

Outfall No. 002

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	monitor and report		
Oil and Grease	15		30
CBOD ₅	50		100
Dissolved Oxygen	minimum 3.0 mg/l at all times		
Total Residual Chlorine	0.5		1.2
Lead	0.057		0.14
Mercury	monitor and report		
Aluminum	2.0		5.0
Total Iron	3.5		7.0
Dissolved Iron	1.2		3.0
pH	6.0—9.0 at all times		

Outfall No. 001

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	monitor and report		
Oil and Grease	monitor and report		
pH	monitor and report		

The EPA waiver is not in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management and total residual chlorine control (TRC). Any major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

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

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

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

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

Southcentral Regional Office, Water Management Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0043028	Brubaker MHP P. O. Box 248 Cider Press Rd. Manheim, PA 17545-0248	Lancaster Co. Rapho Twp.	Chickies Creek	TRC
PA 0080811	Mt. View Terrace MHP Box 278 King of Prussia, PA 19406	York Co. Newberry Twp.	UNT to Conewago Crk.	TRC

**DISCHARGE OF CONTROLLED INDUSTRIAL
WASTE AND SEWERAGE WASTEWATER**
**Applications under the Pennsylvania Clean
Streams Law**
(Part II Permits)

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

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest or protests. Each commentator will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of

each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

**Industrial waste and sewerage applications under
The Clean Streams Law (35 P. S. §§ 691.1—
691.1001).**

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

2397413. Sewerage. **Nick Kemp**, 1971 Kimberwick Road, Media, PA 19063. Construction of a sewage treatment plant to serve Kemp residence located in Upper Providence Township, **Delaware County**.

0997410. Sewerage. **Township of Buckingham**, P. O. Box 413, Buckingham, PA 18912-0413. Construction to upgrade existing pump station located in Buckingham Township, **Bucks County**.

2397414. Sewerage. **Concord One Associates**, 234 North James Street, Newport, DE 19804. Modifications to the on site wastewater treatment plant to serve Chadds Ford Ramada Inn located in Concord Township, **Delaware County**.

Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

A. 0183401 (97-1). Sewage, submitted by **Littlestown Borough Authority**, 46 East King Street, Littlestown, PA 17340-1612 in Union Township, **Adams County** to rerate their existing wastewater treatment plant was received in the Southcentral Region on December 1, 1997.

A. 66S040 (97-1). Sewage, submitted by **Borough of Bernville**, P. O. Box 73, Bernville, PA 19506 in Bernville Borough, **Berks County** to construct and install a chlorination/dechlorination treatment facility was received in the Southcentral Region on December 1, 1997.

A. 2179410 (97-1). Sewage, submitted by **Carlisle Suburban Authority**, 240 Clearwater Drive, Carlisle, PA 17013 in North Middleton Township, **Cumberland County** to rerate their existing wastewater treatment plant was received in the Southcentral Region on November 26, 1997.

A. 0173403 (97-1). Sewage, submitted by **New Oxford Municipal Authority**, 409 Water Works Road, New Oxford, PA 17350-1511 in Oxford Township, **Adams County** to construct alterations and additions to its wastewater treatment plant to increase the hydraulic and organic capacity was received in the Southcentral Region on December 2, 1997.

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

A. 6377209, Amendment No. 1. Industrial waste, **Allegheny Power**, 800 Cabin Hill Dr., Greensburg, PA 15601. Application for the construction and operation of a wastewater treatment facility to serve the Mitchell Power Station located in the Township of Union, **Washington County**.

A. 0279411. Sewerage, **McCandless Township Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237. Application for the replacement of the existing wetwell/drywell pump station with a submersible pump station which will include installation of metering capabilities and emergency generator for backup to serve the Busch Pump Station Upgrade Project located in the Township of McCandless, **Allegheny County**.

A. 0497406. Sewerage, **Virginia Pagani**, 267 West High St., East Palesting, OH 44413. Application for the construction and operation of a single residence plant to serve the Pagani Residence located in the Township of South Beaver, **Beaver County**.

A. 3297409. Sewerage, **Glen Gomish**, R. R. 2, Box 880, Homer City, PA 15748. Application for the construction and operation of a single residence sewage treatment plant to serve the Gomish Residence, located in the Township of Black Lick, **Indiana County**.

A. 5697404. Sewerage, **RoxCoal, Inc.**, 2851 Stoystown Rd., Friedens, PA 15541. Application for the construction and operation of a Sewage Treatment Plant to serve the Barbara No. 2 Mint located in the Township of Stonycreek, **Somerset County**.

Northwest Regional Office, Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

WQM Permit No. 6297410. Sewage, **Fred J. and Katherine Kemp Jensen**, SRSTP, R. D. 1, Box 14A,

Columbus, PA 16405. This project is for the construction of a single residence sewage treatment plant in Columbus Township, **Warren County**.

INDIVIDUAL PERMITS (PAS)

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments 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 the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

NPDES Permit No. PAS10-G296. Stormwater. **Toll Brothers**, 3103 Philmont Avenue, Huntingdon Valley, PA 19006, has applied to discharge stormwater from a construction activity located in West Whiteland Township, **Chester County**, to Valley Creek.

NPDES Permit No. PAS10-T097. Stormwater. **The Cutler Group, Inc.**, 5 Sentry Parkway West, Suite 100, Blue Bell, PA 19422, has applied to discharge stormwater from a construction activity located in Lower Providence Township, **Montgomery County** to an unnamed tributary to Skippack Creek.

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

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

NPDES Permit PAS10Q147. Stormwater. **Jaindl Land Company**, 3150 Coffeetown Road, Orefield, PA 18069 has applied to discharge stormwater from a construction activity located in Upper Macungie Township, **Lehigh County**, to Little Lehigh Creek.

Northampton County Conservation District, District Manager, R. R. 4, Nazareth, PA 18064, (610) 746-1971.

NPDES Permit PAS10U085. Stormwater. **James Carty**, 2796 Mountain View Avenue, Bath, PA 18014 has applied to discharge stormwater from a construction activity located in Bushkill Township, **Northampton County**, to Bushkill Creek.

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

NPDES Permit PAS10L016. Stormwater. **Lewis T. Indof**, 609 Vernon Street, Belle Vernon, PA 15012 has applied to discharge stormwater from a construction activity located in Franklin Township, **Fayette County**, to Virgin Run Lake.

NPDES Permit PAS10L017. Stormwater. **Nullan, Inc., c/o James Filiaggi**, P. O. Box 229, Mt. Braddock, PA 15465 has applied to discharge stormwater from a construction activity located in North Union Township, **Fayette County**, to Jennings Run.

NPDES Permit PAS10L018. Stormwater. **John Hankins**, Walnut Street, Hopwood, PA 15445 has applied to discharge stormwater from a construction activity located in South Union Township, **Fayette County**, to an unnamed tributary Redstone Creek.

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 and 303 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 or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the

remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

Northcentral Regional Office, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

Svedala (Kennedy Van Saun) AEC-5, Borough of Danville, **Montour County**. Robert G. Gaibrois, on behalf of his client, Svedala (Kennedy Vana Saun), 20965 Crossroads Circle, Waukesha, WI 53186 has submitted a Notice of Intent to Remediate soil contaminated with lead, PHCs and PAHs. 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 Danville News* on November 20, 1997.

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Distribution Pole 27029S33657, Swatara Township, **Dauphin County**. **Pennsylvania Power & Light, Inc.**, Two North Ninth Street, Allentown, PA 18101-1179, has submitted a Notice of Intent to Remediate site soils contaminated with PCBs. 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 *Harrisburg Patriot News* on September 30, 1997.

Golden Triangle Shopping Center, Manheim Township, **Lancaster County**. Triangle Center Associates, c/o Brentway Management, 44 South Bayles Avenue, Port Washington, NY 11050 has submitted a Notice of Intent to Remediate site soils contaminated with heavy metals, BTEX and PAHs. 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 *Lancaster New Era* and *Lancaster Intelligencer Journal* during the week of December 8, 1997.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

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 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an ac-

knowledge noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

Southcentral Regional Office, Environmental Cleanup Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

Golden Triangle Shopping Center, Manheim Township, **Lancaster County**. Triangle Center Associates, c/o Brentway Management, 44 South Bayles Avenue, Port Washington, NY 11050 has submitted a Notice of Intent to Remediate site groundwater contaminated with heavy metals, BTEX and PAHs. The applicant proposes to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era* and *Lancaster Intelligencer Journal* during the week of December 8, 1997.

Former Hamburg Coal Gas Plant Site, Hamburg Borough, **Berks County**. **GPU Energy**, P. O. Box 16001, Reading, PA 19640-0001 has submitted a Notice of Intent to Remediate site soils contaminated with PAHs. The applicant proposed to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Reading Eagle Times* on November 28, 1997.

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-5217.

Dyno Mobile, Inc., Borough of Donora, **Washington County**. Dyno Mobile, Inc., 11th floor, Crossroads Tower, Salt Lake City, UT 84144 and Martha Fleming, Environmental Strategies Corporation, 4 Penn Center West, Suite 315, Pittsburgh, PA 15276 has submitted a Notice of Intent to Remediate groundwater contaminated with ammonia nitrate. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Valley Independent* on September 30, 1997.

Mobile Oil Corporation, Terminal 37-003, McKees Rocks Borough, **Allegheny County**. Charles Kominas, Mobile Oil Corporation, 10617 Braddock Road, Fairfax, VA 22032 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PAHs, PHCs, lead, heavy metal and BTEX. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on October 4, 1997.

SOLID AND HAZARDOUS WASTE

RESIDUAL WASTE PROCESSING FACILITIES

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

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

A. 101661. Eagle Enterprises Municipal Transfer Facility, Eagle Terminal, 7777 State Road, Philadelphia, PA 19136. On December 8, 1997 the Southeast Regional Office received a new application from the above facility located in the City of Philadelphia.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Regional Office, Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.

A. 300808. Boose Aluminum Landfill, Boose Aluminum Foundry, (77 North Reamstown Road, P. O. Box 261, Reamstown, PA 17567). Application for closure of a residual waste landfill in East Cocalico Township, **Lancaster County**. Application determined to be administratively complete in the Regional Office December 5, 1997.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

I. D. No. WMGR038. Magnum Industries, Inc., Box 622, Spangler, PA 15775. Operation of a waste tire processing facility to process passenger car tires into tire

chips for use as feedstock in the manufacturing of consumer products. Registration completed on December 9, 1997.

AIR POLLUTION OPERATING PERMITS

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.

06-302-141D: Sunsweet Growers, Inc. (P. O. Box 608, Fleetwood, PA 19522) for the operation of three boilers in Fleetwood, **Berks County**. Two boilers are subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

06-309-001B: Glen-Gery Corporation (P. O. Box 340, Shoemakersville, PA 19555) for a brick manufacturing facility controlled by one cyclone and eight fabric collectors in Perry Township, **Berks County**.

06-319-077C: General Battery Corporation (P. O. Box 13995, Reading, PA 19612-3995) for two lead pots controlled by a wet scrubber in Laureldale, **Berks County**.

21-320-010A: Fry Communications, Inc. (800 West Church Road, Mechanicsburg, PA 17055) for five lithographic printing presses controlled by two catalytic incinerators at Plant No. 2, Building No. 3 in Mechanicsburg Borough, **Cumberland County**.

36-310-006A: Binkley and Ober, Inc. (P. O. Box, Petersburg, PA 17520) for the installation of a primary jaw crusher controlled by a wet suppression system in East Hempfield Township, **Lancaster County**.

36-317-221: Wenger's Feed Mill, Inc. (113 West Harrisburg Avenue, Rheems, PA 17507) for the Pellet Mill Cooler controlled by a cyclone located in Mount Joy Borough, **Lancaster County**.

36-323-004A: Ross Engineering Company (104 North Maple Avenue, Leola, PA 17540) for sandblasting operation controlled by a fabric collector located in Upper Leacock Township, **Lancaster County**.

38-323-006: Aluminum Company of America (3000 State Drive, Lebanon, PA 17042) for the Refractory Machining/Fabrication System controlled by a fabric filter located in South Lebanon Township, **Lebanon County**.

67-304-035A: American Colloid Company (600 Lincoln Street, York, PA 17404) for a Additrol Blending Facility/Coal Mill System controlled by a fabric collector located in York City, **York County**.

67-310-004D: Medusa Minerals Company (P. O. Box 220, Thomasville, PA 17364) for the operation of a limestone crushing/grinding plant in Jackson Township, **York County**. The source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

67-310-018I: Global Stone PenRoc, Inc. (P. O. Box 1967, York, PA 17405-1967) for the operation of the Roosevelt Avenue Whiting Plant in West Manchester Township, **York County**. This source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

49-320-001: Celotex Corporation (P. O. Box 267, Sunbury, PA 17801) for the operation of an offset fiberboard printing press in the City of Sunbury, **Northumberland County**.

OP-49-0002A: Foster Wheeler Mt. Carmel, Inc. (P. O. Box 490-D, Marion Heights, PA 17832-0490) for the construction of a coal refuse screen and associated diesel engine, as well as for the installation of air cleaning devices (two cartridge collectors) on an ash silo, in Mt. Carmel Township, **Northumberland County**. The coal refuse screen is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

PLAN APPROVALS

Plan Approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.

21-310-031A: Valley Quarries, Inc. (P. O. Box J, Chambersburg, PA 17201) for modification of an existing limestone crushing plant in Southampton Township, **Cumberland County**. The plant is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

21-329-001: Naval Inventory Control Point—Mechanicsburg (Code M0815, P. O. Box 2020, Mechanicsburg, PA 17055-0788) for the installation of emergency generators in Hampden Township, **Cumberland County**.

36-317-083A: M & M/Mars, Inc. (295 Brown Street, Elizabethtown, PA 17022) for the modification of a dry milk storage and handling system in Elizabethtown, **Lancaster County**.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

17-399-020: Eagle Environmental II, L. P. (9 Logan Blvd., Altoona, PA 16602) for the construction of a residual waste landfill (Royal Oak Landfill) and associated landfill gas collection and flaring system and stone crushing and screening operation in Chest Township, **Clearfield County**. The stone crushing and screening operation will be subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

REASONABLY AVAILABLE CONTROL TECHNOLOGY

(RACT)

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

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

OP-09-0020: Naval Air Warfare Center—Aircraft Division (Street Road and Jacksonville Road, Warminster, PA 18974) for Synthetic Minor NOx Facility in Warminster, **Bucks County**.

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

39-0031: Stanley Storage Systems, Inc. (11 Grammes Road, P. O. Box 1151, Allentown, PA 18103) for the approval of the VOC RACT determination of the metal parts paint line located in Allentown, **Lehigh County**.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

The Bureau of Deep Mine Safety has received a request for variance from **Cyprus Emerald Resources Corporation**. The following notification contains a summary of this request. Complete copies of the variance request may be obtained from Matthew A. Bertovich by calling (412) 439-7469.

The Department of Environmental Protection (Department) is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to: Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (act) (52 P. S. §§ 701—702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 268(b) requires that shelter holes be provided on the clearance side along designated travelingways that are also used as haulage entries, other than belt conveyor haulage entries. The shelter holes shall be spaced not more than 80-feet apart.

Summary of the request: Cyprus Emerald Resources Corporation is requesting an increase in shelter hole distances to 150 feet for its non-gate road haulage development.

The Bureau of Deep Mine Safety has received a request for variance from **Tanoma Mining Company, Inc.** The following notification contains a summary of this request. Complete copies of the variance request may be obtained from Matthew A. Bertovich by calling (412) 439-7469.

The Department of Environmental Protection (Department) is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to: Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (act) (52 P. S. §§ 701—702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 221(d) requires that in case of accident to a ventilating fan or its machinery, or if the fan stoppage is a planned interruption whereby the ventilation of the mine is interrupted, the mine foreman shall order the

power to be disconnected from the affected portions and withdraw the men immediately from the face areas. In mines employing the use of multiple fans equipped with self-closing doors which operate automatically when the fan is stopped, the action need not be taken provided the minimum requirements are met by other fans of the system. If the fan has been stopped for a period of time in excess of 15 minutes in a gassy mine, and 30 minutes in a non-gassy mine, the mine foreman shall order the men withdrawn from the mine. If the mine foreman shall deem it necessary, he may withdraw the men from a gassy mine in less than the said 15 minutes and from a non-gassy mine in less than the said 30 minutes. He shall not allow the men to return to their work until ventilation has been restored and the mine has been thoroughly examined by certified personnel and reported safe. A record shall be made of said examination.

Summary of the request: Tanoma Mining Company requests a waiver of section 221(d) of the Bituminous Coal Mine Act. This waiver will provide accommodations for the evacuation of men from the mine by way of battery-powered personnel carriers and/or mantrips.

The Bureau of Deep Mine Safety has received a request for variance from **TJS Mining, Inc.** The following notification contains a summary of this request. Complete copies of the variance request may be obtained from Matthew A. Bertovich by calling (412) 439-7469.

The Department of Environmental Protection (Department) is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to: Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (act) (52 P. S. §§ 701—702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 221(d) requires that in case of accident to a ventilating fan or its machinery, or if the fan stoppage is a planned interruption whereby the ventilation of the mine is interrupted, the mine foreman shall order the power to be disconnected from the affected portions and withdraw the men immediately from the face areas. In mines employing the use of multiple fans equipped with self-closing doors which operate automatically when the fan is stopped, the action need not be taken provided the minimum requirements are met by other fans of the system. If the fan has been stopped for a period of time in excess of 15 minutes in a gassy mine, and 30 minutes in a non-gassy mine, the mine foreman shall order the men withdrawn from the mine. If the mine foreman shall deem it necessary, he may withdraw the men from a gassy mine in less than the said 15 minutes and from a non-gassy mine in less than the said 30 minutes. He shall not allow the men to return to their work until ventilation has been restored and the mine has been thoroughly examined by certified personnel and reported safe. A record shall be made of said examination.

Summary of the request: TJS Mining, Inc. requests a waiver of section 221(d) of the Bituminous Coal Mine Act. This waiver will provide accommodations for the evacuation of men from the Darmac #2 Mine by way of battery-powered personnel carriers and/or mantrips.

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

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

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

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

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

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

Coal Applications Received

56870107. Permit Renewal, Action Mining, Inc. (1117 Shaw Mines Road, Meyersdale, PA 15552), commencement, operation and restoration of bituminous strip mine, for reclamation, only in Summit Township, **Somerset County**, affecting 141.0 acres, receiving streams unnamed tributary to Blue Lick Creek and an unnamed tributary to the Casselman River; application received December 8, 1997.

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

03910116R. Ancient Sun, Inc. (P. O. Box 129, Shippenville, PA 16254). Renewal application received for continued reclamation of a bituminous surface mine located in Mahoning Township, **Armstrong County**. Receiving streams: unnamed tributary to Mahoning Creek to the Allegheny River. Renewal application received: December 8, 1997.

26920106R. Harry Lee and Rolland Herring (R. D. 1, Box 181, Masontown, PA 15461). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Nicholson Township, **Fayette County**. Receiving streams: Jacobs Creek Watershed. Renewal application received: December 8, 1997.

03920109R. Thomas J. Smith, Inc. (R. D. 1, Box 260-D, Shelocta, PA 15774). Renewal application received for continued reclamation of a bituminous surface mine located in Plumcreek Township, **Armstrong County**. Receiving stream: Plum Creek. Renewal application received: December 10, 1997.

03930104R. Dutch Run Coal, Inc. (R. R. 2, Box 366, Shelocta, PA 15774). Renewal application received for continued reclamation of a bituminous surface mine located in Plumcreek Township, **Armstrong County**. Receiving streams: Dutch Run and Plum Creek. Renewal application received: December 10, 1997.

Hawn Run District Office, P. O. Box 209, Hawk Run, PA 16840.

57970101. Capital Coal Co., Inc. (P. O. Box 1, Mildred, PA 18632), commencement, operation and restoration of a bituminous surface mine-coal refuse disposal permit in Colley Township, **Sullivan County** affecting 128.4 acres, receiving streams: Loyalsock Creek; application received November 12, 1997.

17753050. River Hill Coal Co., Inc. (P. O. Box 141, Kylertown, PA 16847), revision to an existing bituminous surface mine permit for a change in permit acreage from 715.8 to 727.6 acres receiving streams: Saltlick Run and unnamed tributaries to Saltlick Run; application received November 7, 1997.

17960104. Sky Haven Coal, Inc. (R. D. 1, Box 180, Penfield, PA 15849), revision to an existing bituminous surface mine permit for a stream variance near Hagarty's Crossroads approximately 2,400 feet west of the intersection of Routes S. R. 0729 and S. R. 2002, Beccaria Township, **Clearfield County**. Approximately 100 feet of the intermittent stream to Cofinan Run will be mined through and the channel reconstructed. Said activities will commence approximately 700 feet south of S. R. 0729; application received November 13, 1997.

59870101. Antrim Mining, Inc. (P. O. Box 38, Blossburg, PA 16912), renewal of an existing bituminous surface mine permit in Duncan Township, **Tioga County**

affecting 325.4 acres, receiving streams: Smallpox Creek to Rock Run; Rock Run to Babb Creek; and Rolling Run to Babb Creek; Babb Creek to Pine Creek, Pine Creek to West Branch Susquehanna River, West Branch Susquehanna River to Susquehanna River; application received November 17, 1997.

17930117. Al Hamilton Contracting Co. (R. D. 1, Box 87, Woodland, PA 16881), major revision to an existing bituminous surface mine permit to apply biosolids (stabilized sewage sludge) to enhance vegetation. A variance is also being requested for the application of biosolids within the 100 foot barrier for Surveyor Run and the unnamed tributaries to Surveyor Run. This variance is to apply only to those areas affected by the reclamation activity, Goshen and Girard Townships, **Clearfield County** affecting 345.6 acres; application received December 3, 1997.

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

Noncoal Applications Received

26970401. Laurel Aggregates, Inc. (P. O. Box 23, Gans, PA 15439). Application received for commencement, operation and reclamation of a large noncoal (limestone) surface mine located in Springhill Township, **Fayette County**, proposed to affect 153.0 acres. Receiving streams: Rubles Run. Application received: December 3, 1997.

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

Industrial Minerals NPDES Permit Renewal Applications Received

4275SM20. U. S. Silica Company (P. O. Box 187, Berkeley Springs, WV 25411) renewal of NPDES Permit No. PA0125334, Brady Township, **Huntingdon County**, receiving streams Juniata River; Saddler Creek; unnamed tributary of Shaughnessy Run; and unnamed tributary of Flush Run. NPDES renewal application received December 8, 1997.

4273SM6. Grannas Brothers Stone & Asphalt Co., Inc. (P. O. Box 488, Hollidaysburg, PA 16648) renewal of NPDES Permit No. PA0212555, Frankstown Township, **Blair County**, receiving streams unnamed tributary to Brush Creek. NPDES renewal application received December 9, 1997.

40A76SM9. Keystone Lime Company, Inc. (P. O. Box 278, Springs, PA 15562) renewal of NPDES Permit No. PA0212491, Elk Lick Township, **Somerset County**, receiving streams Glade Run (High Point Lake). NPDES renewal application received December 5, 1997.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution

Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provision of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

Applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) 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.

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

E46-789. Encroachment. **Allen and Virginia Gehret**, 50 West Indian Lane, Port Indian, PA 19403-3226. To construct and maintain approximately 165 linear feet of reinforced concrete bulkhead along the Schuylkill River (WWF-MF) to provide bank stabilization along the Gehret Property located at 50 W. Indian Lane (Valley Forge USGS Quadrangle N: 21.1 inches; W: 3.5 inches) in West Norriton Township, **Montgomery County**.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E13-107. Encroachment. **Jim Thorpe Municipal Authority**, 101 East Tenth Street, Jim Thorpe, PA 18229. To remove the existing structure and to construct and maintain a 24-foot × 6-foot concrete box culvert depressed 0.5 foot below stream bed elevation in Mauch Chunk Creek (CWF). The project associated with the Jim Thorpe west side water filtration plant and is located on the north side of S. R. 3012 approximately 0.8 mile east of the intersection of S. R. 3014 (Nesquehoning, PA Quadrangle N: 19.3 inches; W: 2.0 inches) in Jim Thorpe Borough, **Carbon County** (Philadelphia District, Army Corps of Engineers).

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E01-186. Encroachment. **New Oxford Municipal Authority**, Earl Mummert, 409 Water Works Road, New Oxford, PA 17350. To relocate 540 feet of stream channel of an unnamed tributary to South Branch Conewago Creek by means of constructing and maintaining a 48-inch diameter by 698-foot long reinforced concrete pipe (RCP) enclosure in order to construct additional facilities at the existing waste water treatment plant located about 3,000 feet northwest of New Oxford Borough (McSherrystown, PA Quadrangle N: 21.0 inches; W: 9.3 inches) in Oxford Township, **Adams County**.

E01-187. Encroachment. **Department of Conservation and Natural Resources, Bureau of Forestry, District 1**, Marcus Snyder, 400 Rachel Carson Building, P. O. Box 8451, Harrisburg, PA 17105. To remove the existing structure and to construct and maintain a single

span bridge having a span of 35 feet with an underclearance of 5 feet across Carbaugh Run located downstream of Carbaugh Run Dam (Iron Spring, PA Quadrangle N: 22.2 inches; W: 10.5 inches) in Franklin Township, **Adams County**.

E05-255. Encroachment. **Potomac Trail Club**, Ed NcKnew, 118 Park Street, Vienna, VA 22180. To construct and maintain a twin 57" × 38" (4.75' × 3.16') corrugated metal arch culvert in the channel of an unnamed tributary to Piney Creek in order to construct a driveway for the Club located about 1.9 miles southeast of Millers Corners (Chaneyville, PA Quadrangle N: 9.1 inches; W: 4.0 inches) in Mann Township, **Bedford County**.

E21-276. Encroachment. **Department of Conservation and Natural Resources, Bureau of Forestry, District 1**, Marcus Snyder, 400 Rachel Carson Bldg., 8th Floor, Harrisburg, PA 17105. To remove the existing structure and to construct and maintain a single span bridge having a span of 30 feet with an underclearance of 5 feet over Mountain Creek on Woodrow Road located about 500 feet north from its intersection with PA 233 (Dickinson, PA Quadrangle N: 2.0 inches; W: 13.3 inches) in Cooke Township, **Cumberland County**.

E29-075. Encroachment. **Fulton Industrial Development Association**, Margaret Uhrich Taylor, 100 Lincoln Way East, McConnellsburg, PA 17233. To fill in 0.05 acre of de minimis wetland to construct and maintain a twin 106-inch × 73-inch (8.83-foot × 6.08-foot) corrugated metal pipe arch culvert in the channel of an unnamed tributary to Big Cove Creek in order to construct a roadway of a proposed business park located about 2,800 feet south of McConnellsburg Borough (McConnellsburg, PA Quadrangle N: 9.1 inches; W: 17.32 inches) in Ayr Township, **Fulton County**. The amount of wetland impact is considered de minimis and wetland mitigation is not required.

E36-644. Encroachment. **Manheim Township**, Nelson Rohrer, 1840 Municipal Drive, Lancaster, PA 17601. To remove two existing highway structures, construct and maintain 190 feet of 4-foot rise × 8-foot span reinforced concrete box culvert in a tributary to Landis Run. The roadway improvement project is in the vicinity of the intersection of Euclid Drive and Sammar Road (Lancaster, PA Quadrangle N: 13.3 inches; W: 3.7 inches) in Manheim Township, **Lancaster County**.

Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

E02-440-A2. Encroachment. **McKees Rocks Industrial Enterprises, Inc.**, 149 Nichol Avenue, McKees Rocks, PA 15136. To operate and maintain the existing barge docking facility and to construct and maintain a 35-foot × 360 foot dock expansion in the Ohio River (WWF) (McKees Rocks, PA Quadrangle N: 19.7 inches; W: 8.3 inches) in Stowe Township, **Allegheny County**.

E02-1211. Encroachment. **Dominic and Maria Gliotti**, 11279 Perry Highway, Suite 509, Wexford, PA 15090. To place and maintain fill in approximately 1.4 acres of wetlands (PEM/PSS), to construct and maintain 1.7 acres of replacement wetlands (EM/SS) for the purpose of developing a proposed retail facility. The project is located on the west side of SR 19 approximately 700 feet north of its intersection with Manor Road. An environmental assessment will be done for two nonjurisdictional dams (Mars, PA Quadrangle N: 8.5 inches; W: 1.1 inches) in Pine Township, **Allegheny County**.

E65-680. Encroachment. **Davison Sand and Gravel Company**, 400 Industrial Boulevard, New Kensington,

PA 15068. An aerial crossing consisting of a belt conveyor at the existing Lower Burrell facility of Davison Sand and Gravel Company over Pucketa Creek (TSF) (New Kensington, PA Quadrangle N: 9.2 inches; W: 1.6 inches) in the City of Lower Burrell/Plum Borough in **Westmoreland and Allegheny Counties**.

Northwest Regional Office, Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

E37-115. Encroachment. **Lawrence County Commissioners**, Court Street, New Castle, PA 16101. To remove the existing single span pony truss bridge and to construct and maintain a prestressed concrete adjacent box beam bridge with a single clear span of 77.2 feet (23.5 meters), a minimum underclearance of 8 feet (2.5 meters) on a 90 degree skew across the North Fork of Little Beaver Creek (HW-CWF, stocked trout) on Wallace Road over the North Fork of Little Beaver Creek approximately 2,000 feet east of the intersection of Wallace Road (T-356), S. R. 3011, and the Conrail rail line (New Galilee, PA Quadrangle N: 21.0 inches; W: 7.0 inches) located in Little Beaver Township, **Lawrence County**.

E62-335. Encroachment. **Sugar Grove Township**, R. D. 3, Box 50, Sugar Grove, PA 16350. To remove the existing 5-foot-diameter and 8-foot-diameter culverts and to place and maintain two 10-foot-diameter culverts on Fiddler Hill Road (T-569) over Patchen Run (CWF). The project is located on Fiddler Hill Road (T-569) over Patchen Run approximately 200 feet east of the intersection of S. R. 0027 and Fiddler Hill Road (T-569) near the village of Matthews Run (Sugar Grove, PA Quadrangle N: 5.8 inches; W: 12.6 inches) located in Sugar Grove Township, **Warren County**.

ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(PART I PERMITS)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secre-

tary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

NPDES Permit No. PA 0051161. Sewage, **Southco Inc.**, 210 North Brinton lake Road, is authorized to discharge from a facility located in Concord Township, **Delaware County**, into West Branch of Chester Creek.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17011, (717) 657-4590.

NPDES Permit No. PA0029297. South Mountain Restoration Center, 10058 South Mountain Road, South Mountain, PA 17261-0999 is authorized to discharge from a facility located in Quincy Township, **Franklin County** to the receiving waters named Rocky Mountain Creek.

NPDES Permit No. PAG053515. Robert Etter, 314 Ringold Street, Waynesboro, PA 17268 is authorized to discharge from a facility located in Washington Township, **Franklin County** to the receiving waters named Red Run.

NPDES Permit No. PA0027189. Lower Allen Township Authority, 120 Limekiln Road, New Cumberland, PA 17070 is authorized to discharge from a facility located in Fairview Township, **York County** to the receiving waters named Susquehanna River.

Permit No. 0694418. Amendment No. 1. Sewerage, **Kutztown Borough**, 45 Railroad Street, Kutztown, PA 19530-1112. Modification to the construction/operation of sewage treatment facilities in Kutztown Borough, **Berks County**.

Permit No. 6790202. Minor Amendment. Industrial waste, **AMP, Inc.**, P. O. Box 3608, Harrisburg, PA 17105-5817. Modifications to the operation of Groundwater Monitoring Wells in Codorus Township, **York County**.

Northcentral Regional Office, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0032816. Sewerage, **PA Department of Transportation Bureau of Design**, 7th Floor, Forum Place, Harrisburg, PA 17101-1900. Renewal was granted (Rest Area No. 33) to discharge from a facility located at Green Township, **Clinton County**.

NPDES Permit No. PA0024091. Sewerage, **Millville Municipal Authority**, P. O. Box 30, Millville, PA 17846. Renewal of NPDES permit for the Municipal Authority facility located at Millville Borough, **Columbia County**.

NPDES Permit No. PA0028282-A1. Sewerage, **Eagles Mere Borough Authority**, P. O. Box 393, Eagles Mere, PA 17731-0393. Amendment granted to the Borough Authority facility located at Eagles Mere Borough, **Sullivan County**.

NPDES Permit No. PA0025933. Sewerage, **Lock Haven City Authority**, 20 East Church Street, Lock Haven, PA 17745. Permittee renewed application to discharge from treatment facility located at Lock Haven, **Clinton County**.

NPDES Permit No. PA0115126. Sewerage, **Sheetz Inc.**, 5700 Sixth Avenue, Altoona, PA 16602. Renewal of NPDES permit to discharge treated domestic waste to an unnamed tributary to Pentz Run in Sandy Township, **Clearfield County**. The facility is currently not in operation and the permittee is pumping and hauling. They are planning to connect with DuBois.

NPDES Permit No. PA0112895. Sewerage, **Daniel L. Roeder**, R. R. 1, Box 187A, Catawissa, PA 17820. Renewal of NPDES permit to discharge treated domestic wastewater from a single family residence to unnamed tributary to Mill Creek in Roaring Creek Township, **Columbia County**.

NPDES Permit No. PA0021687. Sewerage, **Wellsboro Municipal Authority**, 28 Crafton Street, Wellsboro, PA 16901. Renewal was granted to the Authority to discharge from a facility located at Wellsboro Borough, **Tioga County**.

NPDES Permit No. PAG044973. Sewerage, **Juan B. Torres and Cheryl L. Wagner**, R. R. 3, Box 462, Catawissa, PA 17820. Transfer of ownership has been completed for single family residence located at Franklin Township, **Columbia County**.

Permit No. WQM 1497404. Sewerage, **William and Dorothy Greer**, P. O. Box 481, Port Matilda, PA 16870. Approved for construction of single residence sewage treatment facility, located at Huston Township, **Centre County**.

Permit No. WQM 1987409-T2. Sewerage, **David M. and Teresa D. Spiwak**, 603 East 4th Street, Bloomsburg, PA 17815. Transfer approval completed for facility located at Mount Pleasant Township, **Columbia County**.

Permit No. WQM 1496409, Amendment 1. Sewerage, **Gregg Township Sewer Authority**, P. O. Box 87, Spring Mills, PA 16875. Standard steel package plant and chlorination-dechlorination replaces original design for facility located at Gregg Township, **Centre County**.

Permit No. WQM 4771403-T1-A2. Sewerage, **Washingtonville Municipal Authority**, P. O. Box 147, Washingtonville, PA 17884. Applicant will add Draidmad Sludge Bagging machine to the sludge handling facility located at Derry Township, **Montour County**.

Permit No. WQM 1795408-A25. Sewerage, **Bradford Township**, P. O. Box 79, Woodland, PA 16881. The pilot program of Bradford Township is approved to install treatment system to serve single family residence at Bradford Township, **Clearfield County**.

Permit No. WQM 1795408-A26. Sewerage, **Bradford Township**, P. O. Box 79, Woodland, PA 16881. Pilot program has been approved to install treatment system to serve single family residence located at Bradford Township, **Clearfield County**.

WQM Permit No. 5991402-T2. Transfer Sewerage, **Robbie D. and Tammy M. Tillotson**, R. R. 1, Box 155A, Roaring Branch, PA 17765. Transfer application for NPDES permit and WQM permit was issued to the above applicant. Facility located at Union Township, **Tioga County**.

WQM Permit No. 1795408-A27. Sewerage, **Bradford Township**, Mona K. Bush, P. O. Box 79, Woodland, PA 16881. The Township's application for the above referenced residence to install a treatment system to serve the new home to be built. The design was previously ap-

proved on October 19, 1995 as a pilot program. Facility located at Bradford Township, **Clearfield County**.

Permit No. PA0010596. Transfer, industrial waste. **Shamokin Township Realty Inc.**, c/o 1100 Flushing Avenue, Brooklyn, NY 11237. The new permittee submitted application for transfer for the treatment facility formerly Allen Clark Inc. meat processing. The facility has been operating under Chapter 11 and due to low production there has been no discharge since July 1996. Facility located at Shamokin Township, **Northumberland County**.

Permit No. PA0010031. Transfer industrial waste. **GPU Generation Inc.**, 101 Broad Street, Johnston, PA 15907. The transfer is from Pennsylvania Electric Company to GPU Generation Inc., the only change made to permit was the name. The facility location is Bradford Township, **Clearfield County**.

Permit No. WQM 4982202-T2. Industrial waste. **Shamokin Township Realty Inc.** c/o 1100 Flushing Avenue, Brooklyn, NY 11237. The new permittee submitted application for transfer for the treatment facility formerly Allen Clark Inc. meat processing. The facility has been operating under Chapter 11 and due to low production there has been no discharge since July 1996. Facility located at Shamokin Township, **Northumberland County**.

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

Permit No. 0297409. Sewerage, **Donald and Shirley Cuozzo, c/o Mine Safety Appliances**, P. O. Box 426, Pittsburgh, PA 15230. Construction of a single residence sewage treatment plant located in the Borough of Franklin Park, **Allegheny County** to serve the Cuozzo residence.

Permit No. 6397401. Sewerage, **Mon View Mining Company**, Box 606, New Eagle, PA 15067. Construction of a sewage treatment plant located in the Township of Nottingham, **Washington County** to serve the Mingo Shaft Sewage Treatment Plant.

Permit No. 6596412. Sewerage, **Municipality of the Borough of Smithton**, P. O. Box 350, 239 Second Street, Smithton, PA 15479-0350. Construction of sanitary sewers, pump station and treatment plant located in the Borough of Smithton, **Westmoreland County** to serve Smithton Borough Plant.

Permit No. 6597402. Sewerage, **Municipal Authority of Allegheny Township**, 136 Community Building Road, Leechburg, PA 15656. Construction of Chartiers Run Plant Abandonment, pump stations, force main and sewers located in the Township of Allegheny, **Westmoreland County** to serve the Chartiers Run and Melwood Road Service Area.

NPDES Permit No. PAS226107. Industrial waste, **Schroth Industries, Inc.**, P. O. Box 699, Indiana, PA 15701 is authorized to discharge from a facility located at White Township, **Indiana County** to Whites Run.

NPDES Permit No. PA0036595. Sewage, **Commonwealth of Pennsylvania, Department of Corrections**, R. R. 1, Box 67, Waynesburg, PA 15370 is authorized to discharge from a facility located at State Correctional Institute at Waynesburg, Morgan Township, **Greene County** to Tributary of South Fork Tenmile Creek.

NPDES Permit No. PA0090786. Sewage, **Hempfield Township Supervisors**, R. R. 6, Box 500, Woodward Drive, Greensburg, PA 15601 is authorized to discharge from a facility located at Hempfield Park STP, Hempfield Township, **Westmoreland County** to unnamed tributary to Brush Creek.

NPDES Permit No. PA0092037. Sewage, **James Bender**, 57 Woodland Drive, Apt. 101, Vero Beach, FL 32962 is authorized to discharge from a facility located at Woodlawn Mobile Home Court STP located at Woodlawn Mobile Home Court STP, Unity Township, **Westmoreland County** to Little Crabtree Creek.

NPDES Permit No. PA0205257. Sewage, **Greensboro—Monongahela Township Joint Sewer Authority**, P. O. Box 342, Greensboro, PA 15338 is authorized to discharge from a facility located at Greensboro—Monongahela Township Sewage Treatment Plant, Monongahela Township, **Greene County** to Back Channel of the Monongahela River.

NPDES Permit No. PA0205397. Sewage, **Keystone Coal Mining Corporation**, P. O. Box 729, Indiana, PA 15701 is authorized to discharge from a facility located at Emilie No. 9 Portal STP, South Bend Township, **Armstrong County** to Sugar Run.

NPDES Permit No. PA0217727. Sewage, **Rices Landing Borough**, P. O. Box 185, 100 Water Street, Rices Landing, PA 15357 is authorized to discharge from a facility located at Rices Landing Sewage Treatment Plant, Rices Landing Borough, **Greene County** to Monongahela River.

**INDIVIDUAL PERMITS
(PAS)**

The following NPDES Individual Permits for Discharges of Stormwater from Industrial Sites have been issued.

Northeast Regional Office, Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS802202	CF Motorfreight P. O. Box 3010 Menlo Park, CA 94026	Bethlehem Lehigh County	Monocacy Creek
PAS802203	Mack Trucks 7000 Alburts Road Macungie, PA 18062	L. Macungie Twp. Lehigh County	Little Lehigh

NOTICES

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS802204	Lehigh & Northampton Transportation Authority 12th and Cumberland St. Allentown, PA 18103	Allentown Lehigh County	Little Lehigh
PAS802205	Emery Worldwide Consolidated Freightways P. O. Box 3010 Menlo Park, CA 94026	Upper Macungie Lehigh County	Little Lehigh
PAS802206	Con-Way Central Xan P. O. Box 3010 Menlo Park, CA 94026	Upper Macungie Lehigh County	Little Lehigh
PAS802207	Manfredi Motor Transit 14841 Sperry Road Newbury, Ohio	Upper Macungie Lehigh County	Little Lehigh
PAS802208	Austin Fleet Maintenance 5488 Oak View Drive Allentown, PA 18104	Upper Macungie Lehigh County	Little Lehigh
PAS402201	Apollo Metals Ltd. P. O. Box 4045 Bethlehem, PA 18018	Lehigh City of Bethlehem	Monocacy Creek
PAS132201	Synthetic Thread Company P. O. Box 1277 Bethlehem, PA 18016	Lehigh City of Bethlehem	Monocacy Creek
PAS232201	Lebanon Chemical Corp. 1600 East Cumberland Street Lebanon, PA 17042	Lehigh City of Allentown	Little Lehigh
PAS112202	Fuller Company 2040 Avenue C Bethlehem, PA 18017	Lehigh City of Allentown	Little Lehigh
PAS202201	Precision National Plating Co. 198 Ackerly Road Clarks Summit, PA 18411	Lackawanna Abington Township	Ackerly Creek

INDIVIDUAL PERMITS

(PAR)

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this 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 Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. 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 general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

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

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

*List of NPDES and/or other
General Permit Type*

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems

*List of NPDES and/or other
General Permit Type*

PAG-7	General Permit For Beneficial Use of Exceptional Quality Sewage Sludge By Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Sewage Sludge By Land Application to Agricultural Land, Forest, A Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

General Permit Type—PAG 2

Facility Location

<i>County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Erie County Lake City Borough	PAR10K017-R	James and Janice Meeder R. D. 1 Lake City, PA 16423	Lake Erie	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Erie County City of Erie	PAR10K073-R	Development Corp. Greater Erie Industrial 2103 East 33rd Street Erie, PA 16510	Lake Erie	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Jefferson County Falls Creek Borough Washington and Sandy Townships	PAR103323	Falls Creek Borough Municipal Auth. P. O. Box 418 Falls Creek, PA 15840	Falls Creek Sandy Lick Creek	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
Jefferson County Young Township and Punxsutawney Borough	PAR103321-R	BFG Electroplating P. O. Box 1065 Punxsutawney, PA 15767	Mahoning Creek	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
Jefferson County Young Township	PAR103320-R	Young Township 99 N. Gilpin Street Punxsutawney, PA 15767	Sawmill Run, Elk Run and Mahoning Creek	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
Jefferson County Pine Creek	PAR103319-R	Brookville Mining Equipment Corp. 20 Pickering St. Brookville, PA 15825	Sandy Lick Creek	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
Jefferson County Bell Township	PAR103318-R	Bell Township R. D. 2, Box 56A Punxsutawney, PA 15767	Cold Spring Run Canoe Creek and Mahoning Creek	Jefferson Conservation District 180 Main Street Brookville, PA 15825 (814) 849-7463
South Middleton Twp. Cumberland County	PAR-10-H141	Donald Mowery 652 Hamilton St. Carlisle, PA 17013	Conodoguinet	Cumberland CCD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Hanover Borough York County	PAR-10-Y287	Venture Properties, Cam Finley 915 Main St. North Wilkesboro, NC 28659	Slagle Run	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Jacobus Borough York Co.	PAR-10-Y234-R	Jacobus Borough Sewer Authority 126 North Cherry Land Jacobus, PA 17407	East Branch Codorus Crk.	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Exeter Township Berks Co.	PAR-10-C061-R	John Smith VP Forino Developers Co. 3000 Penn Ave. West Lawn, PA 19609	Antietam Creek	Berks CCD P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533 (610) 372-4657
Southampton Township Cumberland Co.	PAR-10-H070	Beistle Co. 1 Beistle Plaza Shippensburg, PA 17257	Green Spring	Cumberland CCD 43 Brookwood Ave. Suite 4 Carlisle, PA 17013 (717) 240-7812
Carbon Co. Palmerton Boro.	PAR101314	Aquashicola Crk. Dredging Project Borough of Palmerton 443 Delaware Ave. P. O. Box 235 Palmerton, PA 18071	Aquashicola Crk.	Carbon CD (610) 377-4894
Carbon Co. Towamensing Twp.	PAR101315	Beltzville Panorama Clark H. George R. D. 3 Evergreen Lake Kunkletown, PA 18058	Pohopoco Creek	Carbon CD (610) 377-4894
Luzerne Co. Dallas Twp.	PAR10R133	Huntsville Water Clarification Plant Reservoir Rd., Dallas Twp., PA	Huntsville Reservoir	Luzerne CD (717) 674-7991
Luzerne Co. Newport Twp.	PAR10R132	North American Mining, Inc. BF 341-102.1 State Rte. 3004 Newport Twp., PA	Newport Creek to Susquehanna	Luzerne CD (717) 674-7991
Monroe Co. Tunkhannock Twp.	PAR10S014-R	Mountain View Estates Donald G. Kishbaugh and Steven P. Parisi P. O. Box 1288 Brodheads ville, PA 18322	Poplar Creek	Monroe CD (717) 629-3060
Monroe Co. E. Stroudsburg Boro.	PAR10S004-R	Eagle's Glen Eagle Valley Realty 490 N. Main St. Pittston, PA 18640	Sambo Crk.	Monroe CD (717) 629-3060
Northampton Co. Lower Saucon Twp.	PAR10U080	Richard Woodring, Jr. 2 North Main St. Coopersburg, PA 18036	Saucon Crk.	Northampton CD (610) 746-1971
Northampton Co. Lower Saucon Twp.	PAR10U081	Donald Carr Ahold Real Estate One Atlanta Plaza 950 E. Paces Ferry Rd. Suite 2575 Atlanta, GA 30326	Saucon Crk.	Northampton CD (610) 746-1971
Northampton Co. Moore Twp.	PAR10U074	Kenneth Hahn 214 S. Walnut St. Bath, PA 18014	Hokendauqua Crk.	Northampton CD (610) 746-1971
Schuylkill Co. New Castle Twp. Ryan Twp.	PAR105751	Cracker Barrel Schuylkill Mall Crown American Prop., L. P. Pasquerilla Plaza Johnstown, PA 15907-0879	Mud Run to Mill Creek to Schuylkill River	Schuylkill CD (717) 622-3742

NOTICES

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<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lower Pottsgrove Twp. Montgomery Co.	PAR10-T375-R	Occidental Chemical Corp. P. O. Box 699 Pottstown, PA 19464	Schuylkill River	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428
Limerick Twp. Montgomery Co.	PAR10-T370-R	Limerick Golf Club Estates 826 N. Lewis Rd. Limerick, PA 19468	Landis Crk.	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428
Horsham Twp. Montgomery Co.	PAR10-T378-R	Horsham Twp. 1025 Horsham Rd. Horsham, PA 19044	Tributary to the Little Neshaminy Crk.	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428

General Permit Type—PAG 3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Hazle Twp. Luzerne Co.	PAR323304	Polyglass USA Inc. Lot No. 41 Blue Spruce Drive Humboldt Industrial Pk. Hazleton, PA 18201	Tomhicken Crk. (Secondary) Wetlands (Primary)	Northeast Regional Office Water Quality 2 Public Square Wilkes-Barre, PA 18711
Hanover Twp. Lehigh Co.	PAR702216	Lehigh-Northampton Airport Authority 3311 Airport Rd. Allentown, PA 18103-1046	Lehigh River	Northeast Regional Office Water Quality 2 Public Square Wilkes-Barre, PA 18711
Upper Mount Bethel Twp. Northampton Co.	PAR232208	Formica Corporation Route 512 P. O. Box 176 Mount Bethel, PA 18342-0176	Martins Crk. Basin	Northeast Regional Office Water Quality 2 Public Square Wilkes-Barre, PA 18711
Clearfield Co. Bell Twp.	PAR224837	Roy Miller R. D. 1, Box 278 Mahaffey, PA 15757	Unnamed tributary of West Branch Susquehanna	Northcentral 208 W. Third St. Williamsport, PA (717) 327-3664
Clearfield Co. Lawrence Twp.	PAR214822	E. M. Brown Inc. Mt. Joy Road Clearfield, PA 16836	Unnamed tributary of West Branch Susquehanna	Northcentral 208 W. Third St. Williamsport, PA (717) 327-3664
Clearfield Co. Bradford Twp.	PAR704809	GPU Generation Inc. 1001 Broad St. Johnstown, PA 15907	West Branch Susquehanna	Northcentral 208 W. Third St. Williamsport, PA (717) 327-3664
Tioga Co. Lawrence Twp.	PAR224805	Georgia Pacific Corp. R. R. 2, Box 115A Rte. 15 South Tioga, PA 16946	Tioga River	Northcentral 208 W. Third St. Williamsport, PA (717) 327-3664
Cameron Co. Shippen Twp.	PAR404805	Cameron County Landfill 23 East 5th St. Emporium, PA 15834	May Hollow Sterling Run	Northcentral 208 W. Third St. Williamsport, PA (717) 327-3664

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Washington Co. Cecil Twp.	PAR206137	Miller Centrifugal Casting Co. P. O. Box 456 Cecil, PA 15321-0456	Millers Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny Co. Forward Twp.	PAR406104	Kelly Run Sanitation, Inc. P. O. Box 333 Elizabeth, PA 15037	Fallen Timber Run Unnamed tributary to Fallen Timber Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Indiana Co. Green Township	PAR226118	Greensteel Div. 29 Laing Ave. Dixonville, PA 15734	Unnamed tributary to Dixon Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny Co. Collier Twp.	PAR706118	Lane Construction Corp. 965 E. Main St. Meriden, CT 06450	Chartiers Crk.	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny Co. McKees Rocks Borough	PAR706119	Lane Construction Corp. 965 E. Main St. Meriden, CT 06450	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Wayne Twp. Crawford Co.	PAR608303	James F. Patterson Patterson Auto Wrecking, Inc. 31298 U. S. Highway 322 Cochranon, PA 16314	Unnamed tributary of French Crk.	DEP Northwest Region Water Management 230 Chestnut St. Meadville, PA 16335 (814) 332-6942
Taylor Twp. Lawrence Co.	PAR608316	Carole Schwartz Ace Auto Wrecking Co. 3214 Concord St. New Castle, PA 16105	Mahoning River	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335 (814) 332-6942
Erie City Erie County	PAR808339	Yellow Freight System, Inc. 10990 Roe Ave. Overland Park, KS 66211	Lake Erie	DEP Northwest Region Water Management Program Manager 230 Chestnut Street Meadville, PA 16335 (814) 332-6942

*Facility Location
County and
Municipality*Warren City
Warren Co.Permit No.
PAR608317*Applicant Name
and Address*
Segel & Son, Inc.
107 South South St.
Warren, PA 16365*Receiving Stream
or Body of Water*
Allegheny River
via Municipal
Storm Sewers*Contact Office and
Telephone No.*
DEP
Northwest Region
Water Management
230 Chestnut Street
Meadville, PA 16335
(814) 332-6942Vernon Twp.
Crawford Co.Permit No.
PAR128301*Applicant Name
and Address*
Dad's Products Company,
Inc.
P. O. Box 451-D
Meadville, PA 16335*Receiving Stream
or Body of Water*
French Creek*Contact Office and
Telephone No.*
DEP
Northwest Region
Water Management
230 Chestnut Street
Meadville, PA 16335
(814) 332-6942*General Permit Type—PAG-04**Facility Location
County and
Municipality*Berks County
Spring Twp.Permit No.
PAG043585*Applicant Name
and Address*
Ellsworth F. Moore
R. R. 3, Box 157
Elverson, PA 19520*Receiving Stream
or Body of Water*
Jones Millpond*Contact Office and
Telephone No.*
DEP
Southcentral
1 Ararat Boulevard
Harrisburg, PA 17110Bradford Co.
Wysox Twp.Permit No.
PAG224806*Applicant Name
and Address*
Masonite Corp.
Sub. of Inter'l. Paper Co.
Masonite Rd.
Wysox, PA 18854*Receiving Stream
or Body of Water*
Lanning Crk. to
Susquehanna*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Lycoming Co.
Brady Twp.Permit No.
PAG504801*Applicant Name
and Address*
Lycoming County Landfill
48 W. Third St.
Williamsport, PA 17701*Receiving Stream
or Body of Water*
Unnamed tributary
of Black Run*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Northumberland Co.
Ralpho Twp.Permit No.
PAG804816*Applicant Name
and Address*
Fleetwood Motor Homes of
PA
R. D. 1, Rte. 487
Paxinos, PA 17860*Receiving Stream
or Body of Water*
Shamokin Crk.*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Northumberland Co.
Upper Augusta Twp.Permit No.
PAG704808*Applicant Name
and Address*
Anthracite Industries Inc.
R. R. 2
Sunbury, PA 17801*Receiving Stream
or Body of Water*
Unnamed tributary
to Shamokin Crk.*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Columbia Co.
N. Centre Twp.Permit No.
PAG044972*Applicant Name
and Address*
Dennis L. Markle
R. D. 2, Box 2810
Berwick, PA 18603*Receiving Stream
or Body of Water*
Unnamed tributary
to West Branch
Briar Crk.*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Clearfield Co.
Bradford Twp.Permit No.
PAG044981*Applicant Name
and Address*
Timothy R. Welker
R. R. 1, Box 109
Woodland, PA 16881*Receiving Stream
or Body of Water*
Unnamed tributary
to W. Branch
Susquehanna*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Centre Co.
Huston Twp.Permit No.
PAG044967*Applicant Name
and Address*
Wm. and Dorothy Greer
P. O. Box 481
Port Matilda, PA 16870*Receiving Stream
or Body of Water*
Steel Hollow*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Clearfield Co.
Bradford Twp.Permit No.
PAG044982*Applicant Name
and Address*
Greg Glace
P. O. Box 109
Hyde, PA 16843*Receiving Stream
or Body of Water*
Unnamed tributary
to W. Branch
Susquehanna*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Bradford
Wysox Twp.Permit No.
PAG044866*Applicant Name
and Address*
Robbie D. and
Tammy M. Tillotson
R. R. 1, Box 155A
Roaring Branch, PA 17765*Receiving Stream
or Body of Water*
Unnamed tributary
of West Mill Crk.*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664Clearfield
Bradford Twp.Permit No.
PAG044986*Applicant Name
and Address*
Mona K. Bush
R. D. 1, Box 228
Woodland, PA 16881*Receiving Stream
or Body of Water*
Unnamed tributary
of Moravian Run*Contact Office and
Telephone No.*
Northcentral
208 W. Third St.
Williamsport, PA
(717) 327-3664

*General Permit Type—PAG-05**Facility Location*

<i>County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Berks Co. Spring Twp.	PAG053615	Sun Company, Inc. (R & M) Montello Spring Site 10 Penn Center—20th Floor 1801 Market St. Philadelphia, PA 19103	UNT to Cacossing Crk.	DEP-Southcentral Water Management 1 Ararat Blvd. Harrisburg, PA 17110
Westmoreland Co. West Newton Borough	PAG056112	Thomas Cline 111 North Water St. West Newton, PA 15089	Youghiogheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny Co. North Versailles	PAG056111	Sun Company, Inc. (R & M) 5733 Butler St. Pittsburgh, PA 15201	Crooked Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Dr. Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-09**Facility Location*

<i>County and Municipality (If Applicable)</i>	<i>General Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water (If Applicable)</i>	<i>Contact Office and Telephone No.</i>
Wayne Co. Berlin Twp.	PAG092201	Rorre Corp. R. R. 4 Box 926 Honesdale, PA 18431		Northeast Region 2 Public Square Wilkes-Barre, PA 18711-0790 (717) 826-2576

**SEWAGE FACILITIES ACT
PLAN APPROVAL**

**Plan revision approval granted December 2, 1997
under the Pennsylvania Sewage Facilities Act (35
P. S. §§ 750.1—750.20).**

*Regional Office: Water Management Program Manager,
Southcentral Regional, One Ararat Boulevard, Harris-
burg, PA 17110.*

*Location: East Hempfield Township, Lancaster
County, P. O. Box 128, 1700 Nissley Road, Landisville,
PA 17538.*

The proposed development is located on the north side of Old Harrisburg Pike, approximately 1,000 feet west of McGovernville Road, East Hempfield Township, Lancaster County.

The approved project consists of the construction of the Swarr Run Pump Station and related sewage gravity and force mains. A portion of the Swarr Run Interceptor will be replaced with a 36-inch line and a new 24-inch force main and 36-inch gravity line will be installed to convey 5 mpg of wastewater to the existing Charlestown Pump Station. The total new sewage flows for the project will be 350 gallons per day (gpd). The wastewater will be treated by the LASA Susquehanna Wastewater Treatment Plant.

Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority.

**Plan revision approval granted December 3, 1997
under the Pennsylvania Sewage Facilities Act (35
P. S. §§ 750.1—750.20).**

*Regional Office: Water Management Program Manager,
Southcentral Regional, One Ararat Boulevard, Harris-
burg, PA 17110.*

*Location: Rapho Township, Lancaster County, 971
North Colebrook Road, Manheim, PA 17545.*

The project is located on the west side of S. R. 0072, just south of Interchange 20 of the PA Turnpike (I-76), Rapho Township, Lancaster County.

The approved plan consists of the construction of a fast food restaurant, full service restaurant and convenience store on a tract of land located across from the Mount Hope Estate and Winery. The total sewage flows of 10,000 gallons per day (gpd) of wastewater will be treated by the Mount Hope Winery/Mazza Vineyards Wastewater Treatment Plant.

Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority.

Plan revision approval granted December 4, 1997 under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

Regional Office, Water Management Program Manager, Southcentral Regional, One Ararat Boulevard, Harrisburg, PA 17110.

Location: Warwick Township, Lancaster County, P. O. Box 308, Lititz, PA 17543.

The approved subdivision is located at the northwest corner of the intersection of Clay Road (L. R. 36156) and Lititz Run Road (T-293), Warwick Township, Lancaster County.

The project consists of a 150 residential lot subdivision. Thirty-two of the lots will have semi-detached single family dwellings and 117 lots will have attached townhouse units. The total sewage flow of 60,000 gallons per day (gpd) of wastewater will be treated by the Lititz Borough Wastewater Treatment Plant.

Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority.

SAFE DRINKING WATER

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

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

Permit No. 4697512. Public water supply. **Superior Water Company**, Robert A. Braglio, 1030 W. Germantown Pike, Fairview Village, PA 19409. A permit has been issued granting Superior Water Company permission to construct and operate Well No. 8 at the Twin Ponds subdivision in Douglass Township, **Montgomery County**.

Type of Facility: Public Water Supply

Consulting Engineer: Remington & Vernick, John Lenhardt, 1200 E. High Street, Suite 204, Pottstown, PA 19464.

Permit to Construct Issued: December 4, 1997.

Regional Office: Northcentral Field Operations, Bureau of Water Supply, 208 West Third Street, Suite 101, Williamsport, PA 17701.

1497501. The Department issued an Operation Permit to **Lemont Water Company** (P. O. Box 26, Lemont, PA 16851, College Township, **Centre County**) for the operation of a new calcium sequestration facility at the Pudding Town Pump Station.

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

Permit No. 2597504. Public water supply. **Davis Mobile Home Park**, 700 Culbertson Dr., Lake City, PA 16415 has been issued a permit for their existing unpermitted water system in Girard Township, **Erie County**.

Type of Facility: Community Water Supply

Consulting Engineer: William E. Dunagan, P. E., 1176 E. Gore Rd., Erie, PA 16504.

Permit to Construct Issued: December 15, 1997

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Settlements Under the Hazardous Sites Cleanup Act

Industrial Solvents and Chemical Company

Newberry Township, 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 entered into proposed settlements with two parties regarding the Department's costs incurred for conducting response activities at the Industrial Solvents and Chemical Company (ISCC) site. The ISCC site is a 9-acre parcel of land in Newberry Township, York County, adjacent to Interstate 83. The surrounding area is primarily rural, although residential, commercial and industrial developments are located within a close vicinity of the site. A number of private residential and commercial wells have been contaminated by hazardous substances migrating from the ISCC site.

ISCC was involved in the reprocessing of used solvents. Because of violations of hazardous waste requirements, the Department on July 6, 1989, terminated ISCC's authority to operate a hazardous waste treatment and storage facility. The site was abandoned in 1990 when ISCC declared bankruptcy. A total of 996 parties potentially responsible for the hazardous substances located at the ISCC site were identified by the Department.

Because of the threat to human health and the environment posed by the ISCC site, the site was placed on the Pennsylvania Priority List for Remedial Response on October 26, 1991. The Department and a group of approximately 136 cooperating potentially responsible parties have conducted a number of interim actions at the site to address the release or threat of release of hazardous substances. To date, the Department has incurred costs of approximately \$3.4 million to implement and/or oversee these interim actions. A final remedial action for the groundwater and soil at the ISCC site will be selected by the Department and implemented in the future.

Under the terms of a proposed Consent Decree, Dynamics Corporation of America, of Greenwich, Connecticut, will pay the Department \$83,000 for future response costs at the ISCC site. Under terms of a proposed Consent Decree, Metro Oil and Chemical Corporation (Temor, Inc.) of Ridgefield, New Jersey, a de minimis party, will pay the Department \$17,341 for past and future costs at the ISCC site.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). This section provides that the settlements will become final upon the filing of the Department's response to any significant written comments and approval by the Court in the Department's pending cost recovery litigation in the U. S. District Court. The proposed Consent Decrees that contain the specific terms of the settlements are available for public review and comment. The proposed settlements can be examined from 8 a.m. to 4 p.m. at the Department's office at One Ararat Boulevard, Harrisburg, PA 17110, by contacting Barbara Faletti at (717) 657-4592. A public comment period on the proposed settlements will extend for 60 days from today's date. Persons may submit written comments regarding the proposed settlements to the Department by February 25, 1998, by submitting them to Barbara Faletti at the above address.

**Proposed Settlement Under the Hazardous Sites
Cleanup Act and Comprehensive Environmental
Response, Compensation and Liability Act**

Tonolli Corporation Superfund Site

Nesquehoning Borough, Carbon County

The Department of Environmental Protection (Department), along with the United States of America, under the authority of section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.1113) and section 122 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C.A. § 9622) has entered into a Consent Decree with a group of settling defendants (settling defendants). The proposed Consent Decree concerns settlement of the Department's response costs, as well as the implementation of a remedial action at the Tonolli Corporation Superfund Site, located in Nesquehoning Borough, Carbon County (site). The proposed Consent Decree will be filed in the United States District Court for the Middle District of Pennsylvania.

The site is a former lead battery recycling facility with a secondary lead smelter that Tonolli Corporation operated from 1974 to 1986 on approximately 30 acres of land. Numerous waste piles and drums of material and debris from plant operations exist onsite. The hazardous substances of concern at the site are heavy metals, particularly lead, cadmium, chromium, arsenic and copper. Heavy metals are found in onsite and offsite soils and sediments, groundwater and surface water.

Tonolli Corporation filed for bankruptcy in 1985. The United States Environmental Protection Agency (EPA) completed a preliminary assessment of the site in 1987 and identified it as a candidate for emergency removal action. The contents of a 500,000 gallon lagoon were removed and stabilized and a storm water treatment plant was installed in 1989 by the EPA. A group of potentially responsible parties (PRPs) completed a Remedial Investigation/Feasibility Study (RI/FS) for the site in 1992.

The site was listed on the National Priorities List (NPL) on October 4, 1989. The remedy which will be implemented at the site requires the removal and secondary smelting of the battery casings and other concentrated waste dusts and sludges, the decontamination or demolition of the buildings, the excavation and consolidation of site wastes and contaminated soils within the onsite landfill including treatment of the high hazard soils (>10,000 ppm lead), closure of the onsite landfill according to Pennsylvania hazardous waste regulations, the removal of contaminated sediments from the stream, the installation of a passive groundwater treatment trench between the landfill and the stream and the long-term monitoring of groundwater and maintenance of the landfill. The PRP Group completed the removal of battery casings in 1997 under an EPA Order. The Remedial Design for the remedial action will be finalized in early 1998 and the Remedial Action work is scheduled to begin in March 1998.

The Department has agreed to accept \$89,000 in settlement of the settling defendants' liability for past response costs. Additionally, the settling defendants have agreed to pay the Department's future response costs at the site beginning in 1998.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). Section 1113 of HSCA provides that the settlement shall become final upon the filing of the

Department's response to significant written comments. The proposed Consent Decree which contains the specific terms of the settlement, is available for public review and comment. The proposed Consent Decree can be examined from 8 a.m. to 4 p.m. Monday through Friday at the Department's Northeast Regional Office located at 2 Public Square, Wilkes-Barre, PA 18711, by contacting Woodrow Cole at (717) 826-2511 or through the PA AT&T Relay Service at 1 (800) 654-5984 (TDD). A public comment period on the proposed Consent Decree will extend for 60 days from today's date. The Department will accept written comments concerning the proposed Consent Decree until February 25, 1998. Comments concerning the proposed Consent Decree can be sent to Woodrow Cole at the above address.

**LAND RECYCLING AND
ENVIRONMENTAL REMEDIATION**

Under Act 2, 1995

Preamble 3

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 any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's 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.

Southcentral Regional Office, Environmental Cleanup Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4592.

UGI Utilities, Steelton Borough and Swatara Township, Dauphin County. UGI Utilities, 100 Kachel Blvd., Suite 400, P.O. Box 12677, Reading, PA 19612 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 the Statewide health standard.

Distribution Pole 27029S33657, Swatara Township, Dauphin County, Pennsylvania Power and Light, Two North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning remediation of site soils

contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

Distribution Pole 26870S36596, Lower Paxton Township, **Dauphin County, Pennsylvania Power and Light**, Two North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning remediation of site soils contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

Distribution Pole 38452S31833, Penn Township, **Lancaster County, Pennsylvania Power and Light**, Two North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning remediation of site soils contaminated with PCBs. The report is intended to document remediation of the site to meet the Statewide health standard.

Former Olivetti Supplies Main Building Area, Susquehanna Township, **Dauphin County, R. E. Wright Inc.**, 3240 Schoolhouse Road, Middletown, PA 17057 has submitted a Final Report concerning remediation of site soils contaminated with solvents. The report is intended to document remediation of the site to meet the Statewide health standard.

SOLID AND HAZARDOUS WASTE

RESIDUAL WASTE PROCESSING FACILITIES

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

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

Permit No. WMGR038SE001. Bergey's Inc., t/a Perkasio Rubber Recycling, 1419 Old Route 309, Sellersville, PA was issued a determination of applicability under the Waste Tire General Permit No. WMGR038 for operations to be conducted at a facility located in West Rockhill Township, **Bucks County**. With the issuance of this determination, the pending individual permit application no. 301235 is being returned as operations will be conducted under the general permit. Determination of applicability made by the Southeast Regional Office on December 5, 1997.

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

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

A. 301235. Bergey's Inc., t/a Perkasio Rubber Recycling, 1419 Old Route 309, Sellersville, PA was returned. The application was originally submitted to place waste tire processing operations being conducted at a

facility located in West Rockhill Township, **Bucks County** under permit rather than permit-by-rule. During review of the individual permit application, the applicant chose to pursue a determination of applicability under the Department initiated Waste Tire General Permit. With the concurrent issuance of a determination of applicability WMGR038SE001, this individual permit application is being returned as operations will be conducted under the general permit. Application returned by the Southeast Regional Office on December 5, 1997.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit No. 101549. Safety Disposal System of Pennsylvania, Inc., 1 Penn Avenue, Marcus Hook, PA 19061. This permit is for the operation of an infectious waste transfer station and two commercial autoclaves for the processing of infectious waste located in Marcus Hook Borough, **Delaware County**. Permit was issued by the Southeast Regional Office on December 5, 1997. Permit re-issued to Safety Disposal of Pennsylvania, Inc. from K. S. Processing.

Permit No. 101463. BFI Waste Systems of North America, Inc., TRC Transfer Station, 2904 S. Columbus Boulevard, Philadelphia, PA 19148. This permit is for the change in name, based on a corporate restructuring from TRC, Inc., to BFI Waste Systems of North America, Inc. for the existing waste management permit for continuing operation of the TRC municipal waste transfer station located in the City of Philadelphia. Permit was issued by the Southeast Regional Office on December 5, 1997.

Permit No. 101609. BFI Waste Systems of North America, Inc., River Road Transfer Station, 400 River Road, West Conshohocken, PA 19428. This permit is for the change in name, based on a corporate restructuring, from BFI to BFI Waste Systems of North America, Inc. for the existing waste management permit for the operation of the River Road municipal waste transfer station facility located in Upper Merion Township, **Montgomery County**. Permit was issued by the Southeast Regional Office on December 5, 1997.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 300558. Little Blue Run Disposal Impoundment, Pennsylvania Power Company, 1 East Washington Street, New Castle, PA 16101-5531. Operation of a residual waste disposal impoundment in Greene Township, **Beaver County**. Permit issued in the Regional Office on December 3, 1997.

AIR POLLUTION OPERATING PERMITS

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

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

12-399-005D: GKN Sinter Metals, Inc. (R. R. 2, Box 47, Emporium, PA 15834-9797) issued December 5, 1997, for the minor modification of the operating permit for 12 powered metal parts sintering furnaces and associated air cleaning device (a fabric collector) in Shippen Township, **Cameron County**. The respective modification is an increase in the amount of lubricant which is allowed in the parts processed through the furnaces.

12-399-007G: GKN Sinter Metals, Inc. (R. R. 2, Box 47, Emporium, PA 15834-9797) issued December 5, 1997, for the minor modification of the operating permit for 14 powered metal parts sintering furnaces and associated air cleaning device (a fabric collector) in Emporium Borough, **Cameron County**. The respective modification is an increase in the amount of lubricant which is allowed in the parts processed through the furnaces.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

Copies of the Title V application, proposed permit and other relevant information are available for public inspection and additional information may be obtained by contacting the regional office noted.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the persons submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of any objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.

TV-65-00354: Atlantic Refining and Marketing, Inc. (1801 Market Street, Philadelphia, PA 19103-1699) for their Delmont Station located in Delmont Borough, **Westmoreland County**. The facility's major sources

include various gasoline loading racks, distillate loading racks and storage tanks which emit major quantities of VOC.

PLAN APPROVALS

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

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4587.

21-314-005: Carlisle SynTec Incorporated (P. O. Box 7000, Carlisle, PA 17013) issued on December 10, 1997, for the installation of a rubber mixing system controlled by a fabric filter in Carlisle Borough, **Cumberland County**.

28-318-036: The Appalachian Mill Collection, Inc. (11427 Church Hill Road, Mercersburg, PA 17236) issued on December 8, 1997, for the construction of a wood surface spray booth with air assisted airless guns controlled by dry filters in Mercersburg Borough, **Franklin County**.

67-309-107: Lehigh Portland Cement Company (200 Hokes Mill Road, York, PA 17404) issued on December 10, 1997, for modification of a railcar cement loading system controlled by a cartridge collector in West Manchester Township, **York County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

Coal Applications Issued

11960106. Major SMP Revision, **M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701-1319). This stream crossing variance is being proposed as an alternative access road into future mining areas. The approval of the crossing would eliminate the need for coal truck access off Township Road 428 (Mile Hill Road). The proposal is as follows: 1) Unnamed Tributary #15—to install and maintain a haul road stream crossing at a point 490 feet upstream from where the unnamed tributary intercepts Laurel Run. 2) Laurel Run—to install and maintain a haul road stream crossing at a point 2,000 feet upstream from Laurel Run's intersection with Township Road 423. 3) Unnamed Tributary #15—Variance to conduct support activities as necessary to install stream crossing of the

said Tributary #15—beginning at a point 430 feet upstream from where the unnamed tributary intersects Laurel Run, then continuing upstream in a northerly direction a distance of 140 feet. 4) Laurel Run—Variance to conduct support activities as necessary to install a stream crossing on Laurel Run—beginning at a point 1,930 feet upstream from where Laurel Run intersects Township Road 423, thence continuing upstream in a northerly direction a distance of 100 feet in Jackson Township, **Cambria County**. As a result of these variances the boundary of this SMP is being revised by adding 1.7 acres for support uses, only on the southwest corner of Phase 1b, between Phases 1b and 1a. Total SMP acres goes from 309.3 to 311.0. Application received October 1, 1997. Issued December 5, 1997.

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

03970104. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface auger mine located in Cowanshannock Township, **Armstrong County**, affecting 64.5 acres. Receiving streams: four unnamed tributaries to Cowanshannock Creek to Cowanshannock Creek to the Allegheny River. Application received: June 10, 1997. Permit issued: December 11, 1997.

65970105. M. B. Energy, Inc. (P. O. Box 1319, Indiana, PA 15701-1319). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 146 acres. Receiving streams: unnamed tributaries to Union Run, Union Run to Loyalhanna Creek to Conemaugh River. Application received: July 29, 1997. Permit issued: December 11, 1997.

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

17960103. BBC Coal Company (P. O. Box 249, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a change in permit acreage from 79.5 to 72.7 acres, receiving streams: unnamed tributary to Bilgers Run and Hughey Run; application received August 29, 1997; permit issued November 18, 1997.

17930119. Swisher Contracting, Inc. (P. O. Box 1223, Clearfield, PA 16830), revision to an existing bituminous surface mine permit for a reduction in surface mine permit acreage from 59.0 to 28.7 acres, receiving streams: unnamed tributaries to the West Branch of the Susquehanna River; application received September 18, 1997; permit issued November 25, 1997.

17910128. Sky Haven Coal, Inc. (R. R. 1, Box 180, Penfield, PA 15849), transfer of an existing bituminous surface mine permit from Mary Louise Coal, Inc., Bigler Township, **Clearfield County** affecting 160.5 acres, receiving streams: unnamed tributary to Upper Morgan Run and unnamed tributary to Clearfield Creek; application received July 2, 1997; permit issued November 20, 1997.

17960125. Penn Grampian Coal Company (P. O. Box 249, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine permit in Beccaria Township, **Clearfield County** affecting 110 acres, receiving streams: Muddy Run to Clearfield Creek to West Branch Susquehanna River; application received January 2, 1997; permit issued November 25, 1997.

17970105. E. P. Bender Coal Co., Inc. (Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722),

commencement, operation and restoration of a bituminous surface mine permit in Beccaria Township, **Clearfield County** affecting 132 acres, receiving streams: unnamed tributaries to Clearfield Creek to the West Branch of the Susquehanna River; application received April 21, 1997; permit issued November 26, 1997.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

54920202. Dorenzo Coal Co. (1389 Bunting Street, Pottsville, PA 17901), commencement, operation and restoration of an anthracite coal refuse reprocessing and coal refuse disposal operation in Branch Township, **Schuylkill County** affecting 18.9 acres, receiving stream Carp Creek. Permit issued December 9, 1997.

54793206C10. Reading Anthracite Company (200 Mahantongo Street, Pottsville, PA 17901), correction to an existing anthracite surface mine operation in Mahanoy Township, **Schuylkill County** affecting 3,038.0 acres, receiving stream Mahanoy Creek. Correction issued December 10, 1997.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

Noncoal Permits Issued

06910302C. Berks Products Corporation (P. O. Box 421, Spring Street, Reading, PA 19604), renewal of NPDES Permit No PA0595420 in Ontelaunee Township, **Berks County** receiving stream Maiden Creek and Schuylkill River. Renewal issued December 10, 1997.

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

Small Industrial Mineral Authorizations Granted

08970819. Roy A. Keiper (R. R. 3, Box 3014, Rome, PA 18837), commencement, operation and restoration of a Small Industrial Mineral (Flagstone/Shale) permit in Rome Township, **Bradford County** affecting one acre, receiving streams: unnamed tributary to Bear Creek, tributary to Wysox Creek; application received August 21, 1997; authorization granted November 19, 1997.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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 (33 U.S.C.A. § 1341(a)).

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, 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 the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on

audiotape from the Secretary to the Board, (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

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

E15-550. Encroachment Permit. **YMCA of Central Chester County**, 127 Willowbrook Lane, West Chester, PA 19382. To remove an existing reinforced concrete footbridge, and to construct and maintain a 37-foot wide prefabricated steel plate arch bridge having a span of 38 feet and average underclearance of 9.3 feet with concrete footings, structural plate headwalls and associated roadway approach fill at this location, and to construct and maintain two 18-inch RCP stormwater outfalls within wetland along the East Branch of the Red Clay Creek (TSF) associated with the construction of the Central Chester County YMCA Facility. The site is located just north of the intersection of East Cypress Street (S. R. 3046) and Race Street (Kenneth Square, PA-DEL USGS Quadrangle N: 17.7 inches; W: 11.4 inches) in Kennett Square Borough, **Chester County**.

E09-727. Encroachment Permit. **Pennsylvania Department of Transportation**, District 6-0, 200 Radnor-Chester Road, St. Davids, PA 19087. To remove the existing bridge and to construct and maintain a triple-celled 19-foot wide × 9-foot high precast concrete box culvert. A 1.5 foot high concrete weir will be installed at the upstream end of Cell No. 1, and all culvert bottoms will be depressed 12-inches below the stream bed. The culvert will be installed in and along the channel of Tincum Creek (CWF). Also, approximately 90 c. y. of R-7 rip-rap protection will be installed in the vicinity of the culvert to reduce streambed scour. In addition, 80 linear feet of retaining wall, which will vary in height from 4 to 15 feet, will be constructed and maintained along Tincum Creek, just downstream of this culvert. The site is located approximately 140 feet downstream of the confluence of Rapp Creek and Beaver Creek (Bedminster, PA Quadrangle N: 19.1-inches; W: 3.1-inches) in Tincum Township, **Bucks County**.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E35-281. Encroachment. **Corky's Garden Path Greenhouses**, 1312 Justice Boulevard, Clarks Summit, PA 18411. To fill in 0.25 acre of wetlands, including an 18-inch diameter ADS stormwater outfall structure and associated rock apron, for the construction of a proposed greenhouse. The project is located at Corky's Garden Path Greenhouses immediately south of the intersection of S. R. 1027 and S. R. 0347 (Dalton, PA Quadrangle N: 0.4 inch; W: 2.1 inches) in Scott Township, **Lackawanna County**. The permittee has met the wetland replacement

requirement by participating in the Pennsylvania Wetland Replacement project.

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E05-250. Encroachment. **Alfred Laich, PA Dept. of Transportation, Engineering District 9-0**, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a single span prestressed concrete spread box beam bridge having a clear span of 32.3 feet skewed at 45 degrees with a minimum underclearance of 4.2 feet over Pavia Run on SR 0869, Section 003, Segment 0120, Offset 0212 located in Pavia Village (Blue Knob, PA Quadrangle N: 1.21 inches; W: 11.81 inches) in Pavia Township, **Bedford County**. This permit also includes 401 Water Quality Certification.

E06-494. Encroachment. **Exeter Public Golf Course**, Enrico Filippini, R. D. 3, Reading, PA 19606. To fill approximately 0.17 acre of wetlands along a tributary to Antietam Creek at a point upstream of Shelbourne Road (Birdsboro, PA Quadrangle N: 12.0 inches; W: 12.9 inches) in Exeter Township, **Berks County**. The permittee is required to provide 0.19 acre of replacement wetlands. This permit also includes 401 Water Quality Certification.

E06-498. Encroachment. **C F Farms Partnership**, Merle Denlinger, P. O. Box 216, Elverson, PA 19520. To relocate approximately 600 feet of the channel of a tributary to the Conestoga River at a point approximately 300 feet downstream of Route 23 (Elverson, PA Quadrangle N: 5.5 inches; W: 15.5 inches) in Caernarvon Township, **Berks County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E22-370. Encroachment. **Roberts Homes, Inc.**, Richard Roberts, 4400 Linglestown Rd., Harrisburg, PA 17112. To impact 0.26 acre of wetlands adjacent to a tributary to Beaver Creek at the Skyline View Extended Subdivision at a point upstream of Short Street (Hershey, PA Quadrangle N: 14.85 inches; W: 13.6 inches) in West Hanover Township, **Dauphin County**. The permittee is providing 0.32 acre of replacement wetlands. This permit also includes 401 Water Quality Certification.

SPECIAL NOTICES

Grant Applications

The Department of Environmental Protection's Technical Assistance Center for Small Water Systems is accepting applications under the County Water Supply Planning Grant Program. This grant program is available to any county to develop a comprehensive county water supply plan.

The goal of this incentive grant program is to protect the public from hazards of unsafe drinking water and assure safe and reliable water service to the citizens of the Commonwealth. County water supply planning can insure development of water supply systems in an efficient, cost-effective manner and promote early recognition of viability concerns by reaching developers, local officials and other key participants at an early stage of water system development.

This incentive grant program is funded from DEP's Safe Drinking Water Account under the authority of the act of May 1, 1984 (P. L. 206, No. 43), as amended, known as the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.1 et seq.) and section 1905-A(a) of the act of April

9, 1929 (P. L. 177, No. 175), as amended, known as The Administrative Code of 1929. This grant program will provide money to eligible applicants for the preparation of a county water supply plan, or updating an existing plan.

Grant awards are limited to 80% of all DEP approved project costs or \$100,000, whichever is less. The grantee must provide local share in the form of matching funds or in-kind services at a minimum of 20% of the total project costs.

The application period runs from December 22, 1997 to February 27, 1998. Grants will be awarded on a competitive basis based on complete applications which best meet criteria contained in the grant guidelines established by the DEP.

For more information or to obtain the grant guidelines and application, contact the Department of Environmental Protection, Bureau of Water Supply Management, Division of Technical Assistance and Outreach, Technical Assistance Center for Small Water System, P. O. Box 8467, Harrisburg, PA 17105-8467, or call Donna L. Green at (717) 787-0125 or Email Green.Donna@a1.dep.state.pa.us.

Grant Applications

The Department of Environmental Protection's (DEP) Technical Assistance Center for Small Water Systems is accepting applications under the Formation of Water Authorities Grant Program. This grant program is available to any county or two or more municipalities that are interested in forming a water authority. The water authority must form a regionalized water system which incorporates at least one small water system.

The goal of this grant program is to improve the viability of small water systems through the formation of water authorities, where economies of scale associated with a regional approach to water service can be realized.

This incentive grant program is funded from DEP's Safe Drinking Water Account under the authority of the act of May 1, 1984 (P. L. 206, No. 43), as amended, known as the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.1 et seq.) and section 1905-A(a) of the act of April 9, 1929 (P. L. 177, No. 175), as amended, known as The Administrative Code of 1929. The program will provide grants to eligible applicants for the start-up cost of forming a water authority.

The grant will fund 80% of all approved costs or \$50,000, whichever is less. The grantee must provide local share for the remaining costs in the form of matching funds or in-kind services.

The application period runs from December 22, 1997 to February 27, 1998. Based on the availability of funding, applicants that submit a final work plan and budget which are approved by the DEP will be given preference to receive a grant based on a first-come, first-served basis.

For more information or to obtain a grant application, contact the Department of Environmental Protection, Bureau of Water Supply Management, Division of Technical Assistance and Outreach, Technical Assistance Center

for Small Water System, P. O. Box 8467, Harrisburg, PA 17105-8467, or call Donna L. Green at (717) 787-0125 or Email Green.Donna@a1.dep.state.pa.us.

[Pa.B. Doc. No. 97-2086. Filed for public inspection December 26, 1997, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "June 1997 Inventory" heading is the Governor's List of Nonregulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will be adding its revised documents to the Web throughout 1997.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Persons should check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

Final Technical Guidance—Substantive Revision

DEP ID: 563-2112-656 Title: Liners—Impoundments, Stockpiles and Coal Refuse Disposal Areas Description: Revised, based on the recommendations of District Mining Operations' technical staff, to clarify certain design thresholds for soil liners at mining facilities. Effective Date: December 5, 1997 Page Length: 5 pages Location: Vol 12, Tab 83 Contact: Thomas Callaghan at (717) 783-8845

Final Technical Guidance—Minor Revision

DEP ID: 362-4180-002 Title: Civil Penalty Assessment Procedures for Pollutional Incidents Description: This guidance describes the Department procedures for calculating civil penalties for violations of The Clean Streams Law from pollution incidents. Effective Date: April 15, 1997 Page Length: 6 pages Location: Vol 33, Tab 19 Contact: Milt Lauch at (717) 787-8184

DEP ID: 363-2134-010 Title: Earth Disturbance Permit Policies and Procedures Description: Provides information to Department and conservation district personnel on standard procedures and to ensure consistent permit processing requirements. Effective Date: October 1, 1997 Page Length: 5 pages Location: Vol 34, Tab 7 Contact: Ken Reisinger at (717) 787-6827

DEP ID: 363-2200-011 Title: General Policy on Review of Erosion and Sediment Control Plans Description: Provides the required procedure delegated conservation district personnel must follow when conducting reviews of erosion and sedimentation control plans. Effective Date: October 1, 1997 Page Length: 11 pages Location: Vol 34, Tab 10 Contact: Ken Reisinger at (717) 787-6827

DEP ID: 363-3000-013 Title: Inspection of Earth Disturbance Sites Description: Contains required procedures delegated conservation district personnel must follow when conducting inspections for earth disturbance activities. Effective Date: October 1, 1997 Page Length: 10 pages Location: Vol 34, Tab 15 Contact: Ken Reisinger at (717) 787-6827

DEP ID: 383-0400-106 Title: Surface Water Treatment Safe Drinking Water Program Staff Handbook Description: Establishes a rational and reasonable basis for staff decisions which promote quality, timely and consistent service to the public and regulated community. Effective Date: March 27, 1997 Page Length: 2 pages Location: Vol 20 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-0400-113 Title: Financial Assistance Management Safe Drinking Water Program Staff Handbook Description: Establishes a rational and reasonable basis for staff decisions which promote quality, timely and consistent service to the public and regulated community. Effective Date: March 27, 1997 Page Length: 2 pages Location: Vol 27 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3000-101 Title: Safe Drinking Water Program Field-Related Compliance Description: Provides guidance and procedures to DEP staff to conduct compliance activities at all public water systems. Effective Date: October 3, 1997 Page Length: 28 pages Location: Vol 15, Tab 17 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 391-2000-003 Title: Determining Water Quality-based Effluent Limits Description: Describes the analysis method that will be used to determine point source effluent limitations when intensive stream survey data is not available. Because of inherent assumptions, several limitations are placed on the use of this methodology. Effective Date: December 9, 1995 Page Length: 45 pages Location: Vol 29, Tab 01 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-2000-011 Title: Technical Reference Guide for the Pennsylvania Single Discharge Toxics Model Description: Provides how applicable regulatory requirements and technical methods are incorporated into PENTOXSD. It explains how these requirements and methods are applied to available data to determine recommended effluent limitations. Effective Date: January 9, 1995 Page Length: 62 pages Location: Vol 29, Tab 05 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-2000-012 Title: Users Guide for the Pennsylvania Single Discharge Toxics Model Description: Provides how applicable regulatory requirements and technical methods are incorporated into PENTOXSD. It explains how these requirements and methods are applied to available data to determine recommended effluent limitations. Effective Date: January 9, 1995 Page Length: 116 pages Location: Vol 29, Tab 06 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-2000-013 Title: Implementation Guidance of Section 93.7 Ammonia Criteria Description: Designed to implement DEP's water quality criteria regulation contained in § 93.7. BWC's Water Quality Analysis Model (WQM 6.3) is the focal point for implementing the regulation. Effective Date: November 4, 1997 Page Length: 80 pages Location: Vol 29, Tab 15 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-2000-017 Title: Implementation Guidance for Temperature Criteria Description: Details procedures for calculating thermal effluent limits for both the Case 1 (withdrawal from receiving stream) and Case 2 (withdrawal from other than the receiving stream) situations, based on the principles of heat transfer. Effective Date: October 3, 1997 Page Length: 24 pages Location: Vol 29, Tab 13 Contact: Clarence Yingling at (717) 787-9637

DEP ID: 391-3200-003 Title: Quality Assurance Work Plan: Cause/Effect Surveys Description: Developed, as Federally required, to establish and standardize the Department's procedures for conducting cause/effect surveys. Effective Date: December 9, 1997 Page Length: 24 pages Location: Vol 30, Tab 03 Contact: Ed Brezina at (717) 787-9637

DEP ID: 391-3200-006 Title: Quality Assurance Work Plan: Toxics Surveys Description: Developed, as Federally required, to establish and standardize the Department's procedures for conducting toxics surveys. Effective Date: December 9, 1997 Page Length: 18 pages Location: Vol 30, Tab 06 Contact: Ed Brezina at (717) 787-9637

DEP ID: 391-3200-008 Title: Quality Assurance Work Plan: Advanced Treatment—Model Calibration/Verification Surveys Description: Establishes and standardizes the Department's procedures for conducting model calibration surveys for advanced treatment projects. These procedures provide justification for the added treatment costs associated with advanced treatment projects. Effective Date: December 11, 1997 Page Length: 20 pages Location: Vol 30, Tab 08 Contact: Ed Brezina at (717) 787-9637

Draft Technical Guidance—Substantive Revision

DEP ID: 391-3200-010 Title: Standardized Biological Field Collection and Laboratory Methods Description: Developed to establish and standardize methods for the collection and analysis of biological data for the purpose of evaluating the condition of aquatic resources throughout this Commonwealth. Effective Date: December 10, 1997 Page Length: 50 pages Location: Vol 30, Tab 09 Contact: Ed Brezina at (717) 787-9637

DEP ID: 563-2112-203 Title: Insignificant Boundary Corrections for Surface Mining Activities Description: Being revised to allow the addition of remining areas to existing permits by following the procedures for insignificant boundary corrections. This change is intended to encourage operators to remine abandoned mine lands adjacent to active permits. Deadline for Submittal of Comments: January 30, 1998 Contact: Nevin Strock at (717) 783-8845

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-2087. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractor has been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-11—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), this person or firm, or any firms, corporations or partnerships in which the person or firm has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Walter Gay, d/b/a Wayne Painting	411 Caldwell Ave. Wilmerding, PA 15148	12/09/97

JOHNNY J. BUTLER,
Secretary

[Pa.B. Doc. No. 97-2088. Filed for public inspection December 26, 1997. 9:00 a.m.]

Unemployment Compensation Benefit Rate Table

The purpose of this notice is to effect the automatic extension of the Unemployment Compensation Benefit Rate Table. Each year the maximum weekly benefit rate is calculated as 66 2/3% of the average weekly wage in covered employment for the preceding fiscal year. The maximum weekly benefit rate for unemployment compensation purposes in Pennsylvania during calendar year 1998 will be \$375.

Under the authority contained in section 201 of Article II and section 404(e)(2) of Article IV of the Unemployment Compensation Law (43 P. S. §§ 761 and 804(e)(2) and 34 Pa. Code § 65.111) the table for 1998 is being adopted by this notice and will be codified at 34 Pa. Code Chapter 65, Appendix A. See 14 Pa. B. 4688 (December 29, 1984).

The deadline for conformity is January 1, 1998 as established by section 404(e)(2) of the Unemployment Compensation Law.

Any questions concerning this notice should be directed to Alan Williamson, Deputy Secretary for Unemployment Compensation Programs, Labor and Industry Building, Harrisburg, PA 17120.

JOHNNY J. BUTLER,
Secretary

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
\$ 800— 812	\$35	\$1,320	\$ 910	\$ 560
813— 837	36	1,360	936	576
838— 862	37	1,400	962	592
863— 887	38	1,440	988	608
888— 912	39	1,480	1,014	624
913— 937	40	1,520	1,040	640
938— 962	41	1,560	1,066	656
963— 987	42	1,600	1,092	672
988—1,012	43	1,640	1,118	688
1,013—1,037	44	1,680	1,144	704
1,038—1,062	45	1,720	1,170	720
1,063—1,087	46	1,760	1,196	736
1,088—1,112	47	1,800	1,222	752
1,113—1,162	48	1,840	1,248	768
1,163—1,187	49	1,880	1,274	784
1,188—1,212	50	1,920	1,300	800
1,213—1,237	51	1,960	1,326	816
1,238—1,262	52	2,000	1,352	832
1,263—1,287	53	2,040	1,378	848
1,288—1,312	54	2,080	1,404	864
1,313—1,337	55	2,120	1,430	880
1,338—1,362	56	2,160	1,456	896
1,363—1,387	57	2,200	1,482	912
1,388—1,412	58	2,240	1,508	928
1,413—1,437	59	2,280	1,534	944
1,438—1,462	60	2,320	1,560	960
1,463—1,487	61	2,360	1,586	976
1,488—1,512	62	2,400	1,612	992

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
1,513—1,537	63	2,440	1,638	1,008
1,538—1,562	64	2,480	1,664	1,024
1,563—1,587	65	2,520	1,690	1,040
1,588—1,612	66	2,560	1,716	1,056
1,613—1,637	67	2,600	1,742	1,072
1,638—1,662	68	2,640	1,768	1,088
1,663—1,687	69	2,680	1,794	1,104
1,688—1,712	70	2,720	1,820	1,120
1,713—1,737	71	2,760	1,846	1,136
1,738—1,762	72	2,800	1,872	1,152
1,763—1,787	73	2,840	1,898	1,168
1,788—1,812	74	2,880	1,924	1,184
1,813—1,837	75	2,920	1,950	1,200
1,838—1,862	76	2,960	1,976	1,216
1,863—1,887	77	3,000	2,002	1,232
1,888—1,912	78	3,040	2,028	1,248
1,913—1,937	79	3,080	2,054	1,264
1,938—1,962	80	3,120	2,080	1,280
1,963—1,987	81	3,160	2,106	1,296
1,988—2,012	82	3,200	2,132	1,312
2,013—2,037	83	3,240	2,158	1,328
2,038—2,062	84	3,280	2,184	1,344
2,063—2,087	85	3,320	2,210	1,360
2,088—2,112	86	3,360	2,236	1,376
2,113—2,137	87	3,400	2,262	1,392
2,138—2,162	88	3,440	2,288	1,408
2,163—2,187	89	3,480	2,314	1,424
2,188—2,212	90	3,520	2,340	1,440
2,213—2,237	91	3,560	2,366	1,456
2,238—2,262	92	3,600	2,392	1,472
2,263—2,287	93	3,640	2,418	1,488
2,288—2,312	94	3,680	2,444	1,504
2,313—2,337	95	3,720	2,470	1,520
2,338—2,362	96	3,760	2,496	1,536
2,363—2,387	97	3,800	2,522	1,552
2,388—2,412	98	3,840	2,548	1,568
2,413—2,437	99	3,880	2,574	1,584
2,438—2,462	100	3,920	2,600	1,600
2,463—2,487	101	3,960	2,626	1,616
2,488—2,512	102	4,000	2,652	1,632
2,513—2,537	103	4,040	2,678	1,648
2,538—2,562	104	4,080	2,704	1,664
2,563—2,587	105	4,120	2,730	1,680
2,588—2,612	106	4,160	2,756	1,696
2,613—2,637	107	4,200	2,782	1,712
2,638—2,662	108	4,240	2,808	1,728
2,663—2,687	109	4,280	2,834	1,744
2,688—2,712	110	4,320	2,860	1,760
2,713—2,737	111	4,360	2,886	1,776
2,738—2,762	112	4,400	2,912	1,792
2,763—2,787	113	4,440	2,938	1,808
2,788—2,812	114	4,480	2,964	1,824
2,813—2,837	115	4,520	2,990	1,840
2,838—2,862	116	4,560	3,016	1,856

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
2,863—2,887	117	4,600	3,042	1,872
2,888—2,912	118	4,640	3,068	1,888
2,913—2,937	119	4,680	3,094	1,904
2,938—2,962	120	4,720	3,120	1,920
2,963—2,987	121	4,760	3,146	1,936
2,988—3,012	122	4,800	3,172	1,952
3,013—3,037	123	4,840	3,198	1,968
3,038—3,062	124	4,880	3,224	1,984
3,063—3,087	125	4,920	3,250	2,000
3,088—3,112	126	4,960	3,276	2,016
3,113—3,137	127	5,000	3,302	2,032
3,138—3,162	128	5,040	3,328	2,048
3,163—3,187	129	5,080	3,354	2,064
3,188—3,212	130	5,120	3,380	2,080
3,213—3,237	131	5,160	3,406	2,096
3,238—3,262	132	5,200	3,432	2,112
3,263—3,287	133	5,240	3,458	2,128
3,288—3,312	134	5,280	3,484	2,144
3,313—3,337	135	5,320	3,510	2,160
3,338—3,362	136	5,360	3,536	2,176
3,363—3,387	137	5,400	3,562	2,192
3,388—3,412	138	5,440	3,588	2,208
3,413—3,437	139	5,480	3,614	2,224
3,438—3,462	140	5,520	3,640	2,240
3,463—3,487	141	5,560	3,666	2,256
3,488—3,512	142	5,600	3,692	2,272
3,513—3,537	143	5,640	3,718	2,288
3,538—3,562	144	5,680	3,744	2,304
3,563—3,587	145	5,720	3,770	2,320
3,588—3,612	146	5,760	3,796	2,336
3,613—3,637	147	5,800	3,822	2,352
3,638—3,662	148	5,840	3,848	2,368
3,663—3,687	149	5,880	3,874	2,384
3,688—3,712	150	5,920	3,900	2,400
3,713—3,737	151	5,960	3,926	2,416
3,738—3,762	152	6,000	3,952	2,432
3,763—3,787	153	6,040	3,978	2,448
3,788—3,812	154	6,080	4,004	2,464
3,813—3,837	155	6,120	4,030	2,480
3,838—3,862	156	6,160	4,056	2,496
3,863—3,887	157	6,200	4,082	2,512
3,888—3,912	158	6,240	4,108	2,528
3,913—3,937	159	6,280	4,134	2,544
3,938—3,962	160	6,320	4,160	2,560
3,963—3,987	161	6,360	4,186	2,576
3,988—4,012	162	6,400	4,212	2,592
4,013—4,037	163	6,440	4,238	2,608
4,038—4,062	164	6,480	4,264	2,624
4,063—4,087	165	6,520	4,290	2,640
4,088—4,112	166	6,560	4,316	2,656
4,113—4,137	167	6,600	4,342	2,672
4,138—4,162	168	6,640	4,368	2,688
4,163—4,187	169	6,680	4,394	2,704

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
4,188—4,212	170	6,720	4,420	2,720
4,213—4,237	171	6,760	4,446	2,736
4,238—4,262	172	6,800	4,472	2,752
4,263—4,287	173	6,840	4,498	2,768
4,288—4,312	174	6,880	4,524	2,784
4,313—4,337	175	6,920	4,550	2,800
4,338—4,362	176	6,960	4,576	2,816
4,363—4,387	177	7,000	4,602	2,832
4,388—4,412	178	7,040	4,628	2,848
4,413—4,437	179	7,080	4,654	2,864
4,438—4,462	180	7,120	4,680	2,880
4,463—4,487	181	7,160	4,706	2,896
4,488—4,512	182	7,200	4,732	2,912
4,513—4,537	183	7,240	4,758	2,928
4,538—4,562	184	7,280	4,784	2,944
4,563—4,587	185	7,320	4,810	2,960
4,588—4,612	186	7,360	4,836	2,976
4,613—4,637	187	7,400	4,862	2,992
4,638—4,662	188	7,440	4,888	3,008
4,663—4,687	189	7,480	4,914	3,024
4,688—4,712	190	7,520	4,940	3,040
4,713—4,737	191	7,560	4,966	3,056
4,738—4,762	192	7,600	4,992	3,072
4,763—4,787	193	7,640	5,018	3,088
4,788—4,812	194	7,680	5,044	3,104
4,813—4,837	195	7,720	5,070	3,120
4,838—4,862	196	7,760	5,096	3,136
4,863—4,887	197	7,800	5,122	3,152
4,888—4,912	198	7,840	5,148	3,168
4,913—4,937	199	7,880	5,174	3,184
4,938—4,962	200	7,920	5,200	3,200
4,963—4,987	201	7,960	5,226	3,216
4,988—5,012	202	8,000	5,252	3,232
5,013—5,037	203	8,040	5,278	3,248
5,038—5,062	204	8,080	5,304	3,264
5,063—5,087	205	8,120	5,330	3,280
5,088—5,112	206	8,160	5,356	3,296
5,113—5,137	207	8,200	5,382	3,312
5,138—5,162	208	8,240	5,408	3,328
5,163—5,187	209	8,280	5,434	3,344
5,188—5,212	210	8,320	5,460	3,360
5,213—5,237	211	8,360	5,486	3,376
5,238—5,262	212	8,400	5,512	3,392
5,263—5,287	213	8,440	5,538	3,408
5,288—5,312	214	8,480	5,564	3,424
5,313—5,337	215	8,520	5,590	3,440
5,338—5,362	216	8,560	5,616	3,456
5,363—5,387	217	8,600	5,642	3,472
5,388—5,412	218	8,640	5,668	3,488
5,413—5,437	219	8,680	5,694	3,504
5,438—5,462	220	8,720	5,720	3,520
5,463—5,487	221	8,760	5,746	3,536
5,488—5,512	222	8,800	5,772	3,552

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
5,513—5,537	223	8,840	5,798	3,568
5,538—5,562	224	8,880	5,824	3,584
5,563—5,587	225	8,920	5,850	3,600
5,588—5,612	226	8,960	5,876	3,616
5,613—5,637	227	9,000	5,902	3,632
5,638—5,662	228	9,040	5,928	3,648
5,663—5,687	229	9,080	5,954	3,664
5,688—5,712	230	9,120	5,980	3,680
5,713—5,737	231	9,160	6,006	3,696
5,738—5,762	232	9,200	6,032	3,712
5,763—5,787	233	9,240	6,058	3,728
5,788—5,812	234	9,280	6,084	3,744
5,813—5,837	235	9,320	6,110	3,760
5,838—5,862	236	9,360	6,136	3,776
5,863—5,887	237	9,400	6,162	3,792
5,888—5,912	238	9,440	6,188	3,808
5,913—5,937	239	9,480	6,214	3,824
5,938—5,962	240	9,520	6,240	3,840
5,963—5,987	241	9,560	6,266	3,856
5,988—6,012	242	9,600	6,292	3,872
6,013—6,037	243	9,640	6,318	3,888
6,038—6,062	244	9,680	6,344	3,904
6,063—6,087	245	9,720	6,370	3,920
6,088—6,112	246	9,760	6,396	3,936
6,113—6,137	247	9,800	6,422	3,952
6,138—6,162	248	9,840	6,448	3,968
6,163—6,187	249	9,880	6,474	3,984
6,188—6,212	250	9,920	6,500	4,000
6,213—6,237	251	9,960	6,526	4,016
6,238—6,262	252	10,000	6,552	4,032
6,263—6,287	253	10,040	6,578	4,048
6,288—6,312	254	10,080	6,604	4,064
6,313—6,337	255	10,120	6,630	4,080
6,338—6,362	256	10,160	6,656	4,096
6,363—6,387	257	10,200	6,682	4,112
6,388—6,412	258	10,240	6,708	4,128
6,413—6,437	259	10,280	6,734	4,144
6,438—6,462	260	10,320	6,760	4,160
6,463—6,487	261	10,360	6,786	4,176
6,488—6,512	262	10,400	6,812	4,192
6,513—6,537	263	10,440	6,838	4,208
6,538—6,562	264	10,480	6,864	4,224
6,563—6,587	265	10,520	6,890	4,240
6,588—6,612	266	10,560	6,916	4,256
6,613—6,637	267	10,600	6,942	4,272
6,638—6,662	268	10,640	6,968	4,288
6,663—6,687	269	10,680	6,994	4,304
6,688—6,712	270	10,720	7,020	4,320
6,713—6,737	271	10,760	7,046	4,336
6,738—6,762	272	10,800	7,072	4,352
6,763—6,787	273	10,840	7,098	4,368
6,788—6,812	274	10,880	7,124	4,384
6,813—6,837	275	10,920	7,150	4,400
6,838—6,862	276	10,960	7,176	4,416

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
6,863—6,887	277	11,000	7,202	4,432
6,888—6,912	278	11,040	7,228	4,448
6,913—6,937	279	11,080	7,254	4,464
6,938—6,962	280	11,120	7,280	4,480
6,963—6,987	281	11,160	7,306	4,496
6,988—7,012	282	11,200	7,332	4,512
7,013—7,037	283	11,240	7,358	4,528
7,038—7,062	284	11,280	7,384	4,544
7,063—7,087	285	11,320	7,410	4,560
7,088—7,112	286	11,360	7,436	4,576
7,113—7,137	287	11,400	7,462	4,592
7,138—7,162	288	11,440	7,488	4,608
7,163—7,187	289	11,480	7,514	4,624
7,188—7,212	290	11,520	7,540	4,640
7,213—7,237	291	11,560	7,566	4,656
7,238—7,262	292	11,600	7,592	4,672
7,263—7,287	293	11,640	7,618	4,688
7,288—7,312	294	11,680	7,644	4,704
7,313—7,337	295	11,720	7,670	4,720
7,338—7,362	296	11,760	7,696	4,736
7,363—7,387	297	11,800	7,722	4,752
7,388—7,412	298	11,840	7,748	4,768
7,413—7,437	299	11,880	7,774	4,784
7,438—7,462	300	11,920	7,800	4,800
7,463—7,487	301	11,960	7,826	4,816
7,488—7,512	302	12,000	7,852	4,832
7,513—7,537	303	12,040	7,878	4,848
7,538—7,562	304	12,080	7,904	4,864
7,563—7,587	305	12,120	7,930	4,880
7,588—7,612	306	12,160	7,956	4,896
7,613—7,637	307	12,200	7,982	4,912
7,638—7,662	308	12,240	8,008	4,928
7,663—7,687	309	12,280	8,034	4,944
7,688—7,712	310	12,320	8,060	4,960
7,713—7,737	311	12,360	8,086	4,976
7,738—7,762	312	12,400	8,112	4,992
7,763—7,787	313	12,440	8,138	5,008
7,788—7,812	314	12,480	8,164	5,024
7,813—7,837	315	12,520	8,190	5,040
7,838—7,862	316	12,560	8,216	5,056
7,863—7,887	317	12,600	8,242	5,072
7,888—7,912	318	12,640	8,268	5,088
7,913—7,937	319	12,680	8,294	5,104
7,938—7,962	320	12,720	8,320	5,120
7,963—7,987	321	12,760	8,346	5,136
7,988—8,012	322	12,800	8,372	5,152
8,013—8,037	323	12,840	8,398	5,168
8,038—8,062	324	12,880	8,424	5,184
8,063—8,087	325	12,920	8,450	5,200
8,088—8,112	326	12,960	8,476	5,216
8,113—8,137	327	13,000	8,502	5,232
8,138—8,162	328	13,040	8,528	5,248
8,163—8,187	329	13,080	8,554	5,264

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
8,188—8,212	330	13,120	8,580	5,280
8,213—8,237	331	13,160	8,606	5,296
8,238—8,262	332	13,200	8,632	5,312
8,263—8,287	333	13,240	8,658	5,328
8,288—8,312	334	13,280	8,684	5,344
8,313—8,337	335	13,320	8,710	5,360
8,338—8,362	336	13,360	8,736	5,376
8,363—8,387	337	13,400	8,762	5,392
8,388—8,412	338	13,440	8,788	5,408
8,413—8,437	339	13,480	8,814	5,424
8,438—8,462	340	13,520	8,840	5,440
8,463—8,487	341	13,560	8,866	5,456
8,488—8,512	342	13,600	8,892	5,472
8,513—8,537	343	13,640	8,918	5,488
8,538—8,562	344	13,680	8,944	5,504
8,563—8,587	345	13,720	8,970	5,520
8,588—8,612	346	13,760	8,996	5,536
8,613—8,637	347	13,800	9,022	5,552
8,638—8,662	348	13,840	9,048	5,568
8,663—8,687	349	13,880	9,074	5,584
8,688—8,712	350	13,920	9,100	5,600
8,713—8,737	351	13,960	9,126	5,616
8,738—8,762	352	14,000	9,152	5,632
8,763—8,787	353	14,040	9,178	5,648
8,788—8,812	354	14,080	9,204	5,664
8,813—8,837	355	14,120	9,230	5,680
8,838—8,862	356	14,160	9,256	5,696
8,863—8,887	357	14,200	9,282	5,712
8,888—8,912	358	14,240	9,308	5,728
8,913—8,937	359	14,280	9,334	5,744
8,938—8,962	360	14,320	9,360	5,760
8,963—8,987	361	14,360	9,386	5,776
8,988—[or more]—9,012	362	[*] 14,400	9,412	5,792
9,013—9,037	363	14,440	9,438	5,808
9,038—9,062	364	14,480	9,464	5,824
9,063—9,087	365	14,520	9,490	5,840
9,088—9,112	366	14,560	9,516	5,856
9,113—9,137	367	14,600	9,542	5,872
9,138—9,162	368	14,640	9,568	5,888
9,163—9,187	369	14,680	9,594	5,904
9,188—9,212	370	14,720	9,620	5,920
9,213—9,237	371	14,760	9,646	5,936
9,238—9,262	372	14,800	9,672	5,952
9,263—9,287	373	14,840	9,698	5,968
9,288—9,312	374	14,880	9,724	5,984
9,313—or more	375	*14,920	9,750	6,000

* The claimant will be ineligible for benefits unless 20% of the (\$14,400) \$14,920 qualifying wages was paid in a quarter or quarters other than the high quarter.

[Pa.B. Doc. No. 97-2089. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

Per Diem Rates Per Resident at Pennsylvania State Veterans' Homes

The following per diem rates for residents of Pennsylvania State Veterans' Homes are effective January 1, 1998 through December 31, 1998:

Hollidaysburg Veterans' Home:

Nursing Care	\$134.34
Domiciliary/Personal Care	\$ 85.69

Pennsylvania Soldiers' and Sailors' Home:

Nursing Care	\$126.27
Domiciliary/Personal Care	\$107.86

Southeastern Veterans' Center

Nursing Care	\$131.77
Domiciliary/Personal Care	\$ 84.63

Northeastern Veterans' Center:

Nursing Care	\$121.07
Domiciliary/Personal Care	\$ 71.10

Southwestern Veterans' Center:

Nursing Care	\$134.34
Domiciliary/Personal Care	97.84

JAMES MACVAY,
Adjutant General

[Pa.B. Doc. No. 97-2090. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF REVENUE

Interest Rate

Under section 806 of the act of April 9, 1929 (P. L. 343, No. 176), known as the Fiscal Code, the Secretary of Revenue announces that, for the year commencing January 1, 1998, all unpaid taxes which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 9% per annum. This rate will remain constant until December 31, 1998. Under section 6621(a)(2) of the Internal Revenue Code, this rate has been established by the Secretary of the Treasury of the United States, to be effective January 1, 1998. This rate will be codified under 61 Pa. Code § 4.2(a) (relating to rate of interest).

Although the Tax Reform Act of 1986 amended Internal Revenue Code section 6621, by requiring that the Secretary of the Treasury of the United States establish quarterly rates of interest to become effective for Federal purposes on the first month of each calendar quarter, these amendments do not affect Pennsylvania law. The Fiscal Code, as herein cited, requires that the interest

rate be established effective January 1 of each calendar year without regard to any change in the Federal interest rate during the calendar year.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-2091. Filed for public inspection December 26, 1997, 9:00 a.m.]

Zero Emission Vehicles

In accordance with 61 Pa. Code § 60.14(b)(3) (relating to zero emission vehicles), the Secretary of Revenue, under section 204(47) and (48) of the Tax Reform Code of 1971 (72 P. S. § 7204(47) and (48)), announces that the following comparable vehicle amounts will be used from January 1, 1998 through December 31, 1998, and codified at 61 Pa. Code § 60.14(d)(3):

(i) Passenger car	\$20,661
(ii) Passenger truck	\$16,287
(iii) Passenger van	\$19,408

These comparable vehicle amounts shall remain in effect until the Department of Revenue publishes a replacement listing of amounts.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-2092. Filed for public inspection December 26, 1997, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Administrative Docket Filing Fee Schedule

The Department of Transportation, Office of Chief Counsel, by this Notice, hereby establishes, consistent with the provisions of 67 Pa. Code § 491.5 (relating to filing fees), the Administrative Docket Filing Fee Schedule for use in calendar year 1998, or until the next annual list is published.

The Administrative Docket Filing Fee Schedule prescribes the filing fee, not otherwise provided by statute or regulation, for all requests for a hearing in appeal of Department action under 2 Pa. C.S. §§ 501—508 and §§ 701—704 (relating to Administrative Agency Law). Among the matters that are subject to these hearings are revocation or denial of driveway permits, outdoor advertising permits, public and private airport licenses and overweight or oversize truck hauling permits and credit toward suspension of operating privilege.

Pursuant to 67 Pa. Code § 491.5, the Department has reviewed the schedule of filing fees and has determined that amendment of the existing fees is not necessary at this time. The Department will continue to review and revise this schedule of filing fees as necessitated by the increasing costs of adjudication. Comment, questions, or

suggestions may be directed to Helen E. Topolski, Administrative Docket Clerk, Office of Chief Counsel, Pennsylvania Department of Transportation, 9th Floor, Forum Place, Harrisburg, PA 17101-1900, (717-772-8397).

BRADLEY L. MALLORY, Secretary

Administrative Docket Filing Fee Schedule

- 1. Basic filing fee..... \$100.00
Includes proceedings regarding the following matters:
 - (a) Application for credit toward suspension of operating privilege.
 - (b) Minimum use driveway permits (25 vehicles, or less, per day).
 - (c) Occupational limited license privilege denial.
 - (d) School bus/hazardous walking routes.
 - (e) Probationary license denial.
 - (f) Miscellaneous matters (including Petition to Intervene).
- 2. Level II filing fee \$150.00
Includes proceedings regarding the following matters:
 - (a) Low volume driveway permits (25 to 750 vehicles per day).
 - (b) Municipal reimbursement matters.
 - (c) Overweight or oversize truck hauling permits.
 - (d) Private airport permits.
- 3. Level III filing fee..... \$250.00
Includes proceedings regarding the following matters:
 - (a) Medium volume driveway permits (750 to 1500 vehicles per day).
 - (b) Highway beautification/outdoor advertising matters.
- 4. Level IV filing fee..... \$500.00
Includes proceedings regarding the following matters:
 - (a) High volume driveway permits (>1500 vehicles per day).
 - (b) Public airport permits.

[Pa.B. Doc. No. 97-2093. Filed for public inspection December 26, 1997, 9:00 a.m.]

Contemplated Sale of Land No Longer Needed for Transportation Purposes

Notice is hereby given that the Department of Transportation, pursuant to 71 P.S. § 513(e)(7), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcel 35-South Union Township, Fayette County. This parcel contains 1,969± acres or 85,769.64± square feet of unimproved land situated along the westerly side of State Route 0040, and the easterly side of State Route 8008, Ramp C of the Uniontown ByPass, just southeast of State Route 3021 (Hopwood-Fairchance Road) in the Village of Hopwood, Pennsylvania. Estimated Fair Market Value is \$67,600.00.

It has been determined that the land is no longer needed for present or future transportation purposes.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to: Michael H. Dufalla, P.E., District Engineer, Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, Pennsylvania 15401.

BRADLEY L. MALLORY, Secretary

[Pa.B. Doc. No. 97-2094. Filed for public inspection December 26, 1997, 9:00 a.m.]

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation under 71 P. S. § 513(e)(7) intends to sell certain land owned by the Department.

The following are the properties available for sale by the Department.

A tract of unimproved land located in Radnor Township, Delaware County. Vacant land was formerly identified as 141-145 Hillside Circle & 131 Hillside Circle, Villanova, PA 19085 and consists of 26,528.0 s.f. more or less or parcel numbers: 75, 76 & 77 on the highway plan. Department has determined that land is no longer needed for present and future transportation purposes. Appraised value is \$28,000.

Interested public entities are invited to express their interest in purchasing this site within 30 calendar days from the date of publication of this notice to Andrew Warren, District Administrator-Transportation District 6-0, 200 Radnor Chester Rd., St. Davids, PA 19087-5178 Attn: Matthew J. Kulpa, Jr. Real Estate Technician, KOP Annex, (610) 786-3101.

BRADLEY MALLORY, Secretary

[Pa.B. Doc. No. 97-2095. Filed for public inspection December 26, 1997, 9:00 a.m.]

**Finding
Armstrong County**

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to construct State Route 6028, Section 015, the Kittanning By-Pass, in Armstrong County.

The proposed Kittanning By-Pass will begin at the existing northern terminus of the Allegheny Valley Expressway and will extend east and then north to the intersection of Traffic Route 28/66 with Traffic Route 85.

No adverse environmental effect is likely to result from the construction of this section of highway.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-2096. Filed for public inspection December 26, 1997, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

At the December 16, 1997, meeting of the Environmental Quality Board (EQB), the EQB accepted a rulemaking petition for further study under 25 Pa. Code, Chapter 23 (EQB Policy for Processing Petitions).

The petition was submitted by Birmingham Township's Recreation, Parks and Open Space Committee, Chester County, and requests that Brinton Run, Wylie Run and Renwick Run be redesignated from Warm Water Fishes-Migratory Fishes (WWF-MF) to Exceptional Value (EV) Waters.

The Department of Environmental Protection is currently reviewing the petition and will forward its report evaluating the streams to the EQB. Any changes that are recommended to the existing designations of these streams will be processed as a proposed rulemaking with an opportunity for public comment.

Copies of the petition are available from the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, e-mail to RegComments@1.dep.state.pa.us.

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 97-2097. Filed for public inspection December 26, 1997, 9:00 a.m.]

Watershed Redesignation

The Storm Water Management Act (act) (32 P. S. §§ 680.1—680.19) requires Pennsylvania counties to prepare and adopt watershed stormwater plans for designated watersheds. The intent of the act is to address the impacts of future development on existing stormwater runoff levels and to recommend measures to control accelerated runoff to prevent flood damages that could occur due to those development activities.

A watershed stormwater plan includes hydrologic and hydraulic evaluation of the drainage basin, consideration of existing drainage problems, existing and proposed flood control projects and their impacts, existing government regulatory mechanisms and provides recommendations for the control of accelerated runoff which would result from future development. The Department of Environmental Protection (Department) provides up to 75% funding assistance to counties for their watershed stormwater planning effort.

Under section 14(a)(10) of the act (Powers and duties of the Department of Environmental Protection), the Department, in consultation with the counties, originally designated 353 watersheds in the entire State. Those

watersheds were approved by the Environmental Quality Board (Board) on May 31, 1980 with amendments on November 19, 1991, April 21, 1992, June 21, 1994, April 16, 1996, April 15, 1997 and December 16, 1997, bringing the current number of watersheds to 357.

The Department, in consultation with the Montgomery County Planning Commission, has designated 14 watersheds within Montgomery County. The Montgomery County Planning Commission has requested the redesignation of the Sandy Run Watershed (including Pine Run and Rapp Run) as a separate watershed for purposes of stormwater planning. Presently, the Sandy Run Watershed, whose mouth is located in the proximity of Fort Washington State Park and Interchange 26 of the Pennsylvania Turnpike, is part of the designated Wis-sahickon Creek Watershed. Municipalities within the proposed watershed will include Upper Dublin, Abington, Springfield and Whitmarsh Townships.

This redesignation results in Montgomery County having 15 watersheds for planning purposes. The redesignation will enable Montgomery County to expedite the stormwater planning process for the Sandy Run Watershed under the act to help address the severe flooding problems within the watershed while coordinating with local efforts in developing a master plan for the watershed.

The Department, subsequent to advertising in the *Pennsylvania Bulletin* on August 23, 1997, held a public hearing on September 26, 1997 at the Montgomery County Planning Commission Office, Norristown, for the purpose of accepting comments on the redesignation of this watershed. Montgomery County presented favorable comments for the redesignation and showed a desire to initiate immediate watershed planning. There were no objections or concerns received by the Department. The Board approved this request at its public meeting on December 16, 1997.

For further information, contact Durla Lathia, Bureau of Watershed Conservation, at (717) 772-5661, or e-mail at Lathia.Durla@a1.dep.state.pa.us. Persons with a disability may use the AT&T Relay Service by calling 1 (800) 654-5984 (TDD users) or 1 (800) 654-5988 (voice users). The index is available electronically through the DEP Web site (<http://www.dep.state.pa.us>).

JAMES M. SEIF,
Chairperson

Index of Designated Watersheds (Stormwater Management)

(Approved by the Environmental Quality Board, the Storm Water Management Act, P. L. 864, No. 167, October 4, 1978, and published in the *Pennsylvania Bulletin* on May 31, 1980 and August 9, 1980, as amended on November 19, 1991, April 21, 1992, June 21, 1994, April 16, 1996, April 15, 1997 and December 16, 1997).

LAKE ERIE BASIN

1. Lake Erie/Elk Creek
2. Conneaut Creek
3. Ashtabula River

GENESEE River BASIN

1. Genessee River

POTOMAC River BASIN

1. Potomac River *

POTOMAC River (From Somerset County to Adams County along Maryland State Line)

2. Little Wills Creek
3. Wills Creek
4. Evitts Creek
5. Little Tonoloway Creek
6. Tonoloway Creek
7. Cove Creek
8. Little Cove Creek
9. Licking Creek
10. Back Creek
11. West Branch Conococheague Creek
12. Conococheague Creek
13. Antietam Creek
14. Monocacy River

OHIO River BASIN

1. Ohio River *
2. Allegheny River *
3. Clarion River*
4. Kiskiminetas River*
5. Youghiogheny River*
6. Monongahela River*
7. Beaver River*

OHIO River (From Confluence with Allegheny River to Ohio State Line)

8. Sawmill Run
9. Robinson Run
10. Chartiers Creek
11. Lowries Run
12. Montour Run
13. Little Sewickley Creek
14. Flougherty Run
15. Big Sewickley Creek
16. Traverse Creek
17. Service Creek
18. Raccoon Creek
19. Little Beaver Creek
20. Fish Creek
21. Wheeling Creek
22. Cross Creek

ALLEGHENY River (From Potter County to New York State Line)

23. Potato Creek
24. Oswago Creek
25. Tunungwant Creek
26. Upper Allegheny River

ALLEGHENY River (from New York State Line to Confluence with Clarion River)

27. Conewago Creek
28. Brokenstraw Creek
29. Tionesta Creek
30. Oil Creek
31. Muddy Creek
32. Cussewago Creek
33. Conneaut Outlet
34. Sugar Creek
35. French Creek
36. East Sandy Creek
37. Sandy Creek

CLARION River (From McKean County to Confluence with Allegheny River)

38. Elk Creek
39. Little Toby Creek
40. Toms, Cather, Maxwell, Blyson and McCanna Runs

41. Piney Creek
42. Deer Creek
43. Licking Creek

ALLEGHENY River (From Clarion River to Kiskiminetas River)

44. Sandy Lick Creek
45. North Fork Redbank Creek
46. Little Sandy Creek
47. Redbank Creek
48. Stump Creek
49. East Branch Mahoning Creek
50. Big Run
51. Canoe Creek
52. Elk Run
53. Little Mahoning Creek
54. Mahoning Creek
55. Pine Creek
56. Cowanshannock Creek
57. Crooked Creek
58. Glade Run

KISKIMINETAS River (from Somerset County to Confluence with Allegheny River)

59. Quemahoning Creek
60. Shade Creek
61. Paint Creek
62. Bens Creek
63. Stony Creek
64. Little Conemaugh River
65. Two Lick Creek
66. Black Lick Creek
67. Aultmans/Stewart Runs
68. Loyalhanna Creek
69. Conemaugh River
70. Blacklegs Creek

ALLEGHENY River (From Kiskiminetas River to Confluence with Ohio River)

71. Buffalo Creek
72. Bull Creek
73. Pucketa Creek
74. Deer Creek
75. Plum Creek
76. Squaw Run
77. Pine Creek
78. Girty Run

YOUGHIOGHENY River (From Somerset County to Confluence with Monongahela River)

79. Buffalo Creek
80. Coxes Creek
81. Casselman River
82. Laurel Hill Creek
83. Indian Creek
84. Jacobs Creek
85. Sewickley Creek

MONONGAHELA River (From West Virginia State Line to Confluence with Ohio River)

86. Cheat River
87. Dunkard Creek
88. Georges Creek
89. Whitley Creek
90. Muddy Creek
91. Pumpkin Run
92. South Fork Ten Mile Creek
93. Ten Mile Creek
94. Dunlan Creek
95. Redstone Creek
96. Pike Run

- 97. Pigeon Creek
- 98. Peters Creek
- 99. Turtle Creek

BEAVER River (From Ohio State Line to Confluence with Ohio River)

- 100. Little Shenango River
- 101. Little Neshannock Creek
- 102. Neshannock Creek
- 103. Shenango River
- 104. Sullivan Run
- 105. Breakneck Creek
- 106. Wolf Creek
- 107. Slippery Rock Creek
- 108. Connoquenessing Creek
- 109. Brady Run

SUSQUEHANNA River BASIN

- 1. Susquehanna River*
- 2. West Branch Susquehanna River*

SUSQUEHANNA River (From Susquehanna County to Bradford County along New York State Line)

- 3. Starrucca/Cascade Creeks
- 4. Drinker Creek
- 5. Mitchell/Denton Creeks
- 6. Salt Lick Creek
- 7. DuBois Creek
- 8. Snake Creek
- 9. Choconut Creek
- 10. Apalachin Creek
- 11. Wappasening Creek

SUSQUEHANNA River (From Potter County to Confluence with Chemung River along New York State Line)

- 12. Crooked Creek
- 13. Cowanesque River
- 14. Tioga River
- 15. Chemung River

SUSQUEHANNA River (From Confluence with Chemung River to the Confluence with West Branch Susquehanna River)

- 16. Sugar Creek
- 17. Towanda Creek
- 18. Wysox Creek
- 19. Wyalusing Creek
- 20. East and Middle Branch Wyalusing Creek
- 21. North Branch Wyalusing Creek
- 22. Meshoppen Creek
- 23. Mehoopany Creek
- 24. Tunkhannock Creek upstream from Nine Partners Creek
- 25. Tunkhannock Creek upstream from Martins Creek
- 26. East Branch Tunkhannock Creek
- 27. Martins Creek
- 28. South Branch Tunkhannock Creek
- 29. Tunkhannock Creek
- 30. Bowman Creek
- 31. Lackawanna River
- 32. Abrahams Creek
- 33. Mill Creek
- 34. Toby Creek
- 35. Solomon Creek
- 36. Nanticoke/Newport Creeks
- 37. Harvey Creek
- 38. Hunlock Creek
- 39. L. Wapwallopen/Wapwallopen Creeks
- 40. Nescopeck Creek
- 41. Briar Creek
- 42. Huntingdon Creek

- 43. Little Fishing Creek
- 44. Fishing Creek
- 45. Catawissa Creek
- 46. Roaring Creek
- 47. Sechler Run
- 48. Mahoning Creek

WEST BRANCH SUSQUEHANNA River (From Cambria County to Confluence with Susquehanna River)

- 49. Chest Creek
- 50. Anderson Creek
- 51. Central Region West Branch Susquehanna River Clearfield County
- 52. Clearfield Creek
- 53. Moshannon Creek
- 54. Mosquito Creek
- 55. Sinnemahoning/Portage Creeks
- 56. West Creek
- 57. First Fork Sinnemahoning Creek
- 58. Sinnemahoning Creek
- 59. Kettle Creek
- 60. Young Womans Creek
- 61. Spring Creek
- 62. Beech Creek
- 63. Fishing Creek/Cedar Run
- 64. Bald Eagle Creek
- 65. Reeds Run
- 66. Chatham Run
- 67. Marsh Creek
- 68. West Branch Pine Creek
- 69. Pine Creek
- 70. Antes Creek
- 71. Larry's Creek
- 72. Lycoming Creek
- 73. Grafius/Millers/McClure Runs
- 74. Loyalsock Creek
- 75. Muncy Creek
- 76. White Deer Hole Creek
- 77. White Deer Creek
- 78. Limestone Run
- 79. Buffalo Creek
- 80. Bull Run
- 81. Chillisquaqua Creek

SUSQUEHANNA River (From Confluence with West Branch Susquehanna River to the Confluence with Juniata River)

- 82. Shamokin Creek
- 83. Penns Creek
- 84. Middle Creek
- 85. Mahanoy Creek
- 86. Mahantago Creek (West)
- 87. Mahantago Creek (East)
- 88. Wiconisco Creek

JUNIATA River (From Centre County to Confluence with Susquehanna River)

- 89. South Bald Eagle Creek
- 90. Spruce Creek
- 91. Little Juniata River
- 92. Frankstown Branch Juniata River
- 93. Beaverdam Branch Juniata River
- 94. Shaver Creek
- 95. Muddy Run
- 96. Crooked Creek
- 97. Standing Stone Creek
- 98. Shawnee Creek
- 99. Shobers Run
- 100. Bobs Creek

101. Dunning Creek
102. Cove Creek
103. Snakespring Valley Run
104. Clear Creek
105. Shaffer Creek
106. Brush Creek
107. Sandy/Sixmile Runs
108. Yellow Creek
109. Shoup Run
110. Great Trough Creek
111. Raystown Branch Juniata River
112. Mill Creek
113. Wooden Bridge Creek
114. Sideling Hill Creek
115. Three Spring Creek
116. Blacklog Creek
117. Aughwich Creek
118. Laurel Creek
119. Honey Creek
120. Kishacoquillas Creek
121. Jacks Creek
122. East Licking Creek
123. Tuscarora Creek
124. Little Buffalo/Buffalo Creeks
125. Juniata River

SUSQUEHANNA River (From Confluence with Juniata River to Maryland State Line)

126. Little Juniata Creek
127. Sherman Creek
128. Clark Creek
129. Stony Creek
130. Fishing Creek
131. Middle Spring Creek
132. Letort Spring Run
133. Hogestown/Trindle Spring Runs
134. Conodoguinet Creek
135. Paxton Creek
136. Spring Creek (West)
137. Mountain Creek
138. Cedar Run
139. Yellow Breeches Creek (Lower)
140. Yellow Breeches Creek (Upper)
141. Quittapahilla Creek
142. Spring Creek (East)
143. Bow/Beaver/Manada Creeks
144. Swatara Creek
145. Conewago Creek
146. Little Conewago Creek
147. Conewago Creek (West)
148. East Branch Codorus Creek
149. South Branch Codorus Creek
150. Codorus Creek
151. Donegal/Little Chickies Creeks
152. Chickies Creek
153. Kreutz Creek
154. Cocalico Creek
155. Mill Creek
156. Little Conestoga Creek
157. Conestoga River
158. Pequea Creek
159. Muddy Creek
160. Conowingo Creek
161. Octoraro Creek

DELAWARE River BASIN

1. Delaware River*
2. Lehigh River*
3. Schuylkill River*

DELAWARE River (From Wayne County to Confluence with Lehigh River along New York and New Jersey State Line)

4. Equinunk Creek
5. Wallenpaupack Creek
6. Lackawaxen River
7. Shohola Creek
8. Saw Kill Creek
9. Bushkill Creek
10. McMichaels Creek
11. Broadhead Creek
12. Cherry Creek
13. Martins/Jacoby Creeks
14. Bushkill Creek

LEHIGH River (From Pike County to Confluence with Delaware River)

15. Tobyhanna Creek
16. Mud Run
17. Black Creek
18. Nesquehoning Creek
19. Mauch Chunk Creek
20. Mahoning Creek
21. Pohopoco Creek
22. Lizard Creek
23. Aquashicola Creek
24. Trout/Bertsch Creeks
25. Hokendaugua Creek
26. Coplay Creek
27. Catasauqua Creek
28. Jordan Creek
29. Little Lehigh Creek
30. Monocacy Creek
31. Saucon Creek
32. Nancy Run

DELAWARE River (From Confluence with Lehigh River to Confluence with Schuylkill River along New Jersey State Line)

33. Tohicon Creek
34. Little Neshaminy Creek
35. Neshaminy Creek
36. Poquessing Creek
37. Pennypack Creek
38. Tacony Creek (Frankford)

SCHUYLKILL River (From Carbon County to Confluence with Delaware River)

39. Little Schuylkill River
40. Sacony Creek
41. Maiden Creek
42. Tulpehocken Creek
43. Manatawny Creek
44. Pigeon Creek
45. French Creek
46. Pickering/Valley Creeks
47. Swamp Creek
48. East Branch Perkiomen Creek
49. Skippack Creek
50. Perkiomen Creek
51. Valley Creek
52. Stony Creek (Sawmill Run)
53. Mill Creek/Rock Run/Gully Creek/Arrowmink Creek
54. Wissahickon Creek
55. Sandy Run

DELAWARE River (From Confluence with Schuylkill River to Delaware State along New Jersey State Line)

56. Cobbs Creek
57. Darby Creek

58. Crum Creek
59. Ridley Creek
60. Chester Creek
61. East Branch Brandywine Creek
62. West Branch Brandywine Creek
63. Sucker Run
64. White Clay Creek (Christina River)
65. Red Clay Creek
66. Brandywine Creek
67. Big Elk Creek (Chesapeake Bay)
68. Little Elk Creek
69. Northeast Creek

*DESIGNATED WATERSHEDS BY COUNTIES**ADAMS COUNTY*

1. Conewago Creek
2. Monocacy River
3. Conococheague Creek
4. Antietam Creek
5. Mountain Creek

ALLEGHENY COUNTY

1. Pine Creek
2. Chartiers Creek
3. Deer Creek
4. Bull Creek
5. Turtle Creek
6. Sawmill Run
7. Squaw Run
8. Ohio River
9. Robinson Run
10. Peters Creek
11. Montour Run
12. Lowries Run
13. Girty Run
14. Plum Creek
15. L. Sewickley Creek
16. Big Sewickley Creek
17. Flougherty Run
18. Monongahela River
19. Youghiogheny River
20. Allegheny River
21. Raccoon Creek
22. Connoquenessing Creek
23. Pucketa Creek
24. Breakneck Creek

ARMSTRONG COUNTY

1. Cowanshannock Creek
2. Glade Run
3. Kickiminetas River
4. Allegheny River
5. Pine Creek
6. Crooked Creek
7. Mahoning Creek
8. Redbank Creek
9. Buffalo Creek
10. Blacklegs Creek
11. L. Sandy Creek

BEAVER COUNTY

1. Raccoon Creek
2. Service Creek
3. Traverse Creek
4. Connoquenessing Creek
5. Ohio River
6. Big Sewickley Creek
7. Beaver River
8. Brady Run

9. Little Beaver Creek
10. Slippery Rock Creek
11. Flougherty Run

BEDFORD COUNTY

1. Dunning Creek
2. Yellow Creek
3. Bobs Creek
4. Shobers Run
5. Shoup Run
6. Raystown Br., Juniata River
7. Snakespring Valley Run
8. Little Wills Creek
9. Cove Creek
10. Clear Creek
11. Shaffer Creek
12. Potomac River
13. Wills Creek
14. Shawnee Creek
15. Brush Creek
16. Frankstown Br. Juniata River
17. Evitts Creek
18. Sandy/Sixmile Runs

BERKS COUNTY

1. Tulpehocken Creek
2. Schuylkill River
3. Maiden Creek
4. Sacony Creek
5. Manatawny Creek
6. Little Lehigh Creek
7. Perkiomen Creek
8. Swamp Creek
9. Conestoga River
10. Swatara Creek
11. French Creek
12. L. Schuylkill River

BLAIR COUNTY

1. Beaverdam Br. Juniata River
2. L. Juniata River
3. Frankstown Br. Juniata River
4. South Bald Eagle Creek
5. Yellow Creek
6. Bobs Creek
7. Moshannon Creek
8. Clearfield Creek

BRADFORD COUNTY

1. Sugar Creek
2. Towanda Creek
3. Wysox Creek
4. Susquehanna River
5. Chemung River
6. Wyalusing Creek
7. Loyalsock Creek
8. Tioga River
9. Mehoopany Creek
10. North Branch Wyalusing Creek
11. Wappasening Creek
12. Apalachin Creek

BUCKS COUNTY

1. Neshaminy Creek
2. L. Neshaminy Creek
3. Tohickon Creek
4. Perkiomen Creek
5. E. Br. Perkiomen Creek
6. Delaware River
7. Poquessing Creek
8. Pennypack Creek
9. Saucon Creek

BUTLER COUNTY

1. Connoquenessing Creek
2. Slippery Rock Creek
3. Wolf Creek
4. Allegheny River
5. Sullivan Run
6. Breakneck Creek
7. Bull Creek
8. Buffalo Creek
9. Deer Creek

CAMBRIA COUNTY

1. L. Conemaugh River
2. Conemaugh River
3. Stony Creek
4. Paint Creek
5. Blacklick Creek
6. Bens Creek
7. W. Br. Susquehanna River
8. Chest Creek
9. Clearfield Creek
10. Frankstown Br. Juniata River
11. L. Juniata River
12. Bobs Creek

CAMERON COUNTY

1. Sinnemahoning Portage Creek
2. West Creek
3. Sinnemahoning Creek
4. First Fork Sinnemahoning Creek
5. West Br. Susquehanna River
6. Potato Creek
7. Mosquito Creek

CARBON COUNTY

1. Lizard Creek
2. Mahoning Creek
3. Mauch Chunk Creek
4. Nesquehoning Creek
5. Black Creek
6. Tobyhanna Creek
7. Mud Run
8. Pohopoco Creek
9. Aquashicola Creeek
10. Lehigh River
11. Little Schuylkill River

CENTRE COUNTY

1. Spring Creek
2. Bald Eagle Creek (north)
3. Fishing Creek
4. Penns Creek
5. Cedar Run
6. Spruce Creek
7. Bald Eagle Creek (south)
8. Moshannon Creek
9. Beech Creek
10. W. Br. Susquehanna River
11. White Deer Creek
12. Buffalo Creek
13. Standing Stone Creek

CHESTER COUNTY

1. Brandywine Creek
2. E. Br. Brandywine Creek
3. Pigeon Creek
4. French Creek
5. Chester Creek
6. Ridley Creek

7. Crum Creek
8. Darby Creek
9. Schuylkill River
10. Pickering Creek
11. Big Elk Creek
12. Little Elk Creek
13. Northeast Creek
14. Octoraro Creek
15. Pequea Creek
16. W. Br. Brandywine
17. Valley Creek
18. White Clay Creek
19. Red Clay Creek
20. Sucker Run

CLARION COUNTY

1. Deer Creek
2. Toms, Cather, Maxwell, Blyson, McCanna Runs
3. Piney Creek
4. Licking Creek
5. Clarion River
6. Redbank Creek
7. Tionesta Creek
8. Allegheny River
9. East Sandy Creek

CLEARFIELD COUNTY

1. Clearfield Creek
2. W. Br. Susquehanna River
3. Anderson Creek
4. Sandy Lick Creek
5. Chest Creek
6. Moshannon Creek
7. Mosquito Creek
8. Stump Creek
9. E. Br. Mahoning Creek
10. Sinnemahoning Creek
11. L. Toby Creek
12. Central Region West Branch Susquehanna River
Clearfield County

CLINTON COUNTY

1. Fishing Creek/Cedar Run
2. Chatham Run
3. Reeds Run
4. Young Womans Creek
5. Kettle Creek
6. W. Br. Susquehanna River
7. Bald Eagle Creek
8. Beech Creek
9. Antes Creek
10. Pine Creek
11. Sinnemahoning Creek

COLUMBIA COUNTY

1. Fishing Creek
2. L. Fishing Creek
3. Huntington Creek
4. Briar Creek
5. Catawissa Creek
6. Roaring Creek
7. Susquehanna River
8. Nescopeck Creek
9. Shamokin Creek
10. Mahoning Creek
11. Mahonoy Creek
12. Chillisquaue Creek
13. Muncy Creek

CRAWFORD COUNTY

1. Conneaut Creek
2. Oil Creek

3. French Creek
4. Conneaut Outlet
5. Muddy Creek
6. Shenango River
7. Cussewago Creek
8. L. Shenango River
9. Sandy Creek
10. Sugar Creek
11. Brokenstraw Creek

CUMBERLAND COUNTY

1. Yellow Breeches Creek (Lower)
2. Yellow Breeches Creek (Upper)
3. Cedar Run
4. Hogestown/Trindle Spring Runs
5. Middle Spring Creek
6. Letort Spring Run
7. Conodoguinet Creek
8. Mountain Creek
9. Susquehanna River
10. Conewago Creek
11. Conococheague Creek

DAUPHIN COUNTY

1. Paxton Creek
2. Spring Creek (West)
3. Wiconisco Creek
4. Spring Creek (East)
5. Swatara Creek
6. Susquehanna River
7. Fishing Creek
8. Clark Creek
9. Stony Creek
10. Mahantango Creek
11. Conewago Creek
12. Bow/Beaver/Manada Creeks

DELAWARE COUNTY

1. Darby Creek
2. Chester Creek
3. Crum Creek
4. Ridley Creek
5. Brandywine Creek
6. Delaware River
7. Schuylkill River
8. Cobbs Creek

ELK COUNTY

1. Elk Creek
2. L. Toby Creek
3. Clarion River
4. Sinnemahoning Creek
5. Mosquito Creek
6. Tionesta Creek
7. West Creek

ERIE COUNTY

1. Lake Erie/Elk Creek
2. French Creek
3. Conneaut Creek
4. Cussewago Creek
5. Brokenstraw Creek
6. Oil Creek
7. Ashtabula River
8. Muddy Creek

FAYETTE COUNTY

1. Redstone Creek
2. Dunlap Creek

3. Georges Creek
4. Youghiogheny River
5. Monongahela River
6. Jacobs Creek
7. Indian Creek
8. Cheat River
9. Laurel Hill Creek

FOREST COUNTY

1. Tionesta Creek
2. Allegheny River
3. Clarion River

FRANKLIN COUNTY

1. Conococheague Creek
2. W. Br. Conococheague Creek
3. Antietam Creek
4. Middle Spring Creek
5. Back Creek
6. Conodoguinet Creek
7. Little Cover Creek
8. Tuscarora Creek
9. Licking Creek
10. Monocacy River
11. Sherman Creek

FULTON COUNTY

1. Cove Creek
2. Sideling Hill Creek
3. Wooden Bridge Creek
4. Aughwick Creek
5. Brush Creek
6. Licking Creek
7. Tonoloway Creek
8. Potomac River
9. Little Tonoloway Creek
10. Great Trough Creek

GREENE COUNTY

1. Wheeling Creek
2. South Fork Tenmile Creek
3. Pumpkin Run
4. Muddy Creek
5. Whitley Creek
6. Dunkard Creek
7. Fish Creek
8. Monongahela River
9. Ten Mile Creek

HUNTINGDON COUNTY

1. Aughwick Creek
2. Three Springs Creek
3. Blacklog Creek
4. Standing Stone Creek
5. Muddy Run
6. Shaver Creek
7. Shoup Run
8. Juniata River
9. Spruce Creek
10. Great Trough Creek
11. Raystown Br. Juniata River
12. Tuscarora Creek
13. Sideling Hill Creek
14. Mill Creek
15. Crooked Creek
16. L. Juniata River
17. Frankstown Br. Juniata River
18. Spring Creek

INDIANA COUNTY

1. Two Lick Creek
2. Cherry Run

3. Yellow Creek
3. Blacklick Creek
4. Crooked Creek
5. Conemaugh River
6. L. Mahoning Creek
7. Aultman/Stuart Runs
8. Canoe Creek
9. Blacklegs Creek
10. Plum Creek
11. W. Br. Susquehanna River
12. Mahoning Creek
13. Cowanshannock Creek

JEFFERSON COUNTY

1. Mahoning Creek
2. Sandy Lick Creek
3. Big Run
4. Elk Run
5. Stump Creek
6. Redbank Creek
7. Canoe Creek
8. Little Sandy Creek
9. L. Toby Creek
10. Clarion River
11. E. Br. Mahoning Creek
12. N. Fork Redbank Creek
13. W. Br. Susquehanna River
14. Toms, Cather, Maxwell, Blyson and McCanna Runs

JUNIATA COUNTY

1. Tuscarora Creek
2. Juniata River
3. E. Licking Creek
4. Mahantango Creek (West)
5. Susquehanna River
6. Blacklog Creek
7. Jacks Creek

LACKAWANNA COUNTY

1. Lackawanna River
2. S. Br. Tunkhannock Creek
3. Susquehanna River
4. Wallenpaupack Creek
5. E. Br. Tunkhannock Creek
6. Lehigh River
7. Lackawaxen River

LANCASTER COUNTY

1. Cocalico Creek
2. L. Conestoga Creek
3. Mill Creek
4. Conestoga River
5. Donegal/L. Chickies Creeks
6. Chickies Creek
7. Pequea Creek
8. Octoraro Creek
9. Conowingo Creek
10. Susquehanna River
11. Conewago Creek
12. West Branch Brandywine Creek

LAWRENCE COUNTY

1. Neshannock Creek
2. L. Neshannock Creek
3. Shenango River
4. Slippery Rock Creek
5. Connoquenessing Creek
6. Mahoning/Beaver Rivers
7. L. Beaver Creek

LEBANON COUNTY

1. Quittapahilla Creek
2. Tulpehocken Creek
3. Swatara Creek
4. Spring Creek
5. Cocalico Creek
6. Conewago Creek
7. Donegal/L. Chickies Creek
8. Stony Creek

LEHIGH COUNTY

1. Jordan Creek
2. L. Lehigh Creek
3. Coplay Creek
4. Lehigh River
5. Saucon Creek
6. Maiden Creek
7. Perkiomen Creek
8. Monocacy Creek
9. Catasauqua Creek
10. Delaware River
11. Trout Creek/Bertsch Creek
12. Sacony Creek

LUZERNE COUNTY

1. Abrahams Creek
2. Toby Creek
3. Harvey Creek
4. Mill Creek
5. Solomon Creek
6. Hunlock Creek
7. Nanticoke/Newport Creeks
8. Nescopeck Creek
9. Huntington Creek
10. L. Wapwallopen/Wapwallopen Creeks
11. Susquehanna River
12. Lehigh River
13. Catawissa Creek
14. Bowman Creek
15. Lackawanna River
16. Mehoopany Creek
17. Black Creek

LYCOMING COUNTY

1. Pine Creek
2. Lycoming Creek
3. Loyalsock Creek
4. Larrys Creek
5. Muncy Creek
6. Antes Creek
7. White Deer Hole Creek
8. W. Br. Susquehanna River
9. L. Fishing Creek
10. Young Womans Creek
11. Chatham Run
12. White Deer Creek
13. Towanda Creek
14. Grafius/Millers/McClure Runs

McKEAN COUNTY

1. Tunungwant Creek
2. Allegheny River (upper)
3. Potato Creek
4. Oswago Creek
5. Allegheny River (lower)
6. Clarion River
7. Tionesta Creek
8. Sinnemahoning Creek
9. Sinnemahoning Portage Creek

MERCER COUNTY

1. Shenango River
2. L. Shenango River
3. Sandy Creek
4. French Creek
5. Neshannock Creek
6. Wolf Creek
7. L. Neshannock Creek

MIFFLIN COUNTY

1. Kishacoquillas Creek
2. Laurel Creek
3. Honey Creek
4. Jacks Creek
5. Juniata River
6. Mill Creek
7. Penns Creek
8. East Licking Creek
9. Middle Creek

MONROE COUNTY

1. Brodhead Creek
2. McMichaels Creek
3. Tobyhanna Creek
4. Cherry Creek
5. Bush Kill Creek
6. Pohopoco Creek
7. Mud Run
8. Aquashicola Creek
9. Delaware River
10. Lehigh River
11. Wallenpaupack Creek

MONTGOMERY COUNTY

1. Perkiomen Creek
2. E. Branch Perkiomen Creek
3. Swamp Creek
4. Skippack Creek
5. Stony Creek/Sawmill Run
6. Wissahickon Creek
7. Schuylkill River
8. Neshaminy Creek
9. Pennypack Creek
10. Manatawny Creek
11. Tacony Creek
12. Cobbs Creek
13. Little Neshaminy Creek
14. Mill Creek/Rock Run/Gully Creek/Arrowmink Creek
15. Sandy Run

MONTOUR COUNTY

1. Mahoning Creek
2. Sechler Run
3. Chillisquaue Creek
4. Limestone Run
5. Susquehanna River
6. Roaring Creek
7. Muncy Creek

NORTHAMPTON COUNTY

1. Monocacy Creek
2. Nancy Run
3. Hokendaugua Creek
4. Martins/Jacoby Creeks
5. Saucon Creek
6. Catasauqua Creek
7. Bushkill Creek
8. Lehigh River

9. Delaware River
10. Trout Creek/Bertsch Creek

NORTHUMBERLAND COUNTY

1. Limestone Run
2. W. Br. Susquehanna River
3. Chillisquaue Creek
4. Shamokin Creek
5. Mahanoy Creek
6. Susquehanna River
7. Mahantango Creek
8. Roaring Creek

PERRY COUNTY

1. L. Juniata Creek
2. Sherman Creek
3. Buffalo/L. Buffalo Creeks
4. Susquehanna River
5. Juniata River
6. Tuscarora Creek
7. Conodoguinet Creek

PHILADELPHIA COUNTY

1. Darby Creek
2. Poquessing Creek
3. Tacony Creek (Frankford)
4. Pennypack Creek
5. Wissahickon Creek
6. Schuylkill River
7. Delaware River
8. Cobbs Creek

PIKE COUNTY

1. Shahola Creek
2. Bush Kill Creek
3. Wallenpaupack Creek
4. Lackawaxen River
5. Saw Kill Creek
6. Delaware River
7. Brodhead Creek

POTTER COUNTY

1. Upper Allegheny River
2. Pine Creek
3. Genessee River
4. W. Br. Pine Creek
5. Oswago Creek
6. Cowanesque River
7. Kettle Creek
8. First Fk. Sinnemahoning Creek
9. Young Womans Creek
10. Sinnemahoning Creek
11. Sinnemahoning Portage Creek

SCHUYLKILL COUNTY

1. Schuylkill River
2. L. Schuylkill River
3. Mahanoy Creek
4. Swatara Creek
5. Mahantango Creek
6. Wiconisco Creek
7. Catawissa Creek
8. Mahoning Creek
9. Lizard Creek
10. Nesquehoning Creek
11. Nescopeck Creek
12. Black Creek
13. Mauch Chunk Creek

SNYDER COUNTY

1. Middle Creek
2. Penns Creek
3. Mahantango Creek (West)
4. Susquehanna River
5. Jacks Creek
6. Honey Creek
7. Juniata River

SOMERSET COUNTY

1. Coxes Creek
2. Stony Creek
3. Quemahoning Creek
4. Bens Creek
5. Paint Creek
6. Shade Creek
7. Casselman River
8. Laurel Hill Creek
9. Wills Creek
10. Buffalo Creek
11. Raystown Br. Juniata River
12. Youghioghny River
13. Shawnee Creek
14. L. Conemaugh River
15. L. Wills Creek

SULLIVAN COUNTY

1. Loyalsock Creek
2. Muncy Creek
3. Fishing Creek
4. Mehoopany Creek
5. Lycoming Creek
6. Towanda Creek
7. Huntington Creek

SUSQUEHANNA COUNTY

1. Salt Lick Creek
2. DuBois Creek
3. Drinker Creek
4. Starrucca/Cascade Creeks
5. Martins Creek
6. Snake Creek
7. Mitchell/Denton Creeks
8. North Branch Wyalusing Creek
9. Tunkhannock Creek
10. E. Br. Tunkhannock Creek
11. Meshoppen Creek
12. Susquehanna River
13. Choconut Creek
14. Apalachin Creek
15. East and Middle Branch of Wyalusing Creek
16. Tunkhannock Creek upstream of Nine Partners Creek
17. Lackawanna River
18. Wappasening Creek
19. Tunkhannock Creek upstream of Martins Creek

TIOGA COUNTY

1. Pine Creek
2. Marsh Creek
3. Crooked Creek
4. Tioga River
5. Cowanesque River
6. Lycoming Creek
7. Chemung River
8. Towanda Creek
9. Kettle Creek
10. Sugar Creek

UNION COUNTY

1. Buffalo Creek
2. Bull Run
3. Penns Creek
4. W. Br. Susquehanna River
5. White Deer Creek
6. White Deer Hole Creek

VENANGO COUNTY

1. Oil Creek
2. Sugar Creek
3. E. Sandy Creek
4. French Creek
5. Allegheny River
6. Slippery Rock Creek
7. Sandy Creek
8. Wolf Creek

WARREN COUNTY

1. Conewango Creek
2. Brokenstraw Creek
3. Allegheny River
4. Oil Creek
5. Tionesta Creek

WASHINGTON COUNTY

1. Chartiers Creek
2. Tenmile Creek
3. Pigeon Creek
4. Pike Run
5. Peters Creek
6. Monongahela River
7. Raccoon Creek
8. Ohio River
9. Robinson Run
10. Cross Creek
11. Wheeling Creek

WAYNE COUNTY

1. Lackawaxen River
2. Equinunk Creek
3. Delaware River
4. Wallenpaupack Creek
5. Lackawanna River
6. Starrucca Creek
7. Lehigh River
8. Tobyhanna Creek

WESTMORELAND COUNTY

1. Sewickley Creek
2. Turtle Creek
3. Loyalhanna Creek
4. Jacobs Creek
5. Kiskiminetas River
6. Pucketa Creek
7. Conemaugh River
8. Youghioghny River
9. Monongahela River
10. Indian Creek
11. Allegheny River

WYOMING COUNTY

1. Bowman Creek
2. Tunkhannock Creek
3. Mehoopany Creek
4. Meshoppen Creek
5. S. Br. Tunkhannock Creek
6. Martin Creek
7. Susquehanna River
8. Harveys Creek

YORK COUNTY

1. Codorus Creek
2. S. Br. Codorus Creek
3. E. Br. Codorus Creek
4. L. Conewago Creek
5. Kreutz Creek
6. Conewago Creek
7. Yellow Breeches Creek(Lower)
8. Muddy Creek
9. Susquehanna River

* Direct discharges not included in other listed designations

[Pa.B. Doc. No. 97-2098. Filed for public inspection December 26, 1997, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Request for Information Update

in the November 8, 1997 issue of the *Pennsylvania Bulletin*, Volume 27, Number 45, page 5840, The Health Care Cost Containment Council published a Request for Information (RFI). The purpose of which was "to obtain information on risk-adjustment/severity adjustment systems that would allow the Council to analyze performance, reliability, operational cost and financial viability of potential systems with regard to meeting the Council's risk adjustment/severity adjustment requirements."

The deadline for responses to the Request for Information was stated as December 15, 1997. This is to provide notice that the deadline for responses has been extended until 5 p.m., January 15, 1998.

DONALD L. ZIMMERMAN,
Executive Director

[Pa.B. Doc. No. 97-2099. Filed for public inspection December 26, 1997, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, December 11, 1997, and took the following actions:

Regulations Approved:

Pennsylvania Liquor Control Board #54-52: 120 Day Rule (amends 40 Pa. Code Chapters 9 and 11)

Department of Labor and Industry #12-44: Retirement Pensions and Annuities (amends 34 Pa. Code §§ 65.101—65.105 and adds § 65.108)

Environmental Quality Board #7-303: Noncoal Regulations (amends 26 Pa. Code Chapter 77)

Environmental Quality Board #7-308: Small Operator Assistance Program (amends 25 Pa. Code Chapter 86, Subchapter C)

Environmental Quality Board # 7-311: Financial Assistance (amends 25 Pa. Code Chapter 103)

Regulations Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective December 9, 1997.

Insurance Department #11-144: Mass Merchandising of Property and Casualty Insurance (amends 31 Pa. Code by repealing §§ 113.51—113.62)

Department of Transportation #18-342: Licensing (amends 67 Pa. Code Chapters 71, 75 and 83)

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Pennsylvania Liquor Control Board—120 Day Rule; Doc. No. 54-52

Order

On November 18, 1997, the Independent Regulatory Review Commission (Commission) received this regulation from the Pennsylvania Liquor Control Board (LCB). This rulemaking amends 40 Pa. Code Chapters 9 and 11. The authority for this regulation is contained in section 207(i) of the Pennsylvania Liquor Control Code (code) (47 P. S. § 2-207(i)). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

The code prohibits a manufacturer, importing distributor and distributor of malt and brewed beverages from providing short term wholesale price discounts. Act 196 of 1992 (act) amended the code to provide that any wholesale price reduction must be maintained for 120 days and provided specific exemptions from the 120-day rule. In addition, the act created an investigative unit to be responsible for monitoring the malt and brewed beverage industry.

The regulation provides for how the LCB will implement the 120 day rule for price reductions. Specifically, the regulation outlines the reporting requirements for wholesale prices and the administrative procedures to be followed when a manufacturer or distributor wants to increase the price of a malt or brewed beverage earlier than 120 days from the date of the price reduction.

We have reviewed this regulation and find it to be in the public interest. The regulation is necessary to implement the provisions of Act 196 of 1996 and assure proper price controls for malt and brewed beverages.

Therefore, It Is Ordered That:

1. Regulation No. 54-52 from the Pennsylvania Liquor Control Board, as submitted to the Commission on November 18, 1997, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Department of Labor and Industry—Retirement Pensions and Annuities; Doc. No. 12-44

Order

On August 27, 1996, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (L&I). This rulemaking amends 34 Pa. Code §§ 65.101—65.105 and adds § 65.108. The authority for this regulation is sections 201(a) and 404(d) of the Commonwealth's Unemployment Compensation Law (Law) (43 P. S. §§ 761(a) and 804(d)). The proposed regulation was published in the September 7, 1996 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 13, 1997.

In part, this regulation is a response to directives from the U.S. Department of Labor (USDOL) to L&I. USDOL informed L&I that it must delete provisions of its existing regulations that conflict with Federal law. In response, this regulation deletes an existing exemption for workers permanently and involuntarily separated from employment before their retirement date. The exemption precluded the use of pension payments as an offset or deduction from unemployment compensation (UC) payments. Federal law requires that UC payments be reduced if the recipient is receiving periodic pension payments. Federal law does not require deductions or offsets for lump sum retirement payments.

The regulation also removes the existing "\$40 per week floor" on deductibility of pension payments which is no longer authorized by State or Federal law. In addition, the regulation provides for deductibility of Social Security retirement benefits in a manner that is consistent with Federal law.

Significant portions of this regulation are necessary to avoid sanctions by the Secretary of USDOL. If the Commonwealth's regulations do not conform with Federal law, USDOL could seek to withdraw certification from the State. This action would abrogate funding for both the UC system and Job Centers. In addition, employers within the State could lose the Federal tax credits to which they are entitled by payment of State UC taxes.

We have reviewed this regulation and find it to be in the public interest. The regulation will bring L&I's rules into greater consistency with Federal law. The final-form regulation includes a new exemption from the proposed offset requirement for lump sum payments. It applies when UC claimants transfer or "roll-over" lump sums to eligible retirement plans within 60 days of receipt. By providing an exemption from the deduction or offset requirement for "roll-overs" of lump sum retirement payments, it creates an incentive for workers to prepare for the future.

Therefore, It Is Ordered That:

1. Regulation No. 12-44 from the Department of Labor and Industry, as submitted to the Commission on November 13, 1997, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Environmental Quality Board—Noncoal Regulations; Doc. No. 7-303

Order

On February 4, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 77. The authority for this regulation is 52 P. S. § 3311(a) and 35 P. S. § 691.5(b). The proposed regulation was published in the February 15, 1997 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on November 5, 1997.

The proposed amendments are the result of the Department of Environmental Protection's (DEP) Regulatory Basics Initiative. The EQB held two public hearings on the proposed amendments which include an increase in the small noncoal mining allowable yearly tonnage limit from 2,000 tons to 10,000 tons; a provision to allow DEP to require concurrent reclamation; and the use of general permits for noncoal surface mining activities that are similar in nature.

We have reviewed this regulation and find it to be in the public interest. The EQB projects a decrease in permit costs for the regulated community in the amount of \$110,000 per year. The EQB projects that DEP will save \$49,000 per year due to reduced review times for permits. The EQB explained that the proposed increase to a 10,000 tonnage limit for small noncoal operations will not have a significant environmental impact. The EQB adopted recommendations to modify provisions for general permits, impacts on wetlands, documentation of exploratory drilling and several minor clarity recommendations.

Therefore, It Is Ordered That:

1. Regulation No. 7-303 from the Environmental Quality Board, as submitted to the Commission on November 5, 1997, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Environmental Quality Board—Small Operator Assistance Program; Doc. No. 7-308

Order

On March 10, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 86, Subchapter C. The authority for this regulation is found under sections 4.2, 4.3 and 18.7 of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.4b, 1396.4c and 1396.18g), section 5 of The Clean Streams Law (35 P. S. § 691.5); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20). The proposed regulation was published in the March 22, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 5, 1997.

The EQB is proposing to restructure §§ 86.81—86.95 to improve clarity, eliminate redundant language and remove regulatory citations which the Federal Office of Surface Mining Reclamation and Enforcement has indi-

cated are beyond the scope of services authorized by the Small Operator Assistance Program.

We have reviewed this regulation and find it to be in the public interest. Several nonsubstantive changes have been made in the organization and format of the final rulemaking as a result of suggestions from the Commission which improve its clarity.

Therefore, It Is Ordered That:

1. Regulation No. 7-308 from the Environmental Quality Board, as submitted to the Commission on November 5, 1997, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Environmental Quality Board—Financial Assistance; Doc. No. 7-311

Order

On March 18, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking would amend 25 Pa. Code Chapter 103 relating to certain administrative requirements a municipality must meet to qualify for financial assistance for the construction or upgrading of a sewage treatment facility. The authority for this regulation is found in The Clean Streams Law (35 P. S. §§ 691.1—691.1001), section 16(a)(2) of the Land and Water and Conservation and Reclamation Act (Conservation and Reclamation Act) (32 P. S. § 5116(a)(2)), and section 1920-A of the Administrative Code of 1929, as amended (71 P. S. § 510.20). The proposed regulation was published in the March 29, 1997 edition of the *Pennsylvania Bulletin*, with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 5, 1997.

The financial assistance may be as low interest revolving fund loans or grants. These amendments were developed under the Regulatory Basics Initiative of the Department of Environmental Protection (DEP).

Subchapter A revisions delete references to the Federal Title II sewage treatment construction grants program, which has been phased out because all treatment facilities have either been constructed or are in the final stages of construction. Title II has been supplanted in Pennsylvania by the Federal Clean Water Act Title VI Loan Program (Title VI Program). The Title VI Program is jointly administered by the DEP and the Pennsylvania Infrastructure Investment Authority (PENNVEST). About 300 municipal sewage construction projects on the Title VI Program project priority list will benefit from affordable financial assistance through PENNVEST rather than having to borrow money at higher rates of interest in the open market.

Subchapter D amendments delete provisions for a State design grant program and a supplemental construction grant program because all eligible applicants have been awarded grants. They also authorize award of the currently remaining \$155,000 for one or several grant awards to economically depressed communities for the

construction of sewage facilities and to recover some of their sewage treatment facility related costs.

We have reviewed this regulation and find it to be in the public interest. This rulemaking provides necessary updates to Subchapters A and D. The final-form version also incorporates some changes the Commission suggested in its Comments on the proposed version, which improve the clarity and consistency of the regulation.

Therefore, It Is Ordered That:

1. Regulation No. 7-311 from the Environmental Quality Board, as submitted to the Commission on November 5, 1997, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Insurance Department—Mass Merchandising of Property and Casualty Insurance; Doc. No. 11-144

Order

On March 31, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code by repealing §§ 113.51—113.62. The authority for this regulation is found under The Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15); the Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199); and the Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. §§ 1121—1238). The proposed regulation was published in the April 12, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 18, 1997.

The purpose of this rulemaking is to eliminate requirements that are burdensome or are duplicative of existing statutory requirements governing the filing of insurance rates and policy forms. In addition, the sections requiring the rendering of assistance to individuals in obtaining insurance is unduly burdensome and the report of statistics is no longer used by the Department.

The final-form regulation contains no changes from the proposed regulation. We did not file any comments on the proposed regulation. Furthermore, we did not receive any negative recommendations on the final-form regulation from the House Insurance Committee or the Senate Banking and Insurance Committee.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 11-144 from the Insurance Department, as submitted to the Commission on November 18, 1997, was deemed approved under section 5(g) of the Regulatory Review Act on December 9, 1997.

Commissioners present: Robert J. Harbison, III, Vice Chairperson; Alvin C. Bush; Arthur Coccodrilli; John F. Mizner

Public Meeting held
December 11, 1997

Department of Transportation—Licensing

Order

On August 20, 1997, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Transportation (PennDOT). This rulemaking amends 67 Pa. Code Chapters 71, 75 and 83. The authority for this regulation is contained in sections 1508, 1508.1, 1509 and 6103 of The Vehicle Code (75 Pa.C.S. §§ 1508, 1508.1, 1509 and 6103). The proposed regulation was published in the August 30, 1997 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 18, 1997.

This rulemaking would amend PennDOT's regulations to provide that certified registered nurse practitioners and physician assistants may conduct preliminary physical examinations required for the initial issuance of a driver's license and a school bus driver endorsement. Heretofore, only licensed physicians could conduct such examinations.

The final-form regulation contains no changes from the proposed regulation. We did not file any comments on the proposed regulation. Furthermore, we did not receive any negative recommendations on the final-form regulation from the House and Senate Transportation Committees.

Therefore:

The Commission will notify the Legislative Reference Bureau that Regulation No. 18-342 from the Department of Transportation, as submitted to the Commission on November 18, 1997, was deemed approved under section 5(g) of the Regulatory Review Act on December 9, 1997.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 97-2100. Filed for public inspection December 26, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT**Appeal of Elaine Cornman Under The Motor Vehicle Financial Responsibility Law Catastrophic Loss Benefits Continuation Fund; Doc. No. CF97-12-009**

A telephone prehearing conference initiated by this office shall be conducted on February 11, 1998 at 11 a.m. The parties shall have exchanged and filed prior to February 11, 1998 all exhibits intended for use at the hearing, a witness list identifying the names, addresses and telephone numbers for the proposed witnesses, the identity of all experts along with their curriculum vitae and proposed testimony, an estimate of time for the respective party's case-in-chief, a listing of all legal issues and the supportive citation for the respective party's position pertaining to the legal issues and all joint factual stipulations.

The hearing shall occur on February 25, 1998 at 11 a.m. in Room 200, Administrative Hearing Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 97-2102. Filed for public inspection December 26, 1997, 9:00 a.m.]

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
6-259	Department of Education Special Education Services and Programs	12/11/97
6-260	State Board of Education Special Education Services and Programs	12/11/97
10-148	Department of Health Health Facility Licensure	12/12/97

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 97-2101. Filed for public inspection December 26, 1997, 9:00 a.m.]

Daniel P. Wright; Doc. No. SC97-10-022

The hearing is scheduled for February 11, 1998 at 11 a.m., in the Administrative Hearing Office, Suite 200, 901 North Seventh Street, Harrisburg, PA 17102.

The proceedings in this matter will be governed by the Administrative Agency Law 2 Pa.C.S. §§ 501—508, 701—704 and the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 et. seq.

Pending hearing, parties shall exchange proposed exhibits, the names of witnesses and provide an offer of proof with respect to each witness, and informally attempt to resolve undisputed facts by stipulation.

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, Suite 200, 901 North Seventh Street, Harrisburg, PA 17102 on or before January 21, 1998.

A prehearing conference initiated by the Administrative Hearing Office is scheduled for January 28, 1998 at 11 a.m.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an

auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-6469.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 97-2103. Filed for public inspection December 26, 1997, 9:00 a.m.]

The Employers' Fire Insurance Company; Private Passenger Automobile

On December 10, 1997, the Insurance Department received from The Employers' Fire Insurance Company a filing for a rate level and rules change for Private Passenger Automobile insurance.

The company requests an overall 4.5% increase amounting to \$440,000 increase annually, to be effective January 20, 1998.

Unless formal administrative action is taken prior to February 9, 1998, 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 Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

All interested parties are invited to submit written comments, suggestions or objections to Nabila Audi, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 97-2104. Filed for public inspection December 26, 1997, 9:00 a.m.]

Pennsylvania Compensation Rating Bureau; Workers' Compensation Loss Cost Filing

The Insurance Department has received from the Pennsylvania Compensation Rating Bureau a filing for a loss cost level change for workers' compensation insurance. This filing is made in accordance with section 705 of Act 44 which amended the Pennsylvania Workers' Compensation Act. The Bureau requests an overall 6.57% net decrease. The Bureau has calculated the loss based assessments to be 3.19%, compared to 2.78% last year. Updates to a variety of other rating values and Manual rules to reflect the most recent experience and terminology are also being submitted for approval.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Nabila Audi, Insurance Department, Office of Rate and Policy Regulation, Bureau of Property and Casualty Insurance, Actuarial

Review Division, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 97-2105. Filed for public inspection December 26, 1997, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with his company's termination of the insured's automobile policies.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Grossi, John; file no. 97-280-35270; Pennsylvania General Insurance Company; doc. no. PH97-10-014; January 21, 1998, at 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 97-2106. Filed for public inspection December 26, 1997, 9:00 a.m.]

MILK MARKETING BOARD

Hearing for All Milk Marketing Areas To Consider Establishing and Pooling Class I Differentials

Under the Milk Marketing Law (31 P. S. § 700j-101 et seq.), the Milk Marketing Board (Board) will conduct a public hearing for all milk marketing areas on January 23, 1998, commencing at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive evidence on pooling Class I differentials, as requested by petitioners Land O' Lakes, Inc., and Milk Marketing, Inc. Under its own motion, the Board will also receive evidence on establishing Class I differentials based on marketing conditions in Pennsylvania and on other issues directly related to the possible deregulation of Federal Class I differentials.

The petitioners, the staff of the Board and other persons on the Board's list of parties for the emergency hearing on pooling the differentials scheduled for December 16, 1997, are deemed to be parties to this hearing. Other persons who wish to present evidence may be added to the Board's list of parties by (1) having their attorney file with the Board on or before January 5, 1998, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 or (2) if unrepresented by counsel, filing with the Board on or before January 5, 1998, notification of their desire to be included as a party.

A. Each party shall file with the Board seven copies and serve on all other parties one copy of the following on or before January 9, 1998:

(1) A list of witnesses who will testify for the party. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

(2) A statement of the subjects concerning which each witness will testify.

(3) Each exhibit to be presented, including testimony to be offered in written form.

B. Parties who wish to present rebuttal witnesses or exhibits, or both, shall follow the filing and service procedures set out in paragraph A on or before January 14, 1998.

C. Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office on or before January 7, 1998.

D. Parties shall have available in the hearing room at least 20 copies of the exhibits referenced in paragraphs A and B for distribution to nonparties attending the hearing.

E. Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code §§ 35.164, 35.165, 35.167 and 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The Board may exclude witnesses or exhibits of a party that fails to comply with the foregoing requirements.

The Board has determined that the following evidence is essential to developing a complete hearing record. This list is not intended to be obligatory on all parties, to be inclusive or to discourage parties from presenting additional relevant evidence.

1. Evidence of marketing conditions, specific to Pennsylvania or to areas within Pennsylvania, that should determine the level of the Class I differentials—for example, supply and demand characteristics, cost of production, market stability, out-of-State influence.

2. Evidence identifying the qualifications of producers for inclusion in a pool, considering in particular whether sales transactions and utilization are in or outside Pennsylvania.

3. Evidence identifying the qualifications of dealers for inclusion in a pool, considering in particular whether:

a. Only dealers currently pooled under a Federal milk marketing order should qualify.

b. All dealers located in Pennsylvania should qualify.

c. All dealers purchasing Pennsylvania-produced milk should qualify as long as the producer-to-dealer sales transaction has taken place in Pennsylvania.

d. Requirements or restrictions should be established based on percentage and location (in-State/out-of-State) of Class I utilization.

4. Evidence bearing on the precise mechanics of operating a pool, addressing at a minimum:

a. Dealer reports, calculation of pool obligations and calculation of distributions.

b. Manner of distribution of pool funds by the Board—for example, through distribution to dealers for redistribution to producers or through direct distribution to producers.

c. Use of the resources of State agencies other than the Board or use of Federal agency resources for operation of the pool.

A prehearing conference for all parties will be held at 2 p.m. on January 15, 1998, in Room 110 of the Agriculture Building, 2301 North Cameron Street, Harrisburg. Parties shall come prepared to address requests for the production of documents relied on in formulating their testimony and exhibits.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

O. FRANK DEGARCIA,
Executive Secretary

[Pa.B. Doc. No. 97-2107. Filed for public inspection December 26, 1997, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act, the act of September 30, 1983(P. L. 160, No. 39) as amended by section 2 of the act of October 19, 1995(P. L. 324, No. 51) mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers(CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12-month period for which figures have been officially

reported by the United States Department of Labor, Bureau of Labor Statistics(BLS) immediately prior to the date adjustment is due to take effect.

As required by section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U(PA-DE-NJ-MD) over the past

12 months as reported by BLS on December 16, 1997, that the salaries covered by that law shall be increased by 1.3% effective January 1, 1998. The following chart sets out the agency head position, the salary prior to the adjustment, the percentage amount of the adjustment, and the new salary:

**COLA ADJUSTMENT FOR ELECTED AND APPOINTED OFFICIALS
RECEIVING SALARIES CONTAINED IN ACT 1995-51**

COLA ADJUSTMENT IS BASED ON THE PERCENT CHANGE IN THE CPI-U FOR PA-DE-NJ-MD, CMSA, FOR THE 12-MONTH PERIOD ENDING NOVEMBER 1997

<i>Position</i>	<i>Salary Prior To 1/1/98</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/98</i>
Governor	\$128,625	1.3%	\$130,297
Lieutenant Governor	\$108,045	1.3%	\$109,450
State Treasurer	\$107,016	1.3%	\$108,407
Auditor General	\$107,016	1.3%	\$108,407
Attorney General	\$107,016	1.3%	\$108,407
Large Agency Head	\$102,900	1.3%	\$104,238
Secretary of Education			
Secretary of Environmental Protection			
Secretary of Health			
Secretary of Labor and Industry			
Secretary of Public Welfare			
Secretary of Transportation			
Secretary of Corrections			
Medium Agency Head	\$97,755	1.3%	\$99,026
Secretary of Aging			
Secretary of Commerce & Economic Development			
Secretary of General Services			
Secretary of Revenue			
State Police Commissioner			
Secretary of Conservation & Natural Resources			
Small Agency Head	\$92,610	1.3%	\$93,814
Adjutant General			
Secretary of Agriculture			
Secretary of Banking			
Secretary of the Commonwealth			
Insurance Commissioner			
Liquor Control Board			
Chairman	\$52,273	1.3%	\$52,953
Member	\$50,215	1.3%	\$50,868
Civil Service Commission			
Chairman	\$41,803	1.3%	\$42,346
Member	\$41,803	1.3%	\$42,346
State Tax Equalization Board			
Chairman	\$18,008	1.3%	\$18,242
Member	\$16,721	1.3%	\$16,938
Milk Marketing Board			
Chairman	\$16,721	1.3%	\$16,938
Member	\$16,078	1.3%	\$16,287
Securities Commission			
Chairman	\$16,721	1.3%	\$16,938
Member	\$15,435	1.3%	\$15,636
Athletic Commission			
Chairman	\$13,506	1.3%	\$13,682
Member	\$12,863	1.3%	\$13,030
Board of Pardons			
Member	\$11,834	1.3%	\$11,988
Board of Claims			
Chairman	\$87,259	1.3%	\$88,393
Member	\$83,143	1.3%	\$84,224

<i>Position</i>	<i>Salary Prior To 1/1/98</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/98</i>
Public Utility Commission Chairman	\$100,328	1.3%	\$101,632
Member	\$97,755	1.3%	\$99,026
Environmental Hearing Board* Chairman	\$100,328	1.3%	\$101,632
Member	\$97,755	1.3%	\$99,026

* The Environmental Hearing Board is not contained in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the PUC.

ROBERT BITTENBENDER,
Secretary

[Pa.B. Doc. No. 97-2108. Filed for public inspection December 26, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition for Declaratory Order of TCG Delaware Valley, Inc. for Clarification of Section 5.7.2 of its Interconnection Agreement with Bell Atlantic—Pennsylvania, Inc.; P-00971256

Public Meeting held
December 4, 1997

Commissioners present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; John Hanger; David W. Rolka, statement follows; Nora Mead Brownell

Opinion and Order

Before the Commission for consideration is the Petition for Declaratory Order of TCG Delaware Valley, Inc. (TCG or Petitioner) for Clarification of section 5.7.2 of its Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc. (Bell). Teleport Communications Group, Inc., on behalf of its affiliates, TCG Delaware Valley, Inc. and TCG Pittsburgh, Inc., is hereby requesting that this Commission issue a Declaratory Order under the Commission's Rules of Administrative Practice at 52 Pa. Code § 5.42. Petitioner requests that, under section 5.42 the Commission has authority to issue a Declaratory Order. Petitioner avers that the Commission's rules permit a party to request a declaratory ruling "to terminate a controversy or remove uncertainty."

Here TCG seeks a Declaratory Ruling regarding the Commission's Order at Docket No. A-310258F0002, which approved the Interconnection Agreement between the former Eastern Telelogic Corporation (now TCG Delaware, Inc.) and Bell.

History of the Proceeding

On September 19, 1997, TCG filed its Petition, enforcing section 5.7.2 of the Bell Atlantic-Pennsylvania, Inc.—TCG Delaware Interconnection Agreement. On October 1, 1997, TCG Delaware, Inc. filed an Amended Petition for Declaratory Order enforcing section 5.7.2 of the Agreement.

On October 22, 1997, Bell filed an Answer to and Motion to Dismiss the Amended Petition of TCG. On November 7, 1997, TCG filed a Motion for Extension of Time to File Answer to Motion to Dismiss and an Answer to the Motion to Dismiss. On November 14, 1997, PECO Hyperion Telecommunications, Hyperion Telecommunica-

tions of Harrisburg, Inc., and Hyperion Telecommunications of Pennsylvania, Inc. (collectively, Hyperion) filed a Petition to Intervene in this proceeding.

Discussion

Under normal circumstances we would dispose of each pleading on the merits. However, in this instant proceeding, we conclude that it is in the interest of administrative economy to hold these pleadings in abeyance pending the publication in the *Pennsylvania Bulletin* and the receipt of and consideration of comments filed with respect to the issues delineated herein.

Section 5.7.2 of the above referenced Interconnection Agreement pertains to the definition of local traffic. Petitioner argues that the traffic from a Bell end user to an Internet Service Provider should be considered local traffic and, consequently, Bell should pay reciprocal compensation to TCG for the termination of this traffic. Bell argues that this traffic is jurisdictionally interstate and, therefore, need not be considered for reciprocal compensation payments. The Association for Local Telecommunications Services has recently raised this issue before the Federal Communications Commission (FCC) and has asked for a determination that the classification of Internet traffic be determined as local traffic.¹ FCC Public Notices, DA No. 97-1543, July 2, and July 23, 1997. This issue is ripe for consideration at the FCC level.

TCG argues, however, that this Commission need not await the FCC's resolution of the issue. Petitioner states that the question is a state specific issue to determine the appropriateness of the Interconnection Agreements and further argues that the Eighth Circuit Court has buttressed this finding by its holding that it is the state jurisdiction that has the responsibility to resolve issues in controversy in an Interconnection Agreement. *Iowa Utilities Board v. FCC* 120 F.3rd 753(8th Cir. 1997)

We have reviewed the entire record in this proceeding and find that the issue on whether Internet traffic should be classified as local traffic, subject to reciprocal compensation, is of grave importance to the public interest. Therefore, we shall publish this Opinion and Order in the *Pennsylvania Bulletin* for public comment. We shall solicit comments on the following questions:

1. Whether and why calls placed to a local number of an Internet service provider should be treated differently from local voice grade service to other numbers, generally?

2. What are the specific characteristics of Internet calling and the unique costs associated with originating and terminating such traffic?

Conclusion

We find that the Petition of TCG presents a question of broad public interest, the resolution of which will impact on the development of local exchange service competition. Because of the extreme growth of the usage of the Internet, we find that publication of this Order for further comment of all interested parties has been necessitated. The Staff upon review of the comments is directed to make a final recommendation on this issue to the Commission on or before the first Public Meeting in May, 1998.

Therefore; It Is Ordered That:

1. The Petition for Declaratory Order filed by TCG Delaware Valley, Inc., is held in abeyance pending review of and consideration of further comments on this matter.

2. All pleadings filed by the parties in relation to the above referenced pleading are also held in abeyance pending review of and consideration of further comments on this matter.

3. This Order shall be published in the *Pennsylvania Bulletin* for the purpose of collecting more public information through the solicitation of comments concerning the issue of the appropriate classification of Internet traffic.

4. The Secretary shall duly certify this order and deposit it with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

5. Within 20 days of this order's publication in the *Pennsylvania Bulletin*, an original and 10 copies of any comments concerning this Opinion and Order should be submitted to the Pennsylvania Public Utility Commission at Docket No. P-00971256. The contact person is Gary C. Wagner, Rate Case Review Specialist, Office of Special Assistants, at (717) 783-6175.

6. The Staff is directed to make a final recommendation to the Commission after review of the comments on or before the first Public Meeting in May, 1998.

7. The Commission shall make a final adjudication after review of the Staff's recommendations.

JAMES J. MCNULTY,
Secretary

Statement of Commissioner David W. Rolka

When we were developing appropriate guidance for resolution of mediation and arbitration of interconnection agreements, Bell Atlantic opposed pleas from potential competitors for "Bill and Keep" arrangements where each local provider keeps all the revenue on a local call rather than providing compensation for termination of the local call to the terminating local carrier.

The Petition for Declaratory Order seeks a determination of whether calls to Internet Service Providers (ISPs) are local calls. These calls are treated as local in separations reports, ARMIS reports, rate filings with the FCC, and interconnection/compensation agreements with neighboring incumbent telephone companies.

I therefore request that comments address what appears to be a potential for inconsistent treatment and/or arbitrage if these calls are not determined to be local.

¹ Letter from ALTS to Regina M. Keeney, June 20, 1997, filed in CC Docket No. 9698, at 1. The ALTS letter defines ISP traffic as traffic originated by end-users on a network that is destined for the Internet via ISPs connected to the other carrier's network.

[Pa.B. Doc. No. 97-2109. Filed for public inspection December 26, 1997, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before January 20, 1998, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00114508. Fancee Limousine Service, Inc. (3955 Drybrook Road, Falconer, Chautauqua County, New York 14733), a corporation of the state of New York—persons in limousine service, between points in the counties of Warren and Erie, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Doug Spoto, 112 Hotel Jamestown Building, Jamestown, New York 14701.

A-00114489. Leslie Stranger (120 Willow Street, Athens, Bradford County, PA 18810)—persons, in limousine service, between points in the county of Bradford, and from points in the said county, to points in Pennsylvania, and return.

A-00114488. Frank R. Gehard, t/d/b/a Black Diamond Limousine (203 South 12th Street, Altoona, Blair County, PA 16602)—persons, in limousine service, between points in the counties of Blair, Bedford, Cambria, Centre and Huntingdon, and from points in the said counties, to points in Pennsylvania, and return.

A-00114501. Robert C. Green, t/a Green's Taxi Service (2079 Smith Township State Road, Burgettstown, Washington County, PA 15021), persons upon call or demand in the boroughs of Burgettstown, McDonald, Midway and the townships of Mt. Pleasant, Hanover, Smith, Jefferson, Robinson, Independence and Cross Creek, all located in Washington County. *Attorney:* Paul J. Walsh, 63 Main Street, Burgettstown, PA 15021.

A-00114509. Elite Coach Limousine, Inc. (3797 Old William Penn Highway, Murrysville, Westmoreland County, PA 15668), a corporation of the Commonwealth of Pennsylvania—persons, in limousine service, between points in the counties of Westmoreland, Cambria, Indiana, and Washington, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Frank M. Moore, Jr., 220 Grant Street, Pittsburgh, PA 15219.

A-00114505. Bruce Voell, t/a Archway Limousine (10934 Modena Place, Philadelphia, Philadelphia County, PA 19154)—persons, in limousine service, between points

in the city and county of Philadelphia, and the counties of Bucks, Chester and Montgomery, and from points in said territory, to points in Pennsylvania, and return.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-00114297, Folder 2. Jolanta Sedkowski (460 East Lincoln Highway, Langhorne, Bucks County, PA 19047)—persons in limousine service, between points in Bucks County, and from points in said county, to points in Pennsylvania, and return.

A-00106733, Folder 4. Johnson's Bus, Inc. (Box 245, Mount Joy, Lancaster County, PA 17552), a corporation of the Commonwealth of Pennsylvania—(1) persons, in limousine service, between points in Cumberland County, and from points in said county, to points in Pennsylvania, and return; and (2) between points in Franklin County; which is to be a transfer of all the rights authorized under the certificate issued at A-00111046, F. 1, and F. 1, Am-A to Beverly Hills Limousine Service, Inc., subject to the same limitations and conditions. *Attorney:* J. Bruce Walter, Dauphin Bank Building, 12th Floor, 1 South Market Square, P. O. Box 1146, Harrisburg, PA 17108-1146.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00110039, Folder 2, Am-A. M. J. Unis, Inc., t/a Deluxe Limo Service (2454 Mill Street, Aliquippa, Beaver County, PA 15001), a corporation of the Commonwealth of Pennsylvania—persons in limousine service from points in the county of Allegheny to other points in Pennsylvania; subject to the following conditions: (1) that no right, power or privilege is granted to provide service to points in Butler County; (2) that no right, power or privilege is granted to provide service for funeral homes or service to or from funeral homes for persons attending funerals; and (3) that no right, power or privilege is granted to provide service to points in Beaver County when the order for service is received from an individual or business located in Beaver County; *so as to permit* the transportation of persons, in limousine service, from points in the county of Beaver, to points in Pennsylvania, and return. *Attorney:* Roger W. Foley, Jr., Three Gateway Center, 15th Floor North Wing, Pittsburgh, PA 15222.

A-00098496, Folder 1, Am-A. Greater Johnstown Yellow Cab, Inc. (1301 Frankstown Road, Johnstown, Cambria County, PA 15902), to transport, as a common carrier, persons and their baggage upon call or demand in the city of Johnstown, Cambria County, and within an airline distance of 6 statute miles of the intersection of Main and Market Streets in said city: *so as to permit* the transportation of persons in call or demand service in the area of the counties of Cambria and Somerset as outlined: beginning at Route 422 at the Cambria County Line, thence east via Route 422 to the borough of Cresson, Cambria County, where Route 422 intersects with Route 53, thence southwestwardly via Route 53 to its intersection with Route 160 in the borough of Wilmore, Cambria County, thence southwardly via Route 160 to its intersection with Route 30, thence westwardly via Route 30 to the Somerset County Line, thence northwardly along the Somerset and Cambria County Lines to the point of beginning, at Route 422 in Cambria County.

A-00108982, F. 4, Am-D. Laidlaw Transit (DEL), Inc. (522 Chestnut Street, Emmaus, Lehigh County, PA 18049), a corporation of the State of Delaware—persons in group and party service, in conventional school bus type equipment, between points in the county of Lancaster, and from points in said county to points in Pennsylvania, and return; and between points in that part of the township of Derry, Dauphin County, which are beyond an airline distance of 10 statute miles of the limits of the city of Harrisburg, Dauphin County, and from points in said territory, to points in Pennsylvania, and return; subject to the following condition: that no right, power or privilege is granted to provide service for individually ticketed tour or sight-seeing service or special excursions: *so as to permit* the transportation of persons in group and party service, in conventional school bus type equipment, between points in the county of Dauphin, and from points in said county, to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

Application of the following for the approval of the transfer of stock as described under each application.

A-00112589, Folder 5000. Milford Tri-State Taxi, Inc. (115 East Harford Street, Milford, Pike County, PA 18337), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of all the issued 100 shares of stock from Beth Pearlstein Kollmer to Stuart Pearlstein. *Attorney:* David A. Gniewek, 115 East Harford Street, Milford, PA 18337-1020.

A-00110526, Folder 5000. U.S.A Limo Service, Inc. (10 Industrial Highway, Lester, Delaware County, PA 19113), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of 50 shares of the issued 100 shares of stock from Vladimir Goldfarb to USA Express, Inc. *Attorney:* John J. Gallagher, Suite 100, 1760 Market Street, Philadelphia, PA 19103.

Motor Carrier Applications—Property, Excluding Household Goods In Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before January 13, 1998.

- A-00114514 Raymond Poreca, t/a Raymond Poreca Trucking R. R. 4, Box 398, Tamaqua, PA 18252
- A-00114513 Arthur R. Bauer R. D. 3, Box 230, Shippenville, PA 16254; Kent S. Pope, 10 Grant Street, Suite A, Clarion PA 16214
- A-00114511 Caraco, Inc. 243 Shuster Road, Gibsonia, PA 15044
- A-00114512 James H. Lyons, Jr., t/a M & J Excavating and Landscaping 3912 Admiral Peary Highway, Ebensburg, PA 15931; Kenneth Zielonis, Stevens & Lee, 208 North Third Street, Suite 310, Harrisburg, PA 17108-2090
- A-00114510 Nancy L. Kolva 303 E. Limekiln Road, New Cumberland, PA 17070
- A-00114504 Michael Arsenault, t/a Arsenault Trucking P. O. Box 74, Wyalusing, PA 18853

- A-00114503 Everett C. Gaines, t/a E.C. Gaines Transport CO. P. O. Box 217, York Springs, PA 17372
- A-00114500 John S. Graham, t/a John S. Graham Trucking 150 Klein Road, Freedom, PA 15042
- A-00112470 Harvey E. Givler, t/a H.E. Gilver Trucking F.2 4044 E. Harrisburg Pike, Middletown, PA 17057
- A-00114499 Donald Smith, t/a Don Smith Trucking R. R. 2, Box 379, Harveys Lake, PA 18618
- A-00114457 Arthur W. Frampton, t/a Frampton Trucking R. D. 3, Box 128-A, New Bethlehem, PA 16242
- A-00114522 Donald R. and Beverly A. Howsare t/a D & M Trucking R D 1, Box 12, Bedford, PA 15522
- A-00114521 Danis Transportation, Inc. 60 Industrial Drive, Cumberland, RI 02864: Partridge, Snow & Hahn, 180 South Main Street, Providence, RI 02903
- A-00114520 Gene Gehman 130 Fairview Road, Manheim, PA 17545
- A-00114519 Dorothy and Ernest J. Weber 3917 Nancy Lane, Collegville, PA 19426
- A-00114518 E M S Dispatch, Inc. 316 MT. Vernon Street, Lansdale, PA 19446: Gerald E. Glackin, P. O. Box 58, Lansdale, PA 19446-0058
- A-00114517 C N D Leasing, Inc. 7181 Logan Drive, New Tripoli, PA 18066
- A-00114516 JB Logistics, LLC 2039 Northampton Street, Easton, PA 18042: Kenneth A. Olson, 33 Philhower Road, Lebanon, NJ 08833-4537
- A-00114515 Scott J. Kershner, t/a Kershner Trucking 719 Noble Street, Kutztown, PA 19530
- JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 97-2110. Filed for public inspection December 26, 1997, 9:00 a.m.]

Solicitation of Public Comment on Commission Order on the Schools and Libraries Program: Late Fee Charges and the Schools and Libraries Education Rate (E-Rate) Program

PUC Doc. No. I-00940035: In Re: Formal Investigation to Examine and Establish Updated Principles and Policies for Telecommunications Services in the Commonwealth: Late Fee Charges and the Schools and Libraries E-Rate Program.

On January 1, 1998, the Schools and Libraries Universal Service Discount Program (commonly referred to as the Education Rate or E-Rate Program) is scheduled to begin. The E-Rate Program is funded by assessments on all providers of interstate telecommunications services. The \$2.25 billion is a Federally-administered program that will provide discounts on telecommunications services, Internet access and internal connections for schools and libraries. The discounts range from 20% to 90%,

depending on the percentage of students eligible for the national free or reduced lunch program, and whether the school or library is located in a rural or urban county.

Based on the rules prescribing the administration of the E-Rate Program, the Schools and Libraries Corporation must inform the Universal Service Administrative Company (USAC) of the amount of money to be paid to a service provider within 20 days of receipt of a bill for service. 47 C.F.R. 69.619(a)(7). USAC then has an additional 20 days to disburse the payment to the service provider within 20 days of receiving the authorization from Schools and Libraries Corporation. 47 C.F.R. 69.616(b). Consequently, there will be a 40-day billing lag for receipt of payments from the E-Rate Fund. This period of time will likely exceed the usual payment cycle for business customers, and could trigger the late payment provisions of the State's telecommunications carriers' tariffs.

The application of late payment charges in this context could add to the costs of service incurred by schools and libraries. That result may be contrary to the discount program and the goals of the E-Rate Program.

The Pennsylvania Public Utility Commission (Commission) seeks to coordinate implementation of the E-Rate program in this Commonwealth with minimal additional costs to the recipient schools and libraries. To that end, the Commission is soliciting public comments on the following topics:

1. Whether it is appropriate for local exchange carriers in this Commonwealth to waive the late payment charges that might otherwise apply under the Administrative Rules of the Schools and Libraries corporation;

2. What other approaches would be appropriate to resolving the potential for assessing late payment charges and other charges under the Administrative Rules of the Schools and Libraries corporation; and

3. Any other considerations or comments that would be useful to the Commission in addressing this issue.

Interested parties are hereby given 20 days from the publication of this notice in the *Pennsylvania Bulletin* to submit an original and 15 copies of any comments on this matter to the Commission.

The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau, (717) 787-3663. Comments should be filed at Doc. No. I-00940035.

JAMES J. MCNULTY
Secretary

[Pa.B. Doc. No. 97-2111. Filed for public inspection December 26, 1997, 9:00 a.m.]

Telecommunications

A-310084 F0002. Bell Atlantic-Pennsylvania, Inc. and Capital Telecommunications, Inc. Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Capital Telecommunications, Inc. for approval of a Resale Agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Capital Telecommunications, Inc., by its counsel, filed on December 5, 1997, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a Resale 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 20 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Capital Telecommunications, Inc. Joint Application 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. 97-2112. Filed for public inspection December 26, 1997, 9:00 a.m.]

STATE SYSTEM OF HIGHER EDUCATION

Design New Parking Facilities; Indiana University of Pennsylvania

Indiana University of the State System of Higher Education, will select a firm for the purpose of providing professional design services for the design of new parking facilities. Interested professionals should obtain a Request for Proposals (RFP) from Robert Marx, Director of Engineering and Construction, Robertshaw Building, Indiana University of Pennsylvania, Indiana, PA 15705, (412) 357-2289, fax (412) 357-6480, (www.iup.edu/phyfac). RFP's are due at 4 p.m. on Friday, January 23, 1998. The system encourages responses from small firms, minority firms, woman owned firms and firms which have not previously worked for the system, and will consider joint ventures which will enable these firms to participate in system professional services contracts.

Non-discrimination and equal opportunity are policies of the Commonwealth and the State System of Higher Education.

JAMES H. MCCORMICK,
Chancellor

[Pa.B. Doc. No. 97-2113. Filed for public inspection December 26, 1997, 9:00 a.m.]

Design for Renovations to John Sutton Hall, Phase I; Indiana University of Pennsylvania

Indiana University of the State System of Higher Education, will select a firm for the purpose of providing professional design services for the renovations to John Sutton Hall, Phase I. Interested professionals should obtain a Request for Proposals (RFP) from Robert Marx, Director of Engineering and Construction, Robertshaw Building, Indiana University of Pennsylvania, Indiana, PA 15705, (412) 357-2289, fax (412) 357-6480, (www.iup.edu/phyfac). RFP's are due at 4 p.m. on Friday, January 23, 1998. The system encourages responses from small firms, minority firms, woman owned firms and firms which have not previously worked for the system, and will consider joint ventures which will enable these firms to participate in system professional services contracts.

Non-discrimination and equal opportunity are policies of the Commonwealth and the State System of Higher Education.

JAMES H. MCCORMICK,
Chancellor

[Pa.B. Doc. No. 97-2114. Filed for public inspection December 26, 1997, 9:00 a.m.]

TREASURY DEPARTMENT

Request for Proposals

The Treasury Department of the Commonwealth of Pennsylvania will be accepting proposals to provide gemology services for the Bureau of Unclaimed Property. Interested parties may receive a copy of the request for proposals by contacting the Treasury Department at (717) 772-3296. Proposals in response to this request will be accepted no later than 12 noon on Monday, February 2, 1998. Late proposals will not be considered.

BARBARA HAFER,
Treasurer

[Pa.B. Doc. No. 97-2115. Filed for public inspection December 26, 1997, 9:00 a.m.]

Request for Proposals

The Treasury Department of the Commonwealth of Pennsylvania will be accepting proposals to provide coin appraiser services for the Bureau of Unclaimed Property. Interested parties may receive a copy of the request for proposals by contacting the Treasury Department at (717) 772-3296. Proposals in response to this request will be accepted no later than 12 noon on Monday, February 2, 1998. Late proposals will not be considered.

BARBARA HAFER,
State Treasurer

[Pa.B. Doc. No. 97-2116. Filed for public inspection December 26, 1997, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated below for the following Contract:

Contract No. 86-010-RL42. Widening and Rehabilitation of the Schuylkill River Bridge and Replacement of the Diamond Run Viaduct in Montgomery Co., PA.

Bid Opening Date: February 4, 1998, 11 a.m.

Bid Surety: 5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies of either a CD-ROM or paper copy of all the specifications, contract bid documents and plans may be purchased upon payment by check or P. O.

Money Order (no cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P.O. Box 67676, Harrisburg, PA, 17106-7676. No refund for plans, specifications and contract documents will be made for any reason. Selection of the desired materials should be by the following designations with proper respective remittance (Do Not Add Sales Tax): A) CD-ROM containing the Specifications, Contract Bid Documents and Plans—\$20; B) Paper copy of the Specifications, Contract Bid Documents and Plans—\$210.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

A mandatory prebid meeting for the project under the direction of the Engineer is scheduled for 10 a.m. LT, January 15, 1998, at the Pennsylvania Turnpike's Eastern Regional Office.

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-2117. Filed for public inspection December 26, 1997, 9:00 a.m.]

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing

Address: P.O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 98-006-RF50—Bituminous Overlay, ID-3, SRL-E and elimination of Bridge B-357, MP 144.12 from M.P. 148.09 on the Pennsylvania Turnpike System in Bedford, Fulton County, PA

Bid Opening Date—January 27, 1998, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$55 per set by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for plans, specifications and contract documents will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-2118. Filed for public inspection December 26, 1997, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

Reader's Guide

Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
 Location: Harrisburg, Pa.
 Duration: 12/1/93-12/30/93
 Contact: Procurement Division
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

⑥ Duration

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

Commodities

1534157 Blackboards—9 each chalkboard units, 2 each sliding chalkboard units; 3 each markerboard units; 1 each compression strip holder; 26 each tackboard units.

Department: University of Pittsburgh
Location: Titusville, Crawford County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1365317 Communications—1 system to provide a 23 CX full-duplex microwave system or approved equal.

Department: PA Emergency Management Agency
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8169220 Construction and building materials—2,700 bags Portland cement based fast-setting concrete mix IFSCEM 110 Fastset Patch 50 pound bags.

Department: Transportation
Location: Scranton, Lackawanna, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1520117 Containers, packaging and packing supplies—42,000 each plastic milk liners: six gallon disposable, clear w/Pid-Sleeve, 10 inch butyl tube, wrapped, manufactured by Parish Manufacturing (Secondary Key: 6/E 6/ED P:PEA/10/10 No. 1630040 or approved equal.

Department: Correctional Industries
Location: Graterford, Montgomery County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8132830 Containers, packaging and packing supplies—5,000 each document transporter box.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1492117 Food preparation and serving equipment—1 each mixer, all purpose, 80 quart to meet or exceed the standards of Hobart Model M802.

Department: Laurel Highlands
Location: Somerset, Somerset County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1494117 Food preparation and serving equipment—1 each Hobart Model DRO-2E series double rack oven or approved equal.

Department: Laurel Highlands
Location: Somerset, Somerset County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1464357 Laboratory instruments and equipment—2 each radiation monitor w/ converter, 6M cable size 10.0" x 13.0" x 8.5" Model No. 1015C; 2 each MDH X-ray monitor w/Chambers Model No. 1015C; 2 each 10 series ion chamber assemblies 10X5-6 general purpose in-beam probe Model No. 1015; 2 each 10 series ion chamber assemblies 10X5-10.3CT Model No. 1015.

Department: Environmental Protection
Location: Conshohocken, Montgomery County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1430207 Motor vehicles, trailers and cycles—7 each 1998 model Pontiac Grand AM SE Coupe (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1431207 Motor vehicles, trailers and cycles—7 each 1998 model Pontiac Grand Prix SE Sedan (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1432207 Motor vehicles, trailers and cycles—7 each 1998 model Chevrolet Monte Carlo LS Coupe (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1433207 Motor vehicles, trailers and cycles—8 each 1998 model Chevrolet Cavalier Coupe (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1434207 Motor vehicles, trailers and cycles—7 each 1998 model Dodge Avenger (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1435207 Motor vehicles, trailers and cycles—7 each 1998 model Cutlass sedan (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1436207 Motor vehicles, trailers and cycles—7 each 1998 model Saturn SC2 Coupe (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1437207 Motor vehicles, trailers and cycles—7 each 1998 model Honda Accord LX, 2 door (no substitute).

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1438207 Motor vehicles, trailers and cycles—7 each 1998 model passenger type mini van.

Department: State Police
Location: Harrisburg, Dauphin County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1547117 Textiles—5,000 yards vinyl coated nonskid taffeta embossed finish ACA striped ticking 39 1/2" wide.

Department: Corrections
Location: Dallas, Luzerne County, PA
Duration: FY 1997-98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

SERVICES

PDA 402 The proposal project involves year round contact with the general news media in advance of the Fair racing season, which begins in June. Develop marketing and promotional techniques that enhance the perception of harness racing at Fairs and maintain close contact with the Fairs and horsemen who race at that circuit.

Department: Agriculture
Location: Statewide
Duration: April 1, 1998 to March 31, 1999
Contact: Michael F. Mesaris, (717) 787-5674

Advertising—01

Audio/Video—04

1195 The contractor shall provide radio maintenance services for high and low band equipment, portable radios, chargers and related equipment. The radio equipment to be serviced is of various manufacturers. Services shall normally be performed on the premises of the correctional facility.

Department: Corrections
Location: State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 1998 to June 30, 2001
Contact: Wendy Maceyko, (412) 837-4397, Ext. 254

Construction—09

DGS 402-49 (Rebid) Project title: Renovation of Hamer Gymnasium. Brief description: Work consists of selective demolition, site improvements, concrete foundations, masonry, structural steel, roofing, windows, doors, partitions, finishes and modifications/ extensions to HVAC, Plumbing, Electrical and Elevator Systems. General, HVAC, Plumbing and Electrical Construction. Plans Deposit: \$330. Payable to: Apostolou Associates. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Apostolou Associates, 47 Bailey Avenue, Pittsburgh, PA 15211. Bid date: Wednesday, January 21, 1998 at 11 a.m., (412) 381-1400. A prebid conference has been scheduled for Monday, January 5, 1998 at 2 p.m. at the Hamer Gymnasium, California University, California, PA. Contact person: Tom Jameson, (412) 938-4310. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: California University of Pennsylvania, California, Washington County, PA
Duration: 423 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

RFP for DGS 570-27.OA Project title: Construction of a State Correctional Institution. Brief description: Construction Management for Preconstruction and Construction Phases for design and construction of a new 1,236 cell State Correctional Institution, as well as all ancillary building containing equipment to operate the facility. Also included in the project is the planning design and construction of an incinerator/co-generation plant, to be located outside of the secured area. Construction Manager is not acting as contractor. Plans deposit: \$300 for one set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition within 15 days after notice of non-selection for this contract. The bidder is responsible for the cost of delivery of the plans and specifications. Additional sets may be purchased for \$300 per set. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Receiving date for RFP: Thursday, January 22, 1998 at 2 p.m. A Preproposal Conference is not scheduled for this contract. All questions regarding the RFP or to clarify matters concerning the Construction Manager's responsibilities must be submitted in writing to the Issuing Office no later than 5 p.m., Tuesday, January 6, 1998. Only firms requesting the RFP will receive a copy of all submitted questions and answers.

Department: General Services
Location: The Facility is planned to be located within a 25 mile radius of the State Correctional Institution Pittsburgh
Duration: Indeterminate 1997-98
Contact: Contract Bidding Unit, (717) 787-3923

DGS 969-9 Project title: Smoke Removal Systems. Brief description: Work consists of the wiring for an installation of electronic air cleaners in three buildings. Electrical Construction. Plans Deposit: \$35 per set. Payable to: Technicon Enterprises, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Technicon Enterprises, Inc., Green Hills Corporate Center, 2675 Morgantown Road, Suite 4100, Reading, PA 19607. Bid date: Wednesday, January 14, 1998 at 11 a.m., (610) 855-5000.

Department: General Services
Location: MacArthur and Eisenhower Halls, Hollidaysburg Veterans' Home, Hollidaysburg, Blair County, PA
Duration: 100 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS 969-10 Project title: Steam Tunnel Repair. Brief description: Work includes replacing steam piping and valves, high pressure condensate piping and valves, asbestos pipe insulation removal and installing steam main pressure regulated steam main warm up station. HVAC construction. Plans deposit: \$40 per set. Payable to: Technicon Enterprises, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Technicon Enterprises, Inc., Green Hills Corporate Center, 2675 Morgantown Road, Suite 4100, Reading, PA 19607. Bid date: Wednesday, January 28, 1998 at 11 a.m., (610) 855-5000. Prebid Conference has been scheduled for Monday, January 5, 1998 at 10 a.m. at Eisenhower Hall in Conference Room on Ground Floor. Contact Person: George Knisely, (814) 696-5201. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Hollidaysburg Veterans' Home, Hollidaysburg, Blair County, PA
Duration: 130 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 970-124 Project title: Roof Replacement. Brief description: Remove existing gravel, built-up roofing and flashing, all insulations, gravel stops and roof edges. Install new insulation, membrane, flashing, gravel stops and roof edges. General Construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Bid date: Wednesday, January 28, 1998 at 1 p.m., (717) 787-3923.

Department: General Services
Location: PAARNG Armory, Honesdale, Wayne County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 996-28 (Rebid) Project title: Repair Paving, Sidewalks and Roads. Brief description: Relay brick and flagstone sidewalks and paving, install heated concrete entrance slab, repave bituminous paving, replace culverts and guide rails. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Bureau of Professional Selections and Administrative Services, Room 107, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-6556. Bid date: Wednesday, January 21, 1998 at 1 p.m.

Department: General Services
Location: Washington Crossing Historic Park, Washington Crossing, Bucks County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

Contract No. FDC-220-314 Remove existing piling; transport existing pier 1 to Pymatuning State Park; provide and install new piling and docking; modify existing ramp and repair docks at West Pier. Work is located at Presque Isle Marina in Presque Isle State Park.

Department: Conservation and Natural Resources
Location: Presque Isle State Park, Erie County, PA
Duration: Complete all work by June 19, 1998
Contact: Construction Management Section, (717) 787-5055

Extermination Services—16

1197 The contractor shall provide pest control services to the State Correctional Institution at Greensburg. The vendor will exterminate and control rodents, vermin, insects and pests. Services shall be performed on a regularly scheduled basis and as required to meet emergency needs of the Institution. The contractor must be licensed to provide extermination services in the Commonwealth of Pennsylvania.

Department: Corrections
Location: State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 1998 to June 30, 2001
Contact: Wendy Maceyko, (412) 837-4397, Ext. 254

Firefighting Services—18

038 The contracted vendor shall deliver the following wildland fire-fighting equipment to the Bureau of Forestry Fire Station, Shamokin Division: four, 150-gallon slip-on units for mounting on standard-sized, 3/4 ton or 1 ton pickup trucks to be used for suppression of wildland fires.

Department: Conservation and Natural Resources
Location: Forest District No. 20, Bureau of Forestry, R. R. 2, Box 47, Bloomsburg, PA 17815; Shamokin Division Fire Station, R. R. 1, Box 213, Elysburg, PA (Across from Northumberland County Airport)
Duration: January 2, 1998 to June 30, 1998
Contact: Roger C. Coady, (717) 387-4255

98-003 The contractor shall provide services for the repair, servicing and testing of fire extinguishers, hydrants, fire hose, sprinkler system, food service hood system and SCBA equipment, supplying all repair parts, labor, materials and equipment. The contractor will perform maintenance service and tag equipment appropriately.

Department: Corrections
Location: Training Academy, 1451 North Market Street, Elizabethtown, PA 17022
Duration: 1—3 years
Contact: Ruth Nagy, (717) 367-9070

S40709 The contractor shall provide fire extinguisher service and repairs at the State Correctional Institution at Pittsburgh. Interested vendors can call Philip Keller, Fire/Safety Manager at (412) 761-1955, Ext. 384.

Department: Purchasing/Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233
Duration: July 01, 1998 to June 30, 2001
Contact: Ronald Dudek, Purchasing Agent, (412) 761-1955

Food—19

5961 Coffee—February through December, 1998. Specifications and delivery dates available upon request from Agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: February through December 1998
Contact: Jack W. Heinze, Purchasing Agent, (717) 772-7435

5962 Drinks, iced tea for February through June, 1998. Specifications and delivery dates available upon request from Agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: February through June 1998
Contact: Jack W. Heinze, Purchasing Agent, (717) 772-7435

5963 Fresh pies and cakes for February through June, 1998. Specifications and delivery dates available upon request from Agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: February through June 1998
Contact: Jack W. Heinze, Purchasing Agent, (717) 772-7435

5964 Bread, rolls and related products, fresh for February through June, 1998. Specifications and delivery dates available upon request from Agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105-1300
Duration: February through June 1998
Contact: Jack W. Heinze, Purchasing Agent, (717) 772-7435

Inquiry No. 30224 Nutra Sweet tea and ice tea. Dates, specifications, quantities, special delivery instructions available upon request. For period: April, May, June 1998.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: April, May, June 1998
Contact: Ginny Stinespring, Acting Purchasing Agent I, (412) 873-3256

Inquiry No. 30225 Bread and rolls. Dates, specifications, quantities, special delivery instructions available upon request. For period: April, May, June 1998.

Department: Public Welfare
Location: Western Center, 333 Curry Hill Road, Canonsburg, PA 15317
Duration: April, May, June 1998
Contact: Ginny Stinespring, Acting Purchasing Agent I, (412) 873-3256

Hazardous Material Services—21

S41355 The contractor shall remove, transport and dispose of hazardous waste. Interested vendors can call Philip Keller, Fire/Safety Manager, at (412) 761-1955, Ext. 384.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 1998 to June 30, 2001
Contact: Ronald Dudek, Purchasing Agent, (412) 761-1955, Ext. 212

HVAC—22

1194 The contractor shall furnish all labor, equipment, materials, repair parts and replacement components necessary to maintain, adjust, calibrate and repair automatic temperature control systems as needed and requested by the State Correctional Institution at Greensburg. The automatic temperature control systems to be serviced are of various manufacturers.

Department: Corrections
Location: State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 1998 to June 30, 2001
Contact: Wendy Maceyko, (412) 837-4397, Ext. 254

4700-02 Maintenance of heating systems in Sign Shop buildings as follows: Building No. 033-5760, eight gas ceiling heaters; Building No. 126-5760, one gas-oil hot water boiler with two circulating pumps, one gas water heater, one electric hot water heater; Building No. 148-5760 twelve gas ceiling heaters. This service contract will also include chemical treatment of the heating systems.

Department: Transportation
Location: Bureau of Highway, Safety and Traffic Engineering, Sign Shop Distribution Center, 21st and Herr Streets, Harrisburg, PA 17103
Duration: July 1, 1998 through June 30, 1999 with option for three renewals
Contact: David Stewart, Manager, (717) 787-6105

Janitorial Services—23

SP 356705 Supply all labor, material and equipment to clean and maintain at all times all buildings and areas at Scotland School for Veterans' Children in accordance with all good and accepted janitorial trade practices. Services include, but are not limited to, floor cleaning such as dust mopping, sweeping, wet mopping, machine scrubbing, stripping/waxing, spray buffing; carpet maintenance such as vacuuming and spot cleaning; restroom cleaning; high and low dusting; polishing metal; emptying trash; door and wall washing; glass cleaning, furniture cleaning and polishing; and room set-ups for school functions. Outdoor duties will include sweeping, hosing and picking up litter for a distance of 25 feet from buildings.

Department: Military and Veterans Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254-0900
Duration: July 1, 1998 through June 30, 1999 with a 3-year renewal option from July 1, 1999 through 2002
Contact: Ronald J. Sheppard, Business Manager, (717) 264-7187, Ext. 690

Lodging/Meeting—27

SP 294887 Provide lodging, meeting room and meals for 1, 2-day conference for the Department of Environmental Protection, Northcentral Region, Williamsport, PA for approximately 165 attendees. Proposed conference dates are as follows and bidder is to bid on one or more of the dates listed: Monday, May 4, 1998 and Tuesday, May 5, 1998; Tuesday, May 5, 1998 and Wednesday, May 6, 1998; Wednesday, May 6, 1998 and Thursday, May 7, 1998; Monday, May 11, 1998 and Tuesday, May 12, 1998; Tuesday, May 12, 1998 and Wednesday, May 13, 1998; Wednesday, May 13, 1998 and Thursday, May 14, 1998.

Department: Environmental Protection
Location: Northcentral Region, Williamsport, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448
Duration: May 8, 1998 to June 30, 1998
Contact: Jane K. Allen, (717) 327-3694

Medical Services—29

1196 The contractor shall provide dental services to the inmate population of the State Correctional Institution at Greensburg. These services will be performed on the premises of the correctional facility as needed and requested to cover absences of the inhouse staff dentist. The contractor must be licensed to engage in the practice of dentistry in the Commonwealth of Pennsylvania.

Department: Corrections
Location: State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 1998 to June 30, 2001
Contact: Wendy Maceyko, (412) 837-4397, Ext. 254

Property Maintenance—33

050-303 Provide landscape services including mowing, herbicide application, planting, lawn repair and seeding, pruning and shrub bed maintenance and preparation. No requests for bids taken after January 30, 1998. Close of Business 4 p.m.

Department: Transportation
Location: Roadside Rest, Site 41, I-80, Monroe County Information Center, Site F, I-80, Monroe County, PA
Duration: 1 year from effective date
Contact: Engineering District 5-0, (610) 798-4189

H-5586 The service contract shall include, but not be limited to, the furnishing of all labor, materials, tools and supervision to re-roof the connecting corridor between Buildings No. 5—No. 6 as specified. To receive specifications, submit FAX to Beverly O. Epting, Hamburg Center, Hamburg, PA 19526, FAX (610) 562-6025.

Department: Public Welfare
Location: Hamburg Center, Hamburg, PA 19526
Duration: January 1, 1998—June 30, 1998
Contact: Beverly O. Epting, Purchasing Agent, (610) 562-6034

K-98057 Edinboro University of Pennsylvania is seeking bids for replacement of siding at the Porreco Barn and roof replacement at three Porreco Center buildings at the Porreco Extension Center (Erie) of Edinboro University of PA. Bids are due by 2 p.m. on January 22, 1998, in the Purchasing Office, 219 Mc Nerney Hall, Edinboro, PA 16444. A prebid meeting will be held on January 6, 1998, at 9 a.m. in the Porreco Barn, Porreco Extension Center (Erie). Plans and documents are available for a \$25 nonrefundable fee from Tom Anderson, Purchasing Office, (814) 732-2704. Nondiscrimination and Equal Opportunity are the policies of the State System of Higher Education. MBE/WBE firms are urged to respond.

Department: State System of Higher Education
Location: Edinboro University of Pennsylvania, Porreco Extension Center, Erie, PA
Duration: 120 days
Contact: Tom Anderson, Contract Specialist, (814) 732-2704

Flagship NIAGARA 1. Annual drydocking for maintenance and repair. Estimated once a year for 5 years. 2. Bidder's facility must be within 100 nautical miles of Erie, PA. 3. Ship is 116' LWL x 30' Bx 11' Draft 315 L.T. Displ. 4. For scope of work and specifications contact: Walter Rybka.

Department: Historical and Museum Commission
Location: Flagship NIAGARA, 150 East Front Street, Erie, PA 16507
Duration: 5 years March, 1998 to June 30, 2003
Contact: Walter Rybka, (814) 452-2744

Railroad/Airline Related Services—34

E-25-602 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 2, Counties of Bedford, Fulton, Franklin and Huntingdon, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Merl J. Waltz, (717) 485-3148

E-25-605 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 5, Counties of Huntingdon, Mifflin, Blair and Centre, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Ralph E. Heilig, (814) 643-2340

E-25-607 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 7, Counties of Centre, Clinton, Union, Snyder and Mifflin, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Amy Griffith, (717) 922-4696

E-25-609 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 9, Counties of Centre, Clearfield and Elk, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Paul Augustine, (814) 765-0621

E-25-610 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 10, Counties of Centre and Clinton, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Robert F. Davey, Jr., (717) 923-6014

E-25-611 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 11, Counties of Susquehanna, Wayne, Wyoming, Luzerne and Lackawanna, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Anthony D. Santoli, (717) 963-4561

E-25-612 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 12, Counties of Lycoming and Union, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Charles W. Kiehl, (717) 327-3450

E-25-613 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 13, Counties of Elk, Cameron and Clearfield, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Robert W. Martin, (814) 486-5630

E-25-615 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 15, Counties of McKean and Potter, PA
Duration: July 1, 1998 to June 30, 2000
Contact: David O. Schiller, (814) 274-7459

E-25-618 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 18, Counties of Dauphin, Lebanon, Berks, Carbon, Schuylkill and Lehigh, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Donald P. Oaks, (717) 385-7800

E-25-619 Vendor to provide four place, high or low wing aircraft, with single engine not less than 150 horsepower. Aircraft will be provided, as required, for the purpose of forest fire prevention, detection and suppression, and any other official use, to include timber defoliation and mortality surveys, and observation of Pest Management spray aircraft.

Department: Conservation and Natural Resources
Location: Forest District 19, Counties of Pike, Monroe and Northampton, PA
Duration: July 1, 1998 to June 30, 2000
Contact: Anthony J. Cardwell, (717) 895-4000

Real Estate Services—35

3043-490 3202779-98 Notice is hereby given that the Department of Transportation, pursuant to 71 P. S. § 513(e)(7), intends to sell certain land owned by it located at 850 Rose Street, Indiana, PA, State Route 3043, White Township, Indiana County. Site consists of 4,086 square feet of land. It has been determined that the land is no longer needed for present or future transportation purposes. Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to: Betty L. Gress, Real Estate Specialist, Pennsylvania Department of Transportation, P. O. Box 429, Indiana, PA 15701 or call (412) 357-4809.

Department: Transportation
Location: White Township, Indiana County, PA
Duration: 30 days
Contact: Betty L. Gress, (412) 357-4809

Vehicle, Heavy Equipment—38

1198 The contractor shall furnish all labor, equipment, materials, repair parts and replacement components necessary to repair electric motors as needed and requested by the State Correctional Institution at Greensburg. All standard motors 145T or smaller shall be replaced as parts rather than being repaired.

Department: Corrections
Location: State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999
Duration: July 1, 1998 to June 30, 2001
Contact: Wendy Maceyko, (412) 837-4397, Ext. 254

0015635 Repair parts for seasonal repair of two paint machines.

Department: Transportation
Location: Engineering District 0800, 2140 Herr Street, Harrisburg, PA 17103-1699
Duration: January 1, 1998—March 31, 1998
Contact: David L. Fromm, (717) 787-3146

0800-97-01-5B-1 The rental of self-propelled snow blowers with the following equipment description: 7' to 7' 11" blower head; 8' to 8' 11" blower head; 9' and larger blower head. Service is for winter traffic service snow removal operations.

Department: Transportation
Location: Throughout District 8-0 Counties: Adams, Cumberland, Franklin, York, Dauphin, Lancaster, Lebanon and Perry, PA
Duration: January 5, 1998 to January 4, 2001
Contact: Ron Wiest, (717) 783-0443

[Pa.B. Doc. No. 97-2119. Filed for public inspection December 26, 1997, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
1078117-01	12/16/97	IBM Corporation	5,391.00	2310-01	12/22/97	Elizabethtown Dodge	11,134,155.00
1103047-01	12/11/97	Maine Biological Laboratories	88,000.00	2310-01	12/22/97	Nucar Connection	1,075,155.75
1249217-01	12/11/97	Rohrer Bus Sales	34,883.00	2310-01	12/22/97	Phillips Ford Sales	2,212,000.00
1254217-01	12/11/97	Rohrer Bus Sales	33,250.00	2310-01	12/22/97	Warnock Dodge, Inc.	2,181,363.00
1277217-01	12/11/97	Arjo, Inc.	7,858.50	2310-01	12/22/97	Warnock Motor Sales, Inc. d/b/a Warnock Chevrolet	1,921,875.00
1278217-01	12/16/97	Rohrer Bus Sales	31,263.00	2310-01	12/22/97	Warnock Automotive, Inc. d/b/a Warnock Ford	1,378,385.00
1279077-01	12/11/97	Radiation Monitoring Devices, Inc.	136,180.00	2310-01	12/22/97	Meissner Chevrolet/Geo/Olds, Inc.	5,176,875.00
1280117-01	12/11/97	Manheim Chrysler Plymouth GMC Truck	41,646.00	2310-01	12/22/97	Ozzie's Ford/Wayne Dodge	3,560,224.00
1323227-01	12/11/97	Griffin Motors Co.	14,290.00	2310-01	12/22/97	Hoffman Ford Sales, Inc.	1,793,919.00
1347207-01	12/16/97	Kustom Signals	58,110.00	2310-01	12/22/97	Northeast Auto Outlet	6,231,889.50
1368207-01	12/16/97	International Autopen, Inc.	8,995.00	6810-09	12/09/97	Chemicals/Boiler Water Treatment (WHSE)	29,678.00
1394077-01	12/16/97	Moore Business Forms, Inc.	6,025.00	6810-09	12/09/97	Chemicals/Boiler Water Treatment (WHSE)	12,586.00
1395217-01	12/11/97	Dixon-Shane Drug Co.	12,927.26	6810-09	12/09/97	Chemicals/Boiler Water Treatment (WHSE)	38,830.50
1404327-01	12/16/97	IBM Corporation	82,500.00	6810-09	12/09/97	Chemicals/Boiler Water Treatment (WHSE)	11,550.00
1413117-01	12/11/97	Atlantic Textiles Co.	13,752.00	6810-09	12/09/97	Chemicals/Boiler Water Treatment (WHSE)	11,550.00
1417157-01	12/11/97	Moore Business Forms, Inc.	20,664.00	7313910-01	12/16/97	Human Ware	2,540.00
1419217-01	12/11/97	Dixon-Shane Drug Co.	9,603.84	8010-04	12/22/97	Centerline Industries, Inc.	3,657,244.50
1427217-01	12/11/97	Bellco Drug Corporation	19,787.19	8010-04	12/22/97	Douglas Chemical Company	1,885,745.40
1439157-01	12/16/97	Mettler Toledo	54,760.00	8206610-01	12/16/97	Pan Am Weather Systems	23,920.00
1496217-01	12/11/97	Best Locking Systems of Philadelphia	33,432.79				
2310-01	12/22/97	K & H Ford, Inc.	7,226,487.00				
2310-01	12/22/97	Manheim Chrysler Plymouth GMC Truck	16,031,610.00				

STATE CONTRACTS

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Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
8217310-01	12/16/97	Tempyrox	9,950.00	8970860-01	12/11/97	Custom Trailer, Inc.	12,696.00
8970040-01	12/11/97	Manheim Chrysler Plymouth GMC Truck	698,000.00	8970870-01	12/11/97	CWT Tran In- ternational, Inc.	56,899.00
8970380-01	12/16/97	Groff Tractor and Equip- ment, Inc.	20,360.00	8970880-01	12/11/97	Regester Chevrolet, Inc.	49,968.00
8970570-01	12/11/97	Siems Rental and Sales Co., Inc.	2,603.00	8970880-02	12/11/97	Griffin Motors Co.	34,722.00
8970590-01	12/11/97	Groff Tractor and Equip- ment, Inc.	28,000.00	8970990-01	12/11/97	Meissner Chevrolet Geo Oldsmobile, Inc.	23,688.00
8970750-01	12/16/97	Stephenson Equipment, Inc.	287,300.00				
8970800-01	12/11/97	George Associ- ates, Inc.	135,345.00				
8970850-01	12/11/97	Meissner Chevrolet/ Geo/ Oldsmobile, Inc.	20,653.00				

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 97-2120. Filed for public inspection December 26, 1997, 9:00 a.m.]