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## January 25, 1997 (Pages 405-574)

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# PENNSYLVANIA BULLETIN

Volume 27  
Saturday, January 25, 1997 • Harrisburg, Pa.  
Number 4  
Pages 405—574

See Part II page 521 for the  
Environmental Quality Board  
Sewage Sludge; Municipal Waste;  
and Residual Waste

## **Part I**

### **In this issue:**

The Courts  
Department of Banking  
Department of Conservation and Natural  
Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Labor and Industry  
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Insurance Department  
Pennsylvania Public Utility Commission  
State Board of Chiropractic  
State System of Higher Education  
State Transportation Advisory Committee  
State Transportation Commission  
Turnpike Commission

**Detailed list of contents appears inside.**

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

**No. 266, January 1997**

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**PENNSYLVANIA**

**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$80.50 per year, postpaid to points in the United States. Individual copies \$2. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

FRY COMMUNICATIONS  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 340  
(800) 334-1429 ext. 340 (toll free, out-of-State)  
(800) 524-3232 ext. 340 (toll free, in State)

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Fry Communications, Inc.  
Attn: *Pennsylvania Bulletin*  
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Mechanicsburg, PA 17055-3198

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Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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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.

## List of Pa. Code Chapters Affected

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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# PENNSYLVANIA BULLETIN

Volume 27  
Saturday, January 25, 1997 • Harrisburg, Pa.

Number 4

## **Part II**

This part contains the  
Environmental Quality Board  
Sewage Sludge; Municipal Waste; and Residual Waste



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## PENNSYLVANIA

## BULLETIN

(ISSN 0162-2137)

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 82]

#### Changes to the Regulations of the Pennsylvania Continuing Legal Education Board

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 82. CONTINUING LEGAL EDUCATION

##### Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS

#### Preamble. Statement of Purpose.

The public properly expects that lawyers, in the practice of the law, will maintain throughout their careers certain standards of professional competence and ethical behavior. These regulations prescribe the standards for the implementation of the Orders of the Supreme Court of Pennsylvania of January 7, 1992, July 1, 1992, August 21, 1992, November 29, 1993, February 1, 1994, June 22, 1994, [and] March 7, 1995, and September 17, 1996 promulgating the Pennsylvania Rules for Continuing Legal Education and mandating continuing legal education requirements for Pennsylvania lawyers. These regulations have been amended several times. As of here and now, the following regulations are in effect.

#### Section 1. Definitions.

\* \* \* \* \*

CLE—Continuing legal education to be provided under the rules [ of ] and these regulations.

\* \* \* \* \*

#### Section 9. Reinstatement.

(a) A lawyer placed on inactive status for noncompliance under the rules and these regulations may petition the Disciplinary Board of the Supreme Court of Pennsylvania for reinstatement to active status pursuant to the Disciplinary Rules. Upon written request of the lawyer seeking reinstatement, the Board shall certify to the Disciplinary Board whether the lawyer is in compliance. Only verified attendance at sufficient hours of approved CLE activities for [ all reporting periods from period of noncompliance to the date of the petition for reinstatement ] the current compliance year and the two most recent compliance years, plus payment of all fees, shall constitute [ be deemed in full ] compliance with the requirements of the rules and these regulations.

\* \* \* \* \*

#### Section 11. Accreditation of Accredited Continuing Legal Education Providers.

\* \* \* \* \*

(d) Accredited Continuing Legal Education Provider status may be granted at the discretion of the Board to applicants satisfying the following requirements:

1. The provider has presented, within the past two (2) years, five (5) separate programs of CLE which meet the standards of quality set forth in the rules and these regulations, or

2. The provider has demonstrated to the Board that its CLE activities have consistently met the standards of quality set forth in the rules and these regulations, or

3. Is an American Bar Association accredited law school.

4. The person or persons responsible for provider's compliance with the Pennsylvania CLE requirements shall successfully complete a course of training established by the Board and administered by the Board staff.

Training by the CLE Board staff will include: Rules and Regulations, provider reporting requirements, accreditation standards, compliance groups, deadlines, requirements for compliance, fee payment, and record keeping requirements.

The Board may require Accredited Providers to complete a course of training prior to continuation of the provider's accredited status.

\* \* \* \* \*

#### Section 18. Board Fee Schedule.

Following is a schedule of fees established by the Board to be paid by providers and lawyers. This schedule will be reviewed annually by the Board and may be modified at any time upon approval by the Pennsylvania Supreme Court.

Fee to accompany application for designation as Accredited Continuing Legal Education Provider	\$25.00
Fee to accompany application for continuation as an Accredited Provider	\$25.00
Fee per credit hour to be paid by provider with attendance certification	[ \$2.50 ] \$1.50*
Fee per credit hour to be paid by lawyer for certification when fee not paid by provider	[ \$2.00 ] \$1.50*
Fee per credit hour when lawyer requests CLE credit for teaching course	[ \$2.00 ] \$1.50*
Fee to accompany request by lawyer for certified copy of lawyer's record with the Board	\$25.00
Filing fee to accompany request for hearing concerning dispute of Board's determination of lawyer's CLE credit	\$25.00
Filing fee to accompany request for hearing concerning lawyers noncompliance	\$25.00
Filing fee to accompany application for waiver of CLE requirement	\$25.00
Filing fee to accompany application for extension to complete CLE requirement	\$50.00
Reinstatement fee	\$100.00
Filing fee to accompany request for hearing upon denial of reinstatement	\$25.00

Fee for late compliance with CLE requirement	\$100.00
Fee to accompany application to accredit single CLE activity*	\$25.00
Fee to accompany application for non-resident active status	\$25.00
Charges to be paid by a provider for failure to comply with the rules or these regulations:	
First non-compliance	\$100.00
Second non-compliance	\$200.00
Third non-compliance	\$300.00
Fourth non-compliance	\$400.00
Fifth and succeeding non-compliance	\$500.00

\*Reduction to \$1.50 effective May 1, 1997

[Pa.B. Doc. No. 97-110. Filed for public inspection January 24, 1997, 9:00 a.m.]

---

## Title 25—LOCAL COURT RULES

### YORK COUNTY

#### Duty Office Procedure; No. 17 Misc. Action 1997

#### Order

*And Now, to Wit:* this 8th day of January, 1997, it is hereby Ordered and Directed as follows:

In accordance with Rule 85 of the Pennsylvania Rules of Criminal Procedure, when a defendant fails to make a timely payment, a hearing shall be scheduled and notice of said hearing shall be served upon the defendant by the District Justice office. If the defendant fails to appear for the Rule 85 hearing, a warrant shall immediately be issued. Upon service of the default in appearance warrant upon the defendant, collateral shall be set or the defendant shall be committed to jail until a Rule 85 hearing is scheduled.

This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It is further Ordered and Directed that, in accordance with Pa.R.C.P. 239, the District Court Administrator shall file: seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be forwarded to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Criminal Procedural Rules Committee.

*By the Court*

JOHN C. UHLER,  
*President Judge*

[Pa.B. Doc. No. 97-111. Filed for public inspection January 24, 1997, 9:00 a.m.]

---

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 265]

[Correction]

### Hazardous Waste Management

An error occurred in the document amending Chapter 265, which appeared at 27 Pa.B. 237 (January 11, 1997). Section 265.82 (relating to administration fees) was incorrectly numbered at 26 Pa.B. 269 as § 265.78.

The correct version of § 265.82 is as follows. The text of § 265.78 (relating to hazardous waste management fee) remains as it currently exists at 25 Pa. Code pages 265-27 to 265-28, serial pages (181077) to (181078).

#### Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

#### ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

#### CHAPTER 265. INTERIM STATUS STANDARDS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES AND PERMIT PROGRAM FOR NEW AND EXISTING HAZARDOUS WASTE MANAGEMENT FACILITIES

#### Subchapter E. MANIFEST SYSTEM AND DISCREPANCY REPORT

#### § 265.78. Hazardous waste management fee.

*(Editor's Note:* The text of § 265.78 remains as it currently appears in the *Pennsylvania Code* at pages 265-27 and 265-28, serial pages (181077) and (181078)).

#### § 265.82. Administration fees.

(a) The owner or operator of a hazardous waste management facility shall annually pay an administration fee to the Department according to the following schedule:

- (1) Land disposal facilities—\$2,500.
- (2) Surface impoundments—\$2,500.
- (3) Commercial treatment—\$2,000.
- (4) Captive treatment—\$700.
- (5) Storage—\$550.
- (6) Incinerators—\$1,300.

(b) The administration fee shall be in the form of a check made payable to the "Commonwealth of Pennsylvania" and be paid on or before the first of March to cover the preceding year.

(c) If more than one permitted activity is located at a site, or more than one activity occurs, the fee shall be cumulative.

[Pa.B. Doc. No. 97-72. Filed for public inspection January 10, 1997, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL AFFAIRS

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

### Radiologic Procedures Examination Fees

The State Board of Chiropractic (Board) amends § 5.6 (relating to fees) pertaining to fees for the radiologic procedures examination of the Board for auxiliary personnel who perform radiologic procedures on the premises of a licensed chiropractor.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 522(a) of the Chiropractic Practice Act (act) (63 P. S. § 625.522(a)), examinations for licensure must be prepared and administered by a professional testing organization under contract to the Board. The Board contracts with the American Chiropractic Registry of Radiologic Technologists (ACRRT) to provide the Board approved radiologic procedures examination. These amendments will change the fee for the radiologic procedures examination owing to an increase in the contract cost for examination services effective July 1, 1997. The new fee will apply to the examination scheduled to be given in November 1997 and thereafter.

Public notice of intention to amend § 5.6 under procedures specified in sections 201 and 202 of the act of July 31, 1968 (CDL) (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by this amendment have been given actual notice of the Board's intention to amend § 5.6 in advance of final rulemaking under section 204(2) of the CDL.

#### *Compliance with Executive Order 1996-1*

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final/proposed omitted regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

#### *Statutory Authority*

This amendment is adopted under section 812.1 of The Administrative Code of 1929 and section 1101(a) of the act (63 P. S. § 625.1101(a)).

#### *Fiscal Impact and Paperwork Requirements*

The amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Persons wish-

ing to perform radiologic procedures on the premises of a chiropractor are required to take and pass either a National certification examination or an examination approved by the State Boards of Medicine or Osteopathic Medicine, or the Board under § 5.62 (relating to auxiliary personnel who may perform radiological procedures). Persons who elect to take the Board approved examination will be required to pay an increased fee to cover contract costs for the examination.

#### *Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), a copy of the amendment was submitted on October 28, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendment was deemed approved by the House and Senate Committees on November 18, 1996, and by IRRC on November 21, 1996.

#### *Additional Information*

Individuals who desire information are invited to submit inquiries to Deb Orwan, Board Administrator, State Board of Chiropractic, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7156.

#### *Findings*

The Board finds that:

(1) Public notice of intention to amend § 5.6 as adopted by this order under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL, is in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination.

(2) Persons affected by the amendment as adopted by this order have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

#### *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 5, are amended by amending § 5.6 to read as set forth in Annex A.

(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 as to legality as required by law.

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

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*, and shall apply

to examinations to perform radiologic procedures given after July 1, 1997.

RANDY W. MCCALL, D.C.,  
*Chairperson*

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

**Fiscal Note:** 16A-437. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 5. STATE BOARD OF CHIROPRACTIC**

#### **Subchapter A. GENERAL PROVISIONS**

#### **§ 5.6. Fees.**

The Board will charge the following fees:

Oral/Practical Examination in Chiropractic Technic and for May 1996 examination only	\$45
Pennsylvania Chiropractic Law Examination	\$87
Application for Licensure by Examination	\$25
Application for Licensure by Reciprocity	\$65
Biennial Registration	\$210
Limited License	\$30
Adjunctive Procedure Certification	\$25
Certification of Grades or Licensure	\$25
Application for Continuing Education Course Approval	\$30
Radiological Procedures Examination	\$75
License Restoration	\$25

[Pa.B. Doc. No. 97-112. Filed for public inspection January 24, 1997, 9:00 a.m.]

## **Title 52—PUBLIC UTILITIES**

### **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

#### **[52 PA. CODE CHS. 1, 3, 5, 57 AND 59]**

[L-930076]

#### **Rules of Administrative Practice and Procedure**

The Pennsylvania Public Utility Commission (Commission) on July 18, 1996, adopted an order at its public meeting to promulgate final-form regulations regarding its rules of administrative practice and procedure. The amendments will update and amend the approximately 100 sections. Changes range from corrections to punctuation, rewording phrases and correcting references to adding entirely new sections to address perceived problems. The contact person is Susan D. Colwell, Assistant Counsel, Office of Counsel, Law Bureau (717) 783-3459.

At the public meeting of July 18, 1996, the Commission adopted final regulations for the revision of its rules of administrative practice and procedure, appearing at

Chapters 1, 3 and 5 (relating to rules of administrative practice and procedure; special provisions; and formal proceedings).

This will be the third time that the rules have been revised since they were amended in 1984 and 1989. After monitoring the 1989 rules, the Commission noted room for some improvements and initiated this rulemaking by publication of advance notice on March 13, 1993. The proposed amendments were published at 25 Pa.B. 1288 (April 8, 1995) with a 90-day comment period. Numerous comments and recommendations were received and reviewed by an internal committee before the final-form was adopted by the Commission.

Changes range from punctuation and phraseology to the addition of new subsections and sections. The form section has been eliminated to allow the periodic update of Commission-generated forms without requiring a rule-making, thus keeping the forms current with changing laws and policies.

Effective rules of administrative practice and procedure result in more efficient case management, and periodic revisions of the rules are necessary for them to remain effective.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 25 Pa.B. 1288, and served on March 28, 1995, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of House Committee Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

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

These final-form regulations were deemed approved by the House Committee on Consumer Affairs and was approved November 13, 1996, by the Senate Committee on Consumer Protection and Professional Licensure, and was approved by IRRC on November 21, 1996, in accordance with section 5(c) of the Regulatory Review Act.

*Commissioners Present:* John M. Quain, Chairperson; Lisa Crutchfield, Vice Chairperson; John Hanger, Concurring & Dissenting in part-Statement; David W. Rolka, Concurring & Dissenting in part; and Robert K. Bloom

Public Meeting held  
July 18, 1996

**Order**

*By the Commission:*

In 1984, Chapters 1, 3 and 5 were revised and amended to establish comprehensive practice and procedure rules applicable to Commission proceedings. The revised rules became effective on January 1, 1985. Thereafter, the Commission solicited comments on the effectiveness and usefulness of the rules in order to implement timely and necessary revisions. By order entered August 5, 1988, the Commission again amended the procedural regulations effective January 3, 1989.

After monitoring the 1988 rules and noting room for improvement, the Commission decided to initiate a proceeding designed to update, amend and streamline its procedural regulations. On March 13, 1993, the Commission published an advance notice of proposed rulemaking for the Rules of Administrative Practice and Procedure in the *Pennsylvania Bulletin* at 23 Pa.B. 1177. The notice stated that the Commission was considering amending regulations pertaining to the Rules of Administrative Practice and Procedure at Chapters 1, 3 and 5, and that interested persons had 45 days in which to file written comments.

Comments were received from: the law offices of Louis J. Carter; Duquesne Light Company; the Office of Consumer Advocate; Philadelphia Electric Company, now PECO Energy; the law firm of Malatesta Hawke & McKeon; the Bell Telephone Company of Pennsylvania, now Bell Atlantic—PA; the Office of Small Business Advocate; the law firm of Kirkpatrick & Lockhart; and from the Commission's Bureaus of Law and Transportation, and the Offices of Administrative Law Judge and Trial Staff. Based on these comments, preliminary revisions were made and presented to a committee formed from the Commission's bureaus.

In August 1994, a finalized version of the preliminary revisions was sent to committee members for further review. The end product of this internal and external review of the Commission's procedural regulations has resulted in numerous proposed changes to the existing rules as well as an increase in one of the Commission fees. We adopted them as proposed amendments to our procedural regulations at the December 1, 1994, public meeting, and they were published for comment at 25 Pa. B. 1288 (April 25, 1995). Again, we received many useful comments from both inside the Commission and from the industry and utility bar.

Comments to the proposed regulations were received from: Central Pennsylvania Paralegal Association, Pennsylvania Department of Environmental Protection, Duquesne Light Company, the law firms of Kirkpatrick & Lockhart, and Malatesta, Hawke & McKeon, and Raymond A. Thistle, Jr., the National Federation of Paralegal Associations, the Offices of Trial Staff, Consumer Advocate and Small Business Advocate, PECO Energy, Pennsylvania Power Company, Pennsylvania Bar Association, Pennsylvania Gas Association, West Penn Power Company, and from the Commission's Offices of Administrative Law Judge, and Special Assistants and the Bureaus of Audits, Law, and the Secretary.

Throughout the long process necessary to update our procedures, our goal has been to develop and fine-tune our regulations to produce procedural rules of practice before the Commission that are fair, efficient and clearly stated. The final-form regulations we adopt today will improve our rules by clarifying some otherwise murky procedures and will simplify practice before this Commission.

One section which attracted considerable attention was § 1.22 (relating to appearance by attorney or certified legal intern) which deals with appearances and representation before the Commission. We had proposed allowing legal assistants under the supervision of an attorney admitted to practice in this Commonwealth to represent complainants in informal hearings. The wording made it unclear, however, whether we intended to allow such representation before administrative law judges in formal hearings.

We live in a state which has a strict approach to the practice of law. In this Commonwealth, the Supreme Court has the "inherent and exclusive power to regulate the admission to the bar and the practice of law." Bar Admission Rule 103. This regulation by the Supreme Court limits the power of the Legislature and State agencies to act contrary to the rules established by the Court. Currently, the only persons authorized to practice law in this Commonwealth are: (1) those fully admitted to the Pennsylvania bar, (2) those admitted pro hac vice under Rule 301, and (3) those who qualify as certified legal interns under Rule 321.

Federal agencies have the ability to decide whether only lawyers can represent clients before it under the Administrative Procedure Act (5 U.S.C.A. § 555) even if those agencies are located in states which would not otherwise permit nonlawyer representation. *Sperry v. State of Florida ex rel the Florida Bar*, 373 U.S. 379, 83 S.Ct. 1322, 10 L.Ed.2d 428 (1963). State agencies whose Federal funding source requires the agencies to meet Federal statutory requirements as a condition of Federal aid are the only Pennsylvania agencies which allow nonlawyer representation. This Commission is not such an agency.

Whether or not we agree with the Supreme Court's rules for the practice of law and their application to practice before administrative agencies is immaterial; we are bound by the laws of this Commonwealth. A careful review of those laws and the comments received has persuaded us to rework the regulation in order to conform the regulation to reflect Pennsylvania law. New § 1.21(d) addresses our informal practice, specifically providing that paralegals working under the direct supervision of an attorney or another appropriate individual may represent parties in cases brought under Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and residential telephone service). This is allowed since appearances before our Bureau of Consumer Services to address informal consumer complaints under 66 Pa.C.S. § 308(d)(1) (relating to bureaus and offices) do not constitute the practice of law, and parties may have a representative other than an attorney. These informal proceedings are not bound by the same strict rules to which we must adhere in formal hearings before the administrative law judges, and, indeed, are typically conducted over the telephone among a nonattorney utility customer service representative, the BCS representative and the customer. We include the new section to outline an existing practice.

We have added the Office of Prothonotary and the appropriate sections have been changed to reflect the addition. The Office of Prothonotary was created effective April 30, 1996, and is responsible "... for the filing, docketing, safekeeping, control, dissemination, record retention and retrieval of all documents filed with this agency. . . . Additionally, the Prothonotary will have the discretion to reject filings not properly perfected." Notice, 26 Pa.B. 1456 (March 30, 1996).

Our provisions for water and wastewater collection, treatment and disposal applications have been expanded and refined in order to update our regulations in accordance with new laws. Every effort has been made to incorporate the requirements of the Department of Environmental Protection in order to streamline and standardize the requirements for applicants and to reduce their regulatory burden while fulfilling our statutory mandate.

The following is a section-by-section description of the changes made to each section. The Commission thanks all who provided comments and suggestions.

*Chapter 1. Rules of Administrative Practice and Procedure*

*Subchapter A. General Provisions.*

*§ 1.1. Scope of subpart.*

The title is changed from "Scope of chapter."

*§ 1.3. Information and special instructions.*

The changes are the update of the Commission's mailing address by deleting the former zip code and including the correct nine-digit zip code, and by substituting "Prothonotary" as the office within the Commission which will receive filings.

*§ 1.4. Filing generally.*

Subsection (a) was updated to include the Commission's correct nine-digit zip code and the Prothonotary. Subsection (b) reflects the removal of the phrase "relevant file number," which has no independent meaning but is merely repetitive where the more commonly used "docket number" appears. The wording of the section is rearranged for greater clarity.

*§ 1.5. Amendment to rules.*

Here a semi-colon and a comma are removed from locations where they are not necessary.

*§ 1.8. Definitions.*

"Active parties" and "inactive parties" are defined in general rate cases to distinguish those who intend to play an active role at hearings (file testimony, cross-examine witnesses, and the like) from those who do not. The new language also sets forth the rights of "inactive parties" to testify at hearings and to obtain copies of all orders and decisions issued in the proceeding. A definition is added for "Prothonotary."

*§ 1.9. Organization chart.*

This section is deleted to eliminate the need to promulgate a regulation whenever the organization of the agency undergoes a change.

*§ 1.11. Date of filing.*

This rule is amended to add "Prothonotary" and to comply with the rules of the United States Post Office (USPO). The previous rule required attaching the proof of mailing certificate to the original document. The USPO rules, however, do not allow execution of a proof of mailing certificate for an unsealed envelope. Since the two rules were incompatible, this rule is changed.

The certificate of mailing itself is deleted since its periodic updating is beyond the control of the Commission, and its removal eliminates the need to promulgate a regulation whenever the USPO makes a change in the certificate.

A new subsection (c) is added to explicitly prohibit the filing of documents by telecopier facsimile with the Commission. This is to ensure that the Commission's files contain clear and legible original documents. This new provision, however, does not affect the ability of parties to a litigation to agree to accept faxed documents from each other.

The spacing and punctuation are adjusted to facilitate easier reading of this section.

*§ 1.12. Computation of time.*

The existing subsection (a) provides for part-day holidays to be counted as full days for computing due dates. This poses a problem on those days when the Commission's file room is closed for part of the day, such as when employees are sent home due to heavy storms. The case of *Commonwealth v. Koeck*, 360 Pa. Super. 200, 520 A.2d 53 (1987), held that an appeal was not late-filed when the appellant attempted to file on the afternoon of the 30th day but found the office closed for the latter half of the day, and was forced to file on the 31st day. The recommended change merely recognizes that an appellate court would be likely to strike any regulation which cuts short a filing period.

A new subsection (b) is added to spell out the computation of time prescribed or allowed by regulation or statute which is measured by counting a specified number of days backward from a scheduled future act.

*§ 1.13. Issuance of Commission orders.*

The change here reflects the correct citation.

*§ 1.14. Effective dates of Commission orders.*

Terminology is changed to be consistent with the law and practice of the Commission, which recognizes the entry of the order to be the effective date, unless otherwise specifically provided in the order.

*§ 1.15. Extensions of time and continuances.*

The title is changed to more accurately reflect the content of the section.

*§ 1.21. Appearance in person.*

This section is divided into four paragraphs for simplification. The first states that individuals may represent themselves. The second deals with representation before the Commission in adversarial proceedings, and the third concerns nonadversarial proceedings. The changes further define who may represent which type of entity before the Commission.

The fourth specifically spells out that in informal proceedings brought under the chapters relating to standards and billing practices for residential utility service and residential telephone service, parties may be represented by paralegals under the supervision of an attorney or by another appropriate individual.

*§ 1.22. Appearance by attorney or legal intern.*

In subsection (a), the term "a person" is replaced with the phrase "individuals, partnerships, associations, corporations or governmental entities," in order to clarify which entities may be represented by an attorney licensed in another state.

Subsection (b) is added to permit the Commission the discretion of allowing the right to practice before the Commission to a member of the bar of a state which does not grant Pennsylvania bar members reciprocal rights consistent with the Supreme Court Rules relating to admission pro hac vice.

Subsection (c) spells out that law students meeting the requirements of the Pa.B.A.R. No. 321 may represent clients consistent with 322.

*§ 1.23. Other representation prohibited at hearings.*

For consistency, the same substitution of "individuals, partnerships, associations, corporations or governmental units" is made for the word "person" that was made in the previous two sections.

*§ 1.24. Notice of appearance or withdrawal.*

In this section, which deals with who should file a notice of appearance or withdrawal, the phrase "in a particular proceeding which involves a hearing or an opportunity for hearing" was deleted to cut down on excess verbiage without changing the meaning of the section, and "him" is replaced with "the individual" to promote gender neutral phraseology. Further, additional language spells out that a change in address which occurs during the course of a proceeding shall be reported to the Secretary promptly.

*§ 1.27. Suspension and disbarment.*

Subsection (a) is altered to insert commas and to further define conduct which may result in suspension or disbarment from practice before the Commission. Subsection (a)(4) is added to specifically provide that the repeated failure to follow directives constitutes behavior which may be subject to discipline, as is "contemptuous" conduct, added in subsection (a)(3).

The definition of practice before the Commission is detailed more fully to include "appearances at any hearing before the Commission or a presiding officer" in the newly added subsection (b)(3).

*§ 1.31. Form of documentary filings generally.*

The word "file" is replaced with the more commonly used "docket," and the word "on" replaces the formerly-used "in."

*§ 1.33. Incorporation by reference.*

The words "and docket number" are added to clarify that the docket number should be used whenever a party wishes to incorporate a previously filed document by reference. Deleted language was excess verbiage, and the deletion did not change the meaning. "Prothonotary" is added to denote the correct office for checking the availability of a document.

*§ 1.34. Single pleading or submittal covering more than one matter.*

This section is revised to permit the submittal of one filing fee when a pleading refers to one or more related transactions to promote consolidation of filings and reduce administrative burdens while facilitating comprehensive analysis of related matter. However, the Commission may, upon review, determine that the transaction should be refiled as two or more separate filings requiring additional fees if, in the Commission's judgment, the transactions are not closely related or otherwise properly joined.

*§ 1.36. Verification.*

This section is rearranged to facilitate easier understanding by beginning with a list of documents which require verification, then defining verification, and finally giving examples of a verification and an affidavit. The verification for motor carrier applicants now includes those transporting passengers.

*§ 1.37. Number of copies.*

The words are rearranged to allow easier reading of this section, and the number of copies to be submitted to the Commission has been increased from an original and two to an original and three.

*§ 1.43. Schedule of fees payable to the Commission.*

Following a cost study performed in-house, the fee for copies of microfilm per roll is being raised from \$25 to \$80 to reflect actual costs.



*§ 1.51. Instructions for service and notice.*

"Prothonotary" is added to denote the proper office within the Commission.

*§ 1.52. Reserved.*

The contents of this regulation are moved to Section 1.53(b) since it contains an exception to that section rather than a rule which should stand on its own.

*§ 1.53. Service by the Commission.*

Phraseology of subsection (a) is rearranged to facilitate easier understanding but the actual requirements have not changed. New subsection (b) is essentially old Section 1.52, providing the enumeration of those instances which require service by certified mail.

*§ 1.54. Service by a participant.*

Subsection (a) is divided into subsections (a), (b) and (c) for easier reference. In addition, subsection (c) now permits parties to serve each other by telecopier, but only if that method of service is agreed upon in advance. Service of a hard copy must follow the faxed copy.

*§ 1.56. Date of service.*

Subsection (a) is divided into smaller subsections for easier reading, and a fourth method of computing the date of service has been added to reflect the allowance of service by telecopier between parties.

*§ 1.57. Proof of service.*

The wording of this sentence is rearranged to make the section easier to understand but the meaning is unchanged.

*§ 1.61. Notice and filing of copies of pleadings before other tribunals.*

Subsection (b) now requires that public utilities filing for bankruptcy notify the Offices of Consumer Advocate and Small Business Advocate as well as the Commission. Subsection (c) has been deleted since the Commission does not hold hearings on bankruptcy plans as a practice, and the requirement that a public utility which has filed for bankruptcy notify the Commission is included in the following subsection.

New subsection (c), formerly (d), clarifies which noun the word "its" modifies by replacing it with the phrase "the public utility's." Otherwise, the section remains the same.

*§ 1.72. Formal case files.*

The designation of the contents of testimony folders is changed to eliminate depositions, responses to interrogatories, admissions and other information obtained through discovery which do not belong in the official record unless admitted into evidence at hearing.

*§ 1.76. Tariffs, minutes of the public meeting and annual reports.*

Pursuant to a comment received, this section is changed to specifically add that tariffs, minutes and annual reports shall be available for copying during business hours.

*§ 1.77. Extensions of time to review folders.*

The name of this section is changed to more accurately reflect the nature of the section.

*Subchapter I. Amendments or Withdrawals of Submittals.*

The word "or" replaces the word "to" in the title for greater accuracy.

*§ 1.86. Docket.*

Excess wording is eliminated without changing the meaning of the section, and "Prothonotary" is added.

*§ 1.91. Applications for waiver of formal requirements.*

The language is rearranged so that the subject of the section appears at the beginning instead of the middle. The meaning remains the same.

*§ 1.96. Unofficial statements and opinions by Commission personnel.*

The introductory phrase and last sentence are eliminated as unnecessary. "Reports drafted by Commission bureaus" are added to the list of items which this section specifically mentions as not having the force and effect of law and are not binding on the Commission.

*Chapter 3*

*§ 3.1. Definitions.*

The definition of "emergency order" is changed to reflect the current Commission practice of issuing emergency orders signed by the Commission Secretary when a Commissioner or the Director of Operations is not available.

*§ 3.2. Issuance or denial of emergency order.*

The list of Commission officials who are authorized to issue emergency orders is enlarged to include the Commission's Secretary, and the section now provides for procedures for denial of petitions for emergency order when denial is by less than the full Commission.

*§ 3.3. Form of emergency order.*

A copy of emergency orders shall be served upon the Prothonotary for inclusion in the formal record.

*§ 3.4. Hearing on emergency order.*

For easier reading, this section is divided into two subsections. The Commission's Secretary has been added to the list of Commission personnel whose order may be stayed by the presiding officer. The substance of the section has not been changed. New subsection (b) specifies that a petition for emergency order denied by less than the full Commission will be deemed ratified as denied if not acted upon at the next public meeting following service of denial.

*§ 3.5. Ratification of emergency order.*

The Commission's Secretary is added to the list of personnel whose orders will be affirmed or revoked at the public meeting following issuance.

*§ 3.6. Petitions for interim emergency orders.*

Subsection (d) now provides for filing with the Prothonotary.

*§ 3.7. Issuance of interim emergency orders.*

Subsection (b) is changed with the substitution of the word "will" for the existing "shall."

*§ 3.10. Commission review of interim emergency orders.*

Wording is changed to clarify that the presiding officer will certify the question of granting or denying the relief requested whether he or she grants or denies it. Previous wording left some question whether certification was necessary if the question were denied.

*§ 3.111. Form and content of informal complaints.*

Section references are clarified, and the requirement that informal complaints be filed with the Commission's

Bureau of Consumer Services except in rate cases is added. Complaints filed in rate cases shall be filed with the Prothonotary.

*§ 3.112. Action on informal complaints.*

Subsection (a) now provides that a copy of an informal complaint filed in a matter which is already docketed will be placed in the folder of that docket, and a reference to Chapter 64 is added. Subsection (c) is added to state clearly that the filing of an informal complaint does not entitle complainant to a formal hearing.

*§ 3.113. Resolution of informal investigations.*

Language is added to specify that Commission staff may conduct informal investigations and that staff may also initiate formal investigations. This language change eliminates the implication that the Commissioners might initiate a formal investigation that is prosecutory in nature.

*§ 3.163. Policy statement concerning public input hearings in rate proceedings.*

This policy statement is deleted from the rules of practice and will be placed in Chapter 69 with the other policy statements.

*§ 3.501. Certificate of public convenience as a water or waste water collection, treatment and disposal supplier.*

The section is expanded to cover wastewater treatment suppliers. Although more detail is required, most of the requirements can be met by submitting the same documents to the Commission as must be submitted to DEP. Alternate forms may be used if the applicant elects not to submit the DEP forms. Subsection (a) now provides that applicants not submitting the DEP Business Plan must use the current form available from the Commission and spells out the filing requirements for these applications.

Subsection (b) spells out that incomplete applications can be rejected. Subsection (d) requires service of applications upon the Office of Consumer Advocate, Office of Small Business Advocate and the Department of Environmental Protection. The protest section has been removed and made into new § 3.502.

*§ 3.502. Protests to applications for certificate of public convenience as a water or wastewater collection, treatment and disposal supplier.*

This new section is added to replace and expand the protest subsection removed from § 3.501. Requirements for filing protests are now set out in more detail and include filing with the Prothonotary.

*§ 3.551. Official forms.*

Forms from this section have been removed and replaced with a list of those forms which will be available to the public from a central form repository at the Commission.

*Subchapter I. Registration of Securities*

*§ 3.601. General.*

This new section contains information which presently appears in Form L but should be in regulatory form. None of the information is new although some has been deleted to reflect the changes in the law over the years.

*§ 3.602. Abbreviated securities certificate.*

This section is added to relocate information which presently appears in Form M, which will be removed. This information should be in regulatory form. None of

the information is new although some has been deleted to reflect actual practice of the Commission, including filing with the Prothonotary.

*Chapter 5*

*§ 5.11. Applications generally.*

Wording of this section is changed to permit more flexibility in applications while providing guidance to applicants by suggesting that applications conform to official forms and subchapter requirements.

*§ 5.12. Contents of applications.*

This section reflects that the forms have been removed from the regulations but that specific requirements appearing in the regulations shall be followed.

*§ 5.14. Applications requiring notice.*

Subsection (b) is changed to point out the specific provision of § 3.501 which refers to a different time period than is provided here. Prothonotary is substituted to reflect the correct office to direct filing.

*§ 5.21. Formal complaints generally.*

Subsection (c) now requires a complainant to serve a copy of the complaint on the Commission's Office of Trial Staff, as well as the Office of Consumer Advocate and Office of Small Business Advocate, if the complaint proposes to change an existing or proposed tariff.

New subsection (d) spells out that the filing of a formal complaint generally entitles complainant to a formal trial-type hearing unless the Commission dismisses it, and it refers litigants to the appropriate sections governing motions.

Subsection (e) has been added to spell out that no party is directly responsible for answering complaints that are filed against the Commission. Issues will be determined prior to a hearing by prehearing conference memos with no party acting on behalf of the Commission itself.

*§ 5.22. Contents of formal complaint.*

A new subsection (b) has been added to require that a verification be attached to the complaint.

*§ 5.31. Staff-initiated complaints.*

Formerly entitled "Order to show cause," this subsection (a) is adapted to include new Commission procedures developed as a result of *Lyness v. State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992). New procedures provide for Commission staff to initiate complaints before the Commission. A new subsection (b) has been added to spell out the Commission's procedure when a party files a petition.

*§ 5.41. Petitions generally.*

A new subsection (b) has been added to require that petitions shall be served upon the Office of Consumer Advocate, the Office of Trial Staff, and the Office of Small Business Advocate.

*§ 5.42. Petitions for declaratory orders.*

Subsection (b) requires that service include a copy to the Office of Trial Staff and the Office of Small Business Advocate.

*§ 5.52. Content of a protest to an application.*

"Prothonotary" is substituted to reflect the proper office for filing the application. Nothing else is changed.

*§ 5.53. Time of filing.*

Reference to a water and wastewater collection, treatment and disposal supplier section is added.

*§ 5.61. Answers to complaints, petitions and motions.*

Subsection (a) has been altered to include motions. The wording has been changed in subsection (b) to clarify it without changing its meaning.

Subsection (c) specifically exempts complaints which are docketed with Commission-instituted rate investigations from vulnerability to default judgments. A new subsection (d) specifies that answers may be filed to complaints filed in Commission-instituted rate investigations but that they are not required unless ordered by the Commission or presiding officer.

*§ 5.62. Answers seeking affirmative relief or raising new matter.*

Time for filing a reply to new matter is increased from 10 to 20 days. Wording is added to specify that failure to file a timely reply to new matter shall be deemed in default and that relevant facts stated in the new matter may be deemed to be admitted.

*§ 5.64. Answers to orders to show cause.*

This section is deleted to reflect that Commission procedures no longer include orders to show cause. Under *Lyness*, Commission prosecutory staff files complaints, and answers to complaints are discussed § 5.61.

*§ 5.71. Initiation of intervention.*

Grammatical changes are made without changing the meaning of the section.

*§ 5.74. Filing of petitions to intervene.*

The main paragraph is divided into two smaller sections for ease of reference. Language is added to provide that intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances.

*§ 5.102. Motions for summary judgment and judgment on the pleadings.*

Subsection (c) is divided into two parts to clarify the procedure to be followed when motions for summary judgment and judgment on the pleadings are filed. Subsection (c)(2) is added to allow the administrative law judge to grant a partial summary judgment under certain circumstances.

*§ 5.103. Motions.*

This section now applies to all motions not covered elsewhere instead of being limited to hearing motions.

Subsection (d) is revised for clarity, and subsection (d)(3) provides that a presiding officer may render a final determination with regard to a motion prior to the termination of hearings by issuing an initial or recommended decision when a motion involves a question of jurisdiction, the establishment of a prima facie case or standing.

*§ 5.222. Initiation of prehearing conferences in nonrate proceedings.*

Subsection (c)(4)(v) is replaced by a more detailed subsection regarding discovery to be addressed at prehearing conferences.

*§ 5.224. Prehearing conference in rate proceedings.*

A sentence in subsection (b) is deleted because it was unnecessary and added nothing to the paragraph. Subsec-

tions (b)(1) and (2) have been expanded to suggest details regarding discovery requests for prehearing conferences in rate proceedings. Subsection (d) provides that the presiding officer may identify the active parties for purposes of service and may determine whether a public input session should be held, if that decision has not already been made.

Subsection (f) references specific authority provisions for presiding officers and then provides that the officer or a mediator may participate in settlement discussions.

*§ 5.231. Offers of settlement.*

A sentence is added providing that participants may request that the presiding officer or an additional presiding officer or mediator be appointed to participate in settlement negotiations.

*§ 5.232. Stipulations and settlements.*

Wording is adjusted to clarify the section, and a sentence is added to require that settlements identify the other participants which were provided or denied an opportunity to enter into the subject stipulation or settlement.

*§ 5.235. Motor carrier restrictive amendments.*

A phrase is added to specify that the section applies only to motor carrier applications for passenger or household goods in use authority to comply with Federal law.

*§ 5.242. Order of procedure.*

A new subsection is added to specifically allow the presiding officer the right to direct the order of participants for purposes of cross-examination.

*§ 5.243. Presentation by participants.*

Subsection (e) is expanded to include partial settlements.

*§ 5.253. Transcript corrections.*

This section is clarified to spell out a procedure for proposing transcript corrections and under what conditions they can be allowed. Subsection (f) states that an unopposed request for corrections not acted upon within 30 days will be deemed granted.

*§ 5.301. Interlocutory review generally.*

Only grammatical changes are made to this section.

*§ 5.302. Petition for interlocutory Commission review and answer to a material question.*

A grammatical change is made to subsection (a), and the maximum allowed length of the petition has been increased from one to three pages.

*§ 5.303. Commission action on petition for interlocutory review and answer.*

The word "interlocutory" is inserted in the title to clarify the subject of the section, a minor adjustment is made to the wording in subsection (a) without changing the meaning.

*§ 5.304. Interlocutory review of discovery matters.*

The maximum length of a request for interlocutory review of a ruling on discovery is increased from one to three pages, and any brief either in support or opposition is now limited to 15 pages. The changes in subsection (a)(4) and (5) clarify the actions required of the presiding officer, and new subsection (e) provides that the failure of the Commission to act on a certified question within 30 days is deemed to be an affirmance of the decision of the presiding officer.

*§ 5.305. Interlocutory review of a material question submitted by a presiding officer.*

Subsection (f) is added to provide that the failure of the Commission to act upon a certified question within 30 days will be deemed to be an affirmation of the decision of the presiding officer.

*§ 5.306. Notification by telephone.*

This section provides that any telephone notification ordered by a presiding officer will be confirmed by the presiding officer by service in writing.

*§ 5.321. Scope.*

Subsection (a) is expanded to provide more detail regarding which types of proceedings fall within this section.

*§ 5.324. Discovery of expert testimony.*

New language states that the answer, report or testimony signed by the expert shall be deemed to be provided under oath in accordance with 66 Pa.C.S. § 333(d) (relating to prehearing procedures).

*§ 5.331. Sequence and timing of discovery.*

Subsection (d) is altered to provide that initial discovery directed to data supplied by the public utility at the time of the initiation of the proceeding shall be submitted to the utility within 10 working days following the first prehearing conference.

*§ 5.332. Supplementing responses.*

In paragraphs (1) and (2), the word "seasonably" is replaced with the word "continuing," which is more accurate. The meaning of the subchapter has not been changed.

*§ 5.342. Answers or objections to written interrogatories by a participant.*

Subsection (d) is divided into two more sections for ease of reference. A phrase is added to make clear that discovery shall only be filed with the Prothonotary if there is an objection.

*§ 5.343. Procedures in deposition by oral examination.*

A phrase is added to specifically recognize that another provision exists for the taking of depositions.

*§ 5.345. Procedure on depositions by written questions.*

The word "trial" is replaced with the more commonly used "hearing" in the interests of consistency in subsection (c). Subsection (d) requires that following completion of the deposition questions, the deposed shall return the deposition to the sender instead of filing it with the Commission. The requirement that the Secretary notify other participants of the receipt of the deposition is eliminated.

*§ 5.346. Persons before whom depositions may be taken.*

The word "insular" is removed as unnecessary.

*§ 5.348. Transcript of deposition, objections and filing.*

The requirement that a deposition be filed with the Secretary is deleted since the official file no longer contains depositions.

*§ 5.349. Requests for documents, entry for inspection and other purposes.*

In subsection (a)(1), computer records are added to the list of documents which are discoverable. The Offices of Small Business Advocate and Trial Staff are now included

with the Office of Consumer Advocate to receive copies of discoverable materials from regulated utilities at no charge.

*§ 5.371. Sanctions generally.*

Two new subsections are added to provide a set time period for answering and deciding motions for sanctions.

*§ 5.401. Admissibility of evidence.*

The word "men" is replaced with the gender-neutral "persons."

*§ 5.413. Reserved.*

Formerly "Fees of witnesses," the substance of this section is placed in § 5.421, where it is more appropriate.

*Subpoenas and Protective Orders*

The title is expanded to state that the section covers protective orders as well.

*§ 5.421. Subpoenas.*

A sentence is added to subsection (a) to state that the proposed subpoena may be attached to the application. Subsection (b) now provides that a copy of an application for a subpoena of a Commission employe must be served on the Commission's Law Bureau.

Subsection (c) is divided into two sections for ease of reference and provides that service by mail may be accomplished by any form of mail requiring a return receipt. Service is complete upon delivery of the mail to the participant or according to Pa.R.C.P. No. 402(a)(2).

Subsection (d), instead of referring to § 5.413, now replaces it by providing that witnesses be paid the same fees and mileage as witnesses in courts of common pleas.

*§ 5.431. Close of the record.*

A reference to § 5.402(b) is inserted to draw attention to the provision which sets out the requirements for admission of evidence following the close of the record. The substance of this section is not changed.

*§ 5.482. Disqualification of a presiding officer.*

This section is expanded and set out in an easy-to-read format. It details the procedure under which a party may request that a presiding officer be removed from a case.

*§ 5.483. Authority of presiding officers.*

The addition to this section expands the authority of a presiding officer to include the scheduling and imposition of reasonable limitations on discovery as discussed in the earlier sections relating to discovery.

*§ 5.502. Filing and service of briefs.*

The incorrect room number of the New Filing Section is removed from this section.

*§ 5.533. Procedure to except to initial, tentative and recommended decisions.*

Subsection (b) changes the format requirement from stating each exception in a numbered paragraph to simply numbering the exceptions, which allows more than one paragraph per exception. Only grammatical changes were made to subsection (c). New subsection (e) specifically states that the 3-day mailbox rule does not apply to exceptions.

§ 5.536. *Effect of failure to file exceptions.*

In subsection (a), the word "will" is changed to "may" since there are decisions issued by administrative law judges which will not become final without some action by the Commission.

§ 5.539. *Withdrawal of appeals.*

This section is divided into two subsections. The first is new and spells out that filing of exceptions is an appeal of a recommended or initial decision to the Commission. The second section provides that an appeal to the Commission may be withdrawn at any time, and if an appeal of an order not otherwise subject to Commission review is withdrawn, then the order becomes final upon withdrawal of the appeal.

§ 5.572. *Petitions for relief following a final decision.*

These sections are rearranged to clarify that petitions for reconsideration, rehearing, reargument, clarification, and supersedeas must be filed within 15 days of entry of an order, and that petitions for rescission and amendment may be filed at any time. No substantive changes are made.

§ 5.591. *Reports of compliance.*

"Prothonotary" is substituted for "Secretary."

§ 5.592. *Compliance with orders prescribing rates.*

An additional reference is added to subsection (a), but the meaning is unchanged.

§ 57.26. *Construction and maintenance of facilities.*

This section sets the standards for maintenance and construction of facilities according to the most recent National Electrical Safety Code rather than a particular edition.

§ 57.45. *Preservation of records.*

Public utilities are now required to keep records according to the most recent publication of the National Association of Regulatory Utility Commissioners rather than the publication of a particular year.

§ 59.45. *Preservation of records.*

Gas utilities are required to keep records according to the current publication applicable rather than that of a particular year.

Accordingly, under sections 501, 504—506, 1301 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501, and the Commonwealth Documents Law (45 P.S. § 1201 et seq.), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, the Commission adopts final-form regulations pertaining to practice and procedure before the Commission to read as set forth in Annex A, *Therefore*,

*It is Ordered that:*

1. The Commission's regulations, 52 Pa. Code Chapters 1, 3 and 5, are amended by:

(a) adding §§ 3.502, 3.601 and 3.602;

(b) deleting §§ 1.9, 1.52, 3.163, 5.64 and 5.413; and

(c) amending §§ 1.1, 1.3—1.5, 1.8, 1.11—1.15, 1.21—1.24, 1.27, 1.31, 1.33, 1.34, 1.36, 1.37, 1.43, 1.51, 1.53, 1.54, 1.56, 1.57, 1.61, 1.72, 1.76, 1.77, 1.86, 1.91, 1.96, 3.1—3.8, 3.10, 3.111—3.113, 3.501, 3.551, 5.11, 5.12, 5.14, 5.21, 5.22, 5.31, 5.41, 5.42, 5.52, 5.53, 5.61, 5.62, 5.71, 5.74, 5.102, 5.103, 5.222, 5.224, 5.231, 5.232, 5.235, 5.242,

5.243, 5.253, 5.301—5.306, 5.321, 5.324, 5.331, 5.332, 5.342, 5.343, 5.345, 5.346, 5.348, 5.349, 5.371, 5.401, 5.412, 5.421, 5.431, 5.482, 5.483, 5.502, 5.533, 5.536, 5.539, 5.572, 5.591, 5.592, 57.26, 57.45 and 59.45, to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

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

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, effective upon publication.

6. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

JOHN G. ALFORD,  
*Secretary*

*Statement of Commissioner John Hanger*

One issue in this proceeding requires attention because it is a barrier to due process before this Commission.

Regulation 1.21 should be amended to make clear that nonattorneys may be witnesses presenting factual testimony in adversarial hearings before an ALJ without having to hire an attorney to sponsor testimony. As written, Regulation 1.21 requires attorney representation for partnerships, corporations, trust, associations, agencies, political subdivisions, and governmental entities in all adversarial proceedings. While attorneys should be required to represent others in matters requiring the practice of law, the existing requirement, as codified in the revised regulation, has been applied in inconsistent and incoherent ways. In particular, the owners of incorporated taxi cab companies are regularly prevented from even appearing as a witness to respond to allegations that a violation of the medallion act has occurred unless they hire an attorney to sponsor them.

Owners of incorporated cab companies and other closely-held utilities can responsibly appear as witness to provide testimony without difficulty and without reaching any "legal issues", let alone without practicing law. The ALJ should have the authority to require attorney representation if a case should ever involve legal matters.

Refusal to permit cab owners to testify without hiring an attorney to represent them routinely results in dismissal of the cases. Certainly, now that an attorney representation requirement is being imposed on incorporated medallion owners, many cab owners probably just go ahead and pay the fine even if they believe they have committed no violation. In short, small businesses are being deprived of their right to defend against an enforcement action, because it costs more money to defend the case than it does to pay the fine. That is wrong.

Ironically, these very same medallion cases, before the very same ALJs, are prosecuted by nonattorneys representing the Public Utility Commission and the Commonwealth of Pennsylvania. No Commission prosecutory law-

yers present the testimony of the police officers who initiated the complaint. Why? Because the Commission considers it too expensive to do so. Of course, the Commission is right. Why should the prosecutor, who inherently must argue that a violation of the law occurred, be permitted to be a nonattorney when the respondent, who need only say what happened, hire an attorney? It is simply unfair and denies access to this Commission.

On the other hand, this Commission has routinely permitted municipal officials, corporate executives and other appropriate persons to appear on behalf of municipalities, governmental agencies, corporations and other entities in public input hearings during adversarial rate cases. While it is entirely appropriate to allow this practice in my view, this practice violates Regulation 1.21 as written and as interpreted by the Commission. After all, these individuals appear without counsel to provide factual testimony and make argument on behalf of their employers.

Regulation 1.21 harms the taxi industry, small water companies and other small, closely-held utilities. For example, most taxi cabs are owned by corporations although the ownership of the corporation is limited to one or a few individuals who in fact run the business and frequently drive cabs themselves. There usually are no outside shareholders.

Yet, this Commission continues to insist that to permit the medallion owners to appear before an ALJ as a witness without an attorney would be to condone the unauthorized practice of law, risking prosecution and the disbarment of our judges. Why is this any more the unauthorized practice of law than testimony at public input hearings in adversarial rate cases?

Certainly the issues are much more complex with much more money at stake in rate cases than in medallion cases. Medallion cases usually involve a proposed fine of no more than a few hundred dollars for violations of medallion regulations such as failing to maintain a current log, failure to display the taxi-driver certificate, or driving on worn tires or having a dirty trunk. The testimony provided by the witness is likely to include such statements as, "the windshield was cracked because a rock hit it right before my cab was inspected," or "I was on my way to the shop to have my taillight fixed when I was pulled over," or "I was not on duty. I was picking my son up from school."

The basis for the general rule requiring attorney representation in all adversarial cases is that only an attorney may represent another in the practice of law. Corporations and the other nonindividual parties specified are separate legal entities. To constitute the "practice of laws," however the activity must include representation of others in legal matters. Permitting a witness to provide factual testimony simply is not a legal matter. "Practicing law" requires at least some degree of holding oneself out to the public to provide representation in legal matters. Allowing the owners of these small businesses to present factual matters concerning their own business simply is not the practice of law.

This Commission must not erect unnecessary and expensive barriers to participation in our proceedings.

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

**Fiscal Note:** Fiscal Note 57-156 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE**

**Subchapter A. GENERAL PROVISIONS**

**§ 1.1. Scope of subpart.**

(a) This subpart governs the practice and procedure before the Commission.

(b) This subpart is intended to supersede the applicability of 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) to practice and procedure before the Commission.

**§ 1.3. Information and special instructions.**

(a) Information as to procedures under this subpart, and instructions supplementing this subpart in special instances, will be furnished upon application to:

Prothonotary  
 Pennsylvania Public Utility Commission  
 Post Office Box 3265  
 North Office Building  
 Harrisburg, Pennsylvania 17105-3265

(b) Subsection (a) is identical to 1 Pa. Code § 31.4 (relating to information and special instructions).

**§ 1.4. Filing generally.**

(a) Submittals, pleadings and other documents filed with the Commission should be addressed as follows:

Prothonotary  
 Pennsylvania Public Utility Commission  
 Post Office Box 3265  
 North Office Building  
 Harrisburg, Pennsylvania 17105-3265

(b) Submittals, pleadings and other documents filed with the Commission should clearly designate the docket number or similar identifying symbols, if any, employed by the Commission, and should set forth a short title. The identity of the individual making the submission, including name, mailing address, and status (for example, party, attorney for a party, and the like) shall appear on the document, along with any special instructions for communication by other than first class mail.

(c) Submittals and pleadings, including documents filed under Chapter 5 (relating to formal proceedings) shall also comply with Subchapter D (relating to documentary filings).

(d) In a proceeding when, upon inspection, the Commission is of the opinion that a submittal or pleading tendered for filing does not comply with this subpart or this title or, if it is an application or similar document, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the document for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(e) The Commission may order redundant, immaterial, impertinent or scandalous matter stricken from documents filed with it.

(f) Subsections (a)—(e) are identical to 1 Pa. Code § 31.5 (relating to communications and filings generally).

**§ 1.5. Amendment to rules.**

(a) Persons may file an application under §§ 5.1 and 5.11 (relating to pleadings allowed; and applications generally) requesting a general and permanent change in this subpart.

(b) Subsection (a) supersedes 1 Pa. Code § 31.6 (relating to amendments to rules).

**§ 1.8. Definitions.**

(a) Subject to additional definitions contained in subsequent sections which are applicable to specific chapters or subchapters, the following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Party*—A person who appears in a proceeding before the Commission who has a direct interest in the subject matter of the proceeding.

(i) Active parties to a general rate case are those who intend to fully participate in the litigation of a case, which may include presenting witnesses, cross-examining witnesses from the other parties, making motions, conducting discovery, filing briefs, participating in settlement negotiations, and the like. Active parties to a general rate case are not required to serve any documents on inactive parties. The Commission will serve inactive parties with copies of all orders and recommended decisions issued in the case.

(ii) Inactive parties to a general rate case are those who do not intend to be active parties. Inactive parties have the right to testify at a hearing, including a public input hearing, but do not have the right to present other witnesses, cross-examine witnesses from other parties, make motions, conduct discovery, file briefs or participate in settlement negotiations.

\* \* \* \* \*

*Prothonotary*—The Commission officer with whom pleadings and other documents are filed and by whom official records are kept.

\* \* \* \* \*

**§ 1.9. (Reserved).**

**Subchapter B. TIME**

**§ 1.11. Date of filing.**

(a) Whenever a pleading, submittal, or other document is required or permitted to be filed under this title or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the office of the Prothonotary.

(2) On the date deposited with an overnight express package delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter is insufficient proof of the date of mailing.

(b) Failure to include a legible delivery receipt with the document may result in an untimely filing.

(c) A document transmitted by telecopier to the Commission will not be accepted for filing within the meaning of this section.

(d) Subsection (a) supersedes 1 Pa. Code § 31.11 (relating to timely filing required).

**§ 1.12. Computation of time.**

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

**§ 1.13. Issuance of Commission orders.**

(a) In computing a period of time involving the date of the issuance of an order by the Commission, the day of issuance of an order will be the date the Secretary enters the order. An order will not be made public prior to its entry except where, in the Commission's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Commission. The Secretary will clearly indicate on each order the date of its adoption by the Commission and the date of its entry.

(b) At the time a decision of a presiding officer becomes effective as an adjudication of the Commission in the absence of Commission review as provided for in section 332(h) of the act (relating to procedures in general) the Secretary will issue and serve upon the parties of record an appropriate notice of the date the adjudication became effective as a Commission order.

(c) The date of entry of an order which is subject to review by Commonwealth Court is governed by Pa.R.A.P. No. 108. The date of issuance of any other order shall be deemed to be the date of entry for the purposes of

computing the time for appeal under an applicable statute relating to judicial review of Commission action.

(d) Subsections (a) and (b) are identical to 1 Pa. Code § 31.13 (relating to issuance of agency orders).

**§ 1.14. Effective dates of Commission orders.**

(a) An order of the Commission promulgating regulations shall be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Commission shall be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

**§ 1.15. Extensions of time and continuances.**

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this title or by order of the Commission, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Request's for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Commission or the presiding officer. Only for good cause shown, will requests for continuance be considered. The requests should be submitted at least 5 days prior to the hearing date.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

**Subchapter C. REPRESENTATION  
BEFORE THE COMMISSION**

**§ 1.21. Appearance in person.**

(a) Individuals may represent themselves.

(b) In adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only under § 1.22 (relating to appearance by attorneys and legal intern). For purposes of this section, any request for a general rate increase under section 1307(f) or 1308(d) of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates) shall be considered to be an adversarial proceeding.

(c) In nonadversarial proceedings, a member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the

corporation, trust or association, and an officer or employe of another agency, a political subdivision or governmental entity may represent the agency or political subdivision in presenting a submittal to the Commission subject to this chapter and Chapter 5 (relating to formal proceedings).

(d) In informal proceedings brought under Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service), parties may be represented by one of the following:

(1) Paralegals working under the direct supervision of an attorney admitted to the Pennsylvania Bar.

(2) Another appropriate individual.

(e) Subsection (a) supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

**§ 1.22. Appearance by attorney or certified legal intern.**

(a) Individuals, partnerships, associations, corporations or governmental entities may be represented in a proceeding by an attorney at law admitted to practice before the Supreme Court of Pennsylvania.

(b) An attorney licensed in a jurisdiction which does not accord like privileges to members of the bar of this Commonwealth may appear before the Commission with the permission of the presiding officer or the Commission consistent with Pa.B.A.R. No. 301 (relating to admission pro hac vice).

(c) Law students meeting the requirements of PA.B.A.R. No. 321 (relating to requirements for formal participation in legal matters by law students) may appear in a Commission proceeding consistent with Pa.B.A.R. No. 322 (relating to authorized activities of certified legal interns).

(d) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

**§ 1.23. Other representation prohibited at hearings.**

(a) Participants, individuals, partnerships, associations, corporations or governmental entities may not be represented at a hearing before the Commission or a presiding officer except:

(1) As stated in § 1.21 or § 1.22 (relating to appearance in person; and appearance by attorney or certified legal intern).

(2) As otherwise permitted by the Commission in a specific case.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.23 (relating to other representation prohibited at hearings).

**§ 1.24. Notice of appearance or withdrawal.**

(a) An individual appearing without representation before the Commission or a presiding officer shall file with the Prothonotary an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Prothonotary promptly.

(b) An attorney whose name and address appear in a representative capacity on an initial pleading filed with the Prothonotary or a presiding officer shall be considered to have entered an appearance in that proceeding. An attorney who enters the matter at a later stage of the proceeding shall file with the Prothonotary a written



notice of the appearance, which shall state his name, address and telephone number and the name and address of the person on whose behalf he appears. The notice shall be served on the participants in the proceeding. A change in address which occurs during the course of the proceeding shall be reported to the Prothonotary promptly.

(c) A person appearing or practicing before the Commission in a representative capacity may be required to file a power of attorney with the Commission showing his authority to act in that capacity.

(d) An attorney who wishes to withdraw an appearance shall file with the Prothonotary a written notice of withdrawal. The notice shall be served on the participants and the presiding officer, if one has been designated.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

### § 1.27. Suspension and disbarment.

(a) The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to a person who is found by the Commission, after notice and opportunity for hearing in the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Lacked the requisite technical education, training or experience for a particular project or type of project submitted for Commission approval.

(3) Engaged in unethical, contemptuous or improper conduct before the Commission.

(4) Repeatedly failed to follow Commission or presiding officer directives.

(b) For the purpose of subsection (a), practicing before the Commission shall include:

(1) Transacting business with the Commission.

(2) The preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Commission in a pleading, submittal or other document with the consent of the attorney, accountant, engineer or other expert.

(3) Appearances at a hearing before the Commission or a presiding officer.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

## Subchapter D. DOCUMENTARY FILINGS

### § 1.31. Form of documentary filings generally.

(a) Applications, petitions, complaints, answers or similar documents shall be divided into numbered paragraphs.

(b) Copies of contracts, agreements, certificates, permits or other writings referred to in the application or petition, shall be attached as exhibits. Copies of writings or orders already of record with the Commission need not be attached to the application or petition if reference by docket number is made to the proceeding in which they were filed.

(c) Pleadings, submittals or other documents filed with the Commission in a proceeding shall clearly show the docket number or similar identifying symbols, if any, and

title of the proceeding before the Commission. They shall also show, in the title of a particular pleading, submittal or other document filed, the name of the person on whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.1 (relating to title).

### § 1.33. Incorporation by reference.

(a) Except as otherwise provided in subsection (b), documents on file with the Commission may be incorporated by reference into a subsequently filed pleading, submittal or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was physically filed.

(b) No document which has been on file with the Commission for a period of more than 20 years may be incorporated by reference in a current document unless the person filing the current document first makes inquiry to the Prothonotary's office and ascertains that the earlier document continues to be readily available in the active records of the Commission.

### § 1.34. Single pleading or submittal covering more than one matter.

(a) Except as otherwise provided under this chapter and Chapter 5 (relating to formal proceedings), a single pleading or submittal may be accepted for filing with respect to a particular transaction and one or more related transactions and shall be deemed to be a single filing for purposes of the computation of fees under § 1.43 (relating to schedule of fees payable to the Commission).

(b) If, upon review, the Commission determines that the transactions are not closely related or otherwise properly joined, the Commission will direct that the single pleading be refiled as two or more separate pleadings each subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

### § 1.36. Verification.

(a) Applications, petitions, formal complaints, motions and answers thereto containing an averment of fact not appearing of record in the action or containing a denial of fact shall be personally verified by a party thereto or by an authorized officer of the party if a corporation or association. Verification means a signed written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). If verification is required, notarization is not necessary.

(b) The verification form should comply substantially with the following:

#### VERIFICATION

I, \_\_\_\_\_, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: \_\_\_\_\_  
(Signature)

(c) When an affidavit is used, the form should comply substantially with the following:

**AFFIDAVIT**

I, \_\_\_\_\_ (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of \_\_\_\_\_ corporation, being the holder of the office of \_\_\_\_\_ with that corporation, and that) the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the same at any hearing hereof.

\_\_\_\_\_  
(Signature of affiant)

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(Signature of official administering oath)  
(My Commission Expires)

(d) An applicant for motor carrier rights shall include in the verification the following statement:

Applicant is not now engaged in intrastate transportation of property or passengers for compensation in this Commonwealth except as authorized by the Pennsylvania Public Utility Commission certificate or permit, and will not engage in the transportation for which approval is herein sought, unless and until the transportation is authorized by your Honorable Commission.

(e) An individual who executes a pleading, submittal or other document knowing that it contains a false statement and who causes it to be filed in the Commission shall be subject to prosecution for the commission of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(f) Subsections (a)—(e) supersede 1 Pa. Code § 33.12 (relating to verification).

**§ 1.37. Number of copies.**

(a) An original and three copies of pleadings, submittals or documents other than correspondence shall be furnished to the Commission at the time of filing, except as may be otherwise required by statute or ordered or requested by the Commission, and except as required by §§ 5.409, 5.502 and 5.533 (relating to copies and form of documentary evidence; documentary evidence; filing and service of briefs; and procedure to except to initial, tentative and recommended decisions).

(b) In the case of applications and petitions, one of the copies filed with the Commission may be filed without exhibits.

(c) In the case of complaints or petitions, when more than one respondent is named, an additional copy of the complaint or petition shall be filed for additional respondent.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.15 (relating to number of copies).

**Subchapter E. FEES**

**§ 1.43. Schedule of fees payable to the Commission.**

(a) *Fees for service.* The fees for services rendered by the Commission are as follows:

<i>Description</i>	<i>Fee (in dollars)</i>
* * * * *	
Copies of microfilm per roll	\$80
* * * * *	

**Subchapter F. SERVICE OF DOCUMENTS**

**§ 1.51. Instructions for service and notice.**

Upon receipt of an application or initial petition, the Prothonotary will instruct the applicant or petitioner concerning the required service and public notice.

**§ 1.52. (Reserved).**

**§ 1.53. Service by the Commission.**

(a) Except when service by another method is specifically required by the Commission, an order, notice or other document originating with the Commission, including forms of Commission action and similar process, and other documents designated by the Commission, shall be served by the Commission by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the principal office or place of business. When service is not accomplished by mail, it may be effected by anyone authorized by the Commission.

(b) Service of a petition under § 3.391 (relating to arbitration of claims for billing and collecting services), and service of a complaint under section 702 of the act (relating to service of complaint on parties) shall be by registered or certified mail, return receipt requested.

(c) It is the duty of a participant to apprise the Commission of changes to the participant's current address.

(d) If the Commission is unable to serve a participant by mail at the participant's last known address, the Commission may serve the participant by publication in a newspaper of general circulation in the same area as the participant's last known address. In the alternative, service may also be accomplished by publication in the *Pennsylvania Bulletin* or by service on the Secretary of the Commonwealth, if appropriate.

(e) Subsection (a) supersedes 1 Pa. Code § 33.31 (relating to service by the agency).

**§ 1.54. Service by a participant.**

(a) Pleadings, submittals, briefs and other documents, filed in proceedings pending before the Commission shall be served upon participants in the proceeding and the presiding officer, if one has been assigned.

(b) Service may be in person, by available delivery service, by mail or as otherwise directed by the Commission. Service may also be by telecopier to those parties who have agreed to accept service in that manner.

(c) Service by mail shall be made by delivering the requisite number of copies to each participant as provided in § 1.59 (relating to number of copies to be served), properly addressed with postage prepaid, and first class mail shall be utilized. Service by telecopier shall be followed by service of a hard copy either by mail, by available delivery service or in person.

(d) In a proceeding in which only some of the participants participate actively, the active participants, with the authorization of the presiding officer, may serve documents upon the other active participants and to inactive participants which state of record on the record or request in writing that they wish to be served.

(e) Subsections (a)—(c) supersede 1 Pa. Code § 33.32 (relating to service by a participant).

**§ 1.56. Date of service.**

(a) The date of service shall be the day when the document served meets one of the following conditions:

(1) The document is deposited in the United States mail.

(2) The document is deposited with an overnight express package delivery service.

(3) The document is delivered in person.

(4) The document is transmitted by telecopier as provided in § 1.54 (relating to service by a participant).

(b) Unless otherwise prescribed by the Commission or presiding officer, whenever a participant is required or permitted to do an act within a prescribed period after service of a document upon the participant and the document is served by mail, 3 days shall be added to the prescribed period.

(c) Subsection (a) supersedes 1 Pa. Code § 33.34 (relating to date of service).

**§ 1.57. Proof of service.**

(a) A certificate of service in the form prescribed by § 1.58 (relating to form of certificate of service) shall accompany and be attached to the original and all copies of pleadings, submittals or other documents filed with the Commission when service is required to be made by the parties.

(b) Subsection (a) supersedes 1 Pa. Code § 33.35 (relating to proof of service).

**Subchapter G. MATTERS BEFORE OTHER TRIBUNALS**

**§ 1.61. Notice and filing of copies of pleadings before other tribunals.**

(a) When matters over which the Commission may have jurisdiction under the act are raised in proceedings filed with a court or other regulatory body by a person subject to the act, either an appropriate application or petition, or notice of the proceedings and copies of the material pleadings filed therein, shall be filed simultaneously with the Commission so that it may have sufficient notice and time for proper consideration of the matters within its jurisdiction.

(b) A public utility subject to the jurisdiction of the Commission which files a petition under Chapter 7, 9, 11 or 13 of the United States Bankruptcy Code (11 U.S.C.A. §§ 701—766, 901—946, 1101—1174 and 1301—1330), its supplements and amendments, or against which the petition is filed, shall, within 10 days of the filing thereof or notification of the filing, file a copy of the petition with the Commission and with the Office of Consumer Advocate, 1425 Strawberry Square, Harrisburg, Pennsylvania 17120 and with the Office of Small Business Advocate, Suite 1102 Commerce Building, 300 North Second Street, Harrisburg, Pennsylvania 17101.

(c) A public utility which is subject to the regulatory jurisdiction of the Commission, or the public utility's trustee in bankruptcy, shall file a petition for Commission approval of a reorganization plan as to the public interest therein and the fairness thereof, accompanied by a copy of the plan within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(d) A public utility which is subject to the regulatory jurisdiction of the Commission, or its trustee in bankruptcy, shall file a petition for Commission approval of a reorganization plan as to the public interest therein and the fairness thereof, accompanied by a copy of the plan within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(1) The petition shall contain a concise statement of the relevant facts and set forth the grounds upon which Commission approval should be granted.

(2) If the reorganization plan contemplates the issuance of new securities or a change in the terms and conditions of securities already outstanding, the record shall be developed to show the same information which the Commission requires in securities certificates.

(3) If the reorganization plan contemplates the abandonment of service, the petition shall include an application under section 1102(a)(2) of the act (relating to enumeration of acts requiring certificate).

(4) The Commission will make a finding and certify its approval or disapproval of the plan to the bankruptcy court in which the petition is filed.

**Subchapter H. PUBLIC ACCESS TO COMMISSION RECORDS**

**§ 1.72. Formal case files.**

(a) *Format.* Format for filing records in formal cases shall conform with the following:

(1) The files for formal cases initiated prior to May 15, 1977, shall contain a records, correspondence and testimony folder.

(2) The files for formal cases initiated on or after May 15, 1977, shall contain a document, report and testimony folder.

(b) *Contents.* Contents of folders in formal cases shall conform with the following:

(1) Formal cases initiated prior to May 15, 1977, shall conform with the following:

(i) *Testimony folder.* This folder shall contain hearing transcripts and exhibits.

\* \* \* \* \*

(2) Formal cases initiated on or after May 15, 1977, shall conform with the following:

(i) *Testimony folder.* This folder shall contain the same material as described in subsection (b)(1)(i).

\* \* \* \* \*

**§ 1.76. Tariffs, minutes of the public meeting and annual reports.**

Tariffs, minutes of the public meeting and annual reports shall be available for public inspection and copy-

ing upon request to the Office of the Secretary during normal Commission business hours.

**§ 1.77. Extensions of time to review folders.**

For good cause the Commission may extend the time limits applicable to requests for access to documents. In the case of documents displaying no need for confidentiality, or, conversely, documents containing information which the Commission considers improper for public inspection, the Commission may direct the appropriate treatment thereof, notwithstanding contrary provisions in §§ 1.71—1.76.

**Subchapter I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS**

**Subchapter J. DOCKET**

**§ 1.86. Docket.**

(a) The Prothonotary will maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The docket shall be available for inspection and copying by the public during the Commission's office hours.

(b) Subsection (a) is identical to 1 Pa. Code § 33.51 (relating to docket).

**Subchapter K. WAIVER OF RULES**

**§ 1.91. Applications for waiver of formal requirements.**

(a) A request for waiver of, or exception to, any provision of this chapter or Chapter 3 or 5 (relating to special provisions; and formal proceedings) or a regulation or requirement with which the document tendered is in conflict or does not conform may accompany a pleading, submittal or other document subject to rejection under § 1.4 (relating to filing generally). The request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the Commission with an indication of the deficiencies thereof and the reasons for nonacceptance and return.

(b) Unless the Commission expressly orders, acceptance for filing will not waive a failure to comply with this title or other applicable requirements, and the failure may be cause for striking all or any part of the filings.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 33.61 (relating to applications for waiver of formal requirements).

**Subchapter L. UNOFFICIAL STATEMENTS AND OPINIONS**

**§ 1.96. Unofficial statements and opinions by Commission personnel.**

Statements contained in formal opinions of the Commission or in decisions of a presiding officer which are not necessary in resolving the case, and informal opinions, whether oral or written, expressed by Commissioners, presiding officers, legal counsel, employes or representatives of the Commission and reports drafted by Commission bureaus are only considered as aids to the public, do not have the force and effect of law or legal determinations, and are not binding upon the Commonwealth or the Commission.

**CHAPTER 3. SPECIAL PROVISIONS**

**Subchapter A. SPECIAL COMMISSION ACTIONS**

**EMERGENCY RELIEF**

**§ 3.1. Definitions.**

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

*Emergency*—A situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.

*Emergency order*—An ex parte order issued by a single Commissioner, the Commission, the Commission's Director of Operations or Executive Assistant, or the Commission's Secretary in response to an emergency.

*Interim emergency order*—An interlocutory order issued by a presiding officer which is immediately effective and grants or denies injunctive relief during the pendency of a proceeding.

**§ 3.2. Issuance of emergency order.**

(a) To the extent practicable, a petition for emergency relief shall be:

(1) In the form of a petition as set forth in § 5.41 (relating to petitions generally).

(2) Supported by an affidavit verifying facts which establish the existence of an emergency.

(3) Served on the persons directly affected by the application.

(b) When there is an actual or declared emergency, the Chairman, a Commissioner, the Commission's Director of Operations and the Executive Assistant, and the Commission's Secretary have the authority to issue an emergency order.

(c) An emergency order shall be served as expeditiously as practicable upon the persons directly affected by the order.

(d) Notice of denial of a petition for emergency order by less than the full Commission shall be served by the Secretary with copies to Commissioners.

**§ 3.3. Form of emergency order.**

An emergency order shall be issued in writing and shall be filed with the Prothonotary with copies to Commissioners, and the Director of Operations.

**§ 3.4. Hearing on emergency order.**

(a) Upon petition by a person against whom an emergency order is issued, an expedited hearing before a presiding officer will be conducted within 10 days to determine whether or not the emergency order will remain in effect. The petition shall be served upon the Commission with a copy to the Chief Administrative Law Judge. The presiding officer will take into account the irreparable harm, if any, which staying or continuing the emergency order would cause the public interest or the person directly affected.

(b) If the emergency order is issued by a single Commissioner or the Director of Operations or the Executive Assistant, or by the Commission's Secretary, then the presiding officer will have the authority to stay the effect of the order until the next scheduled public meeting. The decision of the presiding officer will constitute a recom-

mended decision to be acted upon by the Commission at its next scheduled public meeting.

**§ 3.5. Ratification of emergency order.**

(a) An emergency order issued by a single Commissioner or the Director of Operations or the Executive Assistant or the Commission's Secretary will be ratified, modified or rescinded by the Commission at the next scheduled public meeting after issuance of the order.

(b) When a petition for emergency order has been denied by less than the full Commission, the denial will be deemed ratified by the Commission if the Commission does not act to the contrary during the first public meeting after the Secretary served the notice of its denial.

**§ 3.6. Petitions for interim emergency orders.**

(a) To the extent practicable, a petition for an interim emergency order shall be in the form of a petition as set forth in § 5.41 (relating to petitions generally). A petition for an interim emergency order may be submitted by a participant during the pendency of a proceeding and, to the extent practicable, shall be supported by an affidavit verifying facts which establish the existence of the need for interim emergency relief.

(b) An allegation contained in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required. If a participant desires, an answer in the form set forth in § 5.61 (relating to answers to complaints, petitions and motions) may be filed no later than 5 days after receipt of a copy of the petition.

(c) No other pleadings, memoranda or briefs related to a petition for interim emergency orders are permitted unless specifically requested by the presiding officer.

(d) A copy of the petition shall be served on the Chief Administrative Law Judge at the same time the petition is filed with the Prothonotary and served on the participants.

**§ 3.7. Issuance of interim emergency orders.**

(a) A presiding officer may issue an interim emergency order upon finding that the following exist:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

(b) An order granting or denying interim emergency relief will be issued within 15 days of receipt of the petition.

(c) An interim emergency order or an order denying interim emergency relief shall be served as expeditiously as practicable on the participants.

**§ 3.8. Form of interim emergency order.**

An order granting or denying interim emergency relief shall:

- (1) Contain a brief description of the evidence presented in support of or in opposition to the petition and shall specify how that evidence meets or fails to meet the criteria in § 3.7 (relating to the issuance of interim emergency orders).

(2) If relief is granted, determine whether or not a bond—in form satisfactory to the Chief Administrative Law Judge—shall be posted by the petitioner.

(3) If a bond is required, determine the amount of the bond.

**§ 3.10. Commission review of interim emergency orders.**

(a) An order granting or denying interim emergency relief is immediately effective upon issuance by the presiding officer. No stay of the order will be permitted while the matter is being reviewed by the Commission.

(b) When the presiding officer rules upon the petition for an interim emergency order, the presiding officer shall also certify the question of the granting or denial of relief to the Commission as a material question in the form set forth in § 5.305 (relating to interlocutory review of a material question submitted by a presiding officer). Thereafter, the participants and the Commission shall follow the procedures in § 5.305, if applicable.

**Subchapter B. INFORMAL PROCEEDINGS  
GENERALLY**

**§ 3.111. Form and content of informal complaints.**

(a) Informal complaints may be by letter or other writing. No form of informal complaint is suggested, except as set forth in §§ 56.162 and 64.152 (relating to informal complaint filing procedures), but in substance the letter or other writing shall contain the essential elements of a formal complaint as specified in § 5.22 (relating to contents of formal complaint).

(b) Informal complaints in rate cases should be filed with the Prothonotary. Other informal complaints must be filed with the Pennsylvania Public Utility Commission, Bureau of Consumer Services, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(c) Subsection (a) supersedes 1 Pa. Code § 35.5 (relating to form and content of informal complaints).

**§ 3.112. Action on informal complaints.**

(a) Upon receipt of an informal complaint related to a docketed matter, a copy of the informal complaint will be placed in the official document folder. Except as set forth in Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service), the Commission staff will review the material submitted, and if the matter complained of appears to lie within the jurisdiction of the Commission, perform additional investigation necessary or proper to corroborate the allegations of the complaint. Upon completion of the review and investigation, the Commission staff may institute formal action with respect to the subject matter of the informal complaint.

(b) Upon the completion of the Commission's investigation of an informal complaint, the Commission staff will notify the informal complainant of the results of its review and investigation and of the staff recommendation, if any, to the Commission. The filing or a withdrawal of an informal complaint is without prejudice to the right of the complainant to file and prosecute a formal complaint.

(c) The filing of an informal complaint does not entitle complainant to a formal hearing before the Commission.

(d) Subsection (a) supersedes 1 Pa. Code §§ 35.6 and 35.7 (relating to correspondence handling of informal complaints; and discontinuance of informal complaints without prejudice).

**§ 3.113. Resolution of informal investigations.**

(a) The Commission staff may conduct informal investigations in appropriate circumstances regarding the condition and management of a public utility or other person or corporation subject to its jurisdiction. The informal investigations are typically undertaken to gather data or to substantiate allegations of potential violations of the act and may be conducted with or without hearing.

(b) The Legislature has found that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society. The Sunshine Act (65 P. S. §§ 271—286) therefore requires that the Commission's official actions take place at a public meeting, subject to certain limited exceptions.

(c) To reconcile the Commission's authority to undertake informal investigations with or without hearing and the Legislature's findings regarding the adverse consequences of secrecy in public affairs, the Commission will proceed as follows when a quorum of its members meet to discuss termination of an informal investigation:

(1) When the Commission staff determines that no violation or potential violation of the act has occurred, the informal investigation will be terminated by letter.

(2) When the Commission staff determines that a violation or potential violation of the act has occurred and when formal action is deemed to be warranted, the Commission staff will initiate a docketed on-the-record proceeding to resolve the issues.

(3) When the utility, or other person or corporation subject to its jurisdiction, has committed to undertake action in order to address or remedy a violation or potential violation of the act or to resolve another perceived deficiency at the utility, in the form of a settlement with the Commission staff or other resolution of the matter, the Commission's adoption of the settlement or approval of the utility's action will be considered at public meeting. Except for staff reports which advise the Commission as to the action it should take and other documents covered by a specific legal privilege, documents relied upon by the Commission in reaching its determination shall be made part of the public record. The Commission's decision to adopt the settlement or to approve the utility's action will be in the form of a tentative decision that recites the relevant facts and the Commission's conclusions, and provides other potentially affected persons with the opportunity to submit exceptions thereon or to take other action provided for under law.

**§ 3.163. (Reserved).**

**Subchapter G. WATER OR WASTEWATER UTILITY PROCEEDINGS**

**§ 3.501. Certificate of public convenience as a water or wastewater collection, treatment and disposal supplier.**

(a) *Applicant.* An applicant for a certificate of public convenience as a public water or wastewater collection, treatment and disposal supplier shall provide a copy of the business plan required by the Department of Environmental Protection (DEP) at 25 Pa. Code

§ 109.503(a)(3) (relating to public water system construction permits). The following information, or documents, if not included in the business plan, shall be included in the application, using the current forms and schedules specified by the Commission's Bureau of Fixed Utility Services:

(1) *Plant in service.*

(i) Proposed utilities shall provide:

(A) A full description of the proposed waterworks or wastewater collection, treatment and disposal facilities and the manner, including the timing, in which the proposed service area and utility will be constructed.

(B) A breakdown of the cost of construction, by major plant category, including the sources of funds used to construct the facilities.

(ii) Utilities that have been providing service shall provide:

(A) The original cost, by year and major plant category, of used and useful plant in service and related accrued depreciation calculations.

(B) A breakdown of the sources of funds used to finance the construction of the facilities.

(2) *Map of service area.* A map or plan of suitable scale highlighting the boundaries of the proposed service area, including:

(i) A courses and distances or metes and bounds description.

(ii) The location or route of the proposed waterworks or wastewater collection, treatment and disposal facilities.

(iii) The approximate time schedule for installation of the various component facilities.

(iv) The elevations of major facilities and service areas.

(v) The DEP permitted productive or treatment capacity of sources or treatment facility and the pipe sizes and material used for construction for all transmission and distribution or collection facilities.

(3) *Customers.*

(i) Proposed utilities shall provide an estimate of the number of customer connections by class in the first, fifth and tenth years, and completed development anticipated, as well as estimated water usage or gallons of wastewater treated in each of the above years.

(ii) Utilities that have been providing service shall submit the actual number of customers by class and related consumption or gallons treated in the current calendar year and future number of connections anticipated for the next 10 years.

(iii) Each utility shall demonstrate its ability to provide adequate water supply, treatment, storage and distribution or adequate wastewater collection, treatment and disposal capacity to meet present and future customer demands.

(4) *Rates.*

(i) Proposed utilities shall provide a list of proposed rates (classified rate schedule).

(ii) Utilities which have been providing service shall provide an initial tariff which reflects rates and terms of service that conform to the Commission's regulations and the act. The utility shall notify the existing customers of the filing of the application and the rates filed.

(5) *Cost of service.*

(i) Proposed utilities shall provide a 1, 5 and 10-year estimate of operating revenues, operation and maintenance expenses, annual depreciation and taxes. If operating income reflects a loss, proposed utilities shall provide a detailed explanation of the source of funds to be used to subsidize the estimated losses in support of future viability.

(ii) Utilities that have been providing service shall file the two most recent Federal income tax returns (corporation) or related Schedule C forms (partnership or individual). If tax returns reflect an operating loss, utilities shall describe in detail how the operating losses are subsidized, supported by an analysis of the future viability of the utility.

(6) Proof of compliance with applicable design, construction and operation standards of the DEP, formerly the Department of Environmental Resources (DER), or of the County Health Department, or both, including:

(i) Copies of Public Water Supply/Water Quality Management or National Pollution Discharge Elimination System (NPDES) permits if applicable.

(ii) Valid certified operators' certificates.

(iii) Utilities that have been providing service shall submit a 5-year compliance history with DER/DEP with an explanation of each violation.

(iv) A DER/DEP 5-year compliance history of other utilities owned or operated, or both, by the applicant, including affiliates, and their officers and parent corporations with regard to the provision of utility service.

(7) If applicable, a copy of documents, excluding, if desired, documents duplicated in paragraphs (1)–(6), showing compliance with the requirements of the Delaware River Basin Commission, or other documents filed with the Delaware River Basin Commission, the Susquehanna River Basin Commission, the Ohio River Basin Commission or the Great Lakes Commission relating to the propose provision of service.

(8) The identity of public utilities, municipalities, municipal authorities, cooperatives and associations which provide public water supply service or wastewater collection, treatment and disposal service within each municipality, or a municipality directly adjacent to the municipalities, in which the applicant seeks to provide service situated within 1 mile of applicant's proposed facilities.

(9) Demonstrate compliance with the DEP regulations at 25 Pa. Code § 109.503(a)(3) or section 5 of the Pennsylvania Sewage Facilities Act requirements (35 P. S. § 750.5), whichever is applicable; or whether the applicant has contacted each public water supplier or wastewater collection, treatment and disposal supplier in paragraph (8), and one of the following applies:

(i) Whether a supplier is willing and able to serve the area which applicant seeks to serve either directly or through the bulk sale of water to applicant, or treatment of waste water to applicant.

(ii) If one or more such supplier is willing to serve the area (either directly or through the bulk sale of water to applicant), the applicant should demonstrate that, when considering both the cost of service and the quality of service, the ultimate consumer would be better served by the applicant than by the other water suppliers.

(10) A verification that the water sources and customers are metered in accordance with § 65.7 (relating to

metered service). If unmetered water service is currently provided, the applicant shall provide a metering plan on forms provided by the Commission.

(b) *Filing.* The applicant shall file with the Commission the original and three copies of the application. An application which fails to include the information and documents outlined in subsection (a), as further specified in the current forms and schedules for water and wastewater collection, treatment and disposal companies developed by the Bureau of Fixed Utility Services, is subject to rejection by the Commission. The original and three copies shall contain exhibits. An affidavit of service showing the identity of those served under subsection (d) shall accompany the original and the copies of the application filed with the Commission.

(c) *Notice.* The application will be docketed by the Secretary of the Commission and thereafter forwarded for publication in the *Pennsylvania Bulletin*. The applicant shall also publish the notice of application as supplied by the Secretary, for 2 consecutive weeks in one newspaper of general circulation located in the territory covered by the application and shall submit proof of publication to the Commission.

(d) *Copies.* At the time of filing, the applicant shall cause a complete copy of the application with exhibits to be served by registered or certified mail, return receipt requested, upon:

(1) Each city, borough, town, township, county and related planning office which is included, in whole or in part, in the proposed service area.

(2) A water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment and disposal service to the public and whose service area abuts the service area proposed in the application.

(3) The Office of Consumer Advocate, the Office of Small Business Advocate, and the DEP's appropriate regional office.

(e) *References.* Subsection (a) supplements § 5.11 (relating to applications generally).

\* \* \* \* \*

### **§ 3.502. Protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment and disposal supplier.**

(a) *Protests generally.* A person objecting to the application shall file with the Prothonotary and serve upon the applicant or applicant's attorney, if any, a written protest which shall contain the following:

(1) The applicant's name and the docket number of the application.

(2) The name, business address and telephone number of the protestant.

(3) The name, business address and telephone number of the protestant's attorney or other representative.

(4) A statement of the nature of the protestant's interest in the application.

(b) *Participation in proceeding.* Upon the filing of a timely protest, the protestant will be allowed to participate in the proceeding as a party intervenor.

(c) *Motions.* A protest will be treated as a pleading; and the applicant may, within 20 days after the closing date for the filing of protests, file motions to strike, to dismiss,

or for amplification as provided in § 5.101 (relating to preliminary motion).

(d) *Protests: time of filing.* A protest shall be filed within the time specified in the notice appearing in the *Pennsylvania Bulletin*, which shall be no less than 60 days from the date of publication thereof except where the need for the proposed service or other exigent circumstances supports a request for a shorter protest period. Failure to file the protest in accordance with this subsection shall be a bar to subsequent participation in the proceeding, except if permitted by the Commission for good cause shown or as provided in § 5.71 (relating to initiation of intervention).

**Subchapter H. FORMS**

**§ 3.551. Official forms.**

The following is a list of forms which can be obtained from the Office of the Secretary of the Commission:

- (1) Application by a proposed public utility for approval to begin to offer, render, furnish or supply service.
- (2) Application for Commission finding and determination of propriety of proposed service by an electric public utility.
- (3) Application for temporary authority to transport persons or household goods in use by motor vehicles.
- (4) Application for approval of transfer and exercise of common or contract carrier rights for the transportation of passengers or household goods in use.
- (5) Application for approval of installation, removal or substitution of warning device of a public crossing under section 2701 of the act (relating to railroad connections with sidetracks and laterals).
- (6) Petition for damages for property taken, injured or destroyed in a railroad crossing proceeding under section 2704 of the act (relating to compensation for damages occasioned by construction, relocation or abolition of crossings).
- (7) Application for approval of construction, alteration or relocation or abolition of any crossing at grade or above or below grade under section 2702 of the act (relating to construction, relocation, suspension and abolition of crossings).
- (8) Application for brokerage license.
- (9) Statement and map for preemption of territory by electric cooperative association.
- (10) Proof of publication of notice of hearing.
- (11) Securities certificate.
- (12) Abbreviated securities certificate.
- (13) Nonpublic utility registration form.
- (14) Formal complaint form.

**Subchapter I. REGISTRATION OF SECURITIES**

**§ 3.601. General.**

(a) *Scope.* A public utility shall file with the Commission and receive from it notice of registration of a securities certificate before the public utility shall issue or assume securities.

(b) *Format.* A securities certificate shall be typewritten or printed on paper 8 1/2 inches wide by 11 inches long and shall be submitted in triplicate, accompanied by a money order, certified check or bank cashier's check made

payable to the Commonwealth of Pennsylvania in the amount provided in § 1.43 (relating to schedule of fees payable to the Commission).

(c) *Form.* The securities certificate shall be consistent with the form available from the Commission and shall include the following information as well as additional information required by the Commission:

- (1) The name and address of the public utility filing the securities certificate.
- (2) The name and address of the public utility's attorney.
- (3) A brief corporate history of the public utility, a general description of the territory in which it actually furnishes service to the public, and of the kind of service rendered therein.
- (4) Whether the public utility is controlled by a corporation, and, if so:
  - (i) The name of the controlling corporation.
  - (ii) The form and manner of control.
  - (iii) The extent of control.
  - (iv) Whether control is direct or indirect.
  - (v) The names of intermediaries through which control, if indirect, is held. When control is in a holding company organization, there shall be shown the chain of ownership or control to the main parent company.

(5) The following information regarding the securities which the public utility proposes to issue or assume:

- (i) The exact title of security.
- (ii) The aggregate par value, or if no par value then the number of shares, or the principal amount to be issued or assumed.
- (iii) In the case of stock certificates, as applicable: the par value, dividend rate and payment dates, redemption value, liquidation value, voting powers, preferences as to assets and dividends, cumulative and participating dividend provisions, callability and conversion provision.
- (iv) In the case of evidences of indebtedness, as applicable: nominal date of issue, date of maturity, interest rate and payment dates, extent to which taxes on securities are assumed by the issuer, callability and conversion provisions, maintenance, depreciation and sinking or other fund provision, name and address of trustee and whether affiliated with the public utility.

(6) The method by which the public utility proposes to dispose of the securities, giving pertinent details as to date and manner of sale, exchange or other disposition. If sale, include minimum net price to the public utility, maximum commission or fee to be paid to investment bankers, brokers or others, and whether securities are to be sold on an underwriting or take-down basis. State whether or not those negotiating or arranging the sale are in any way affiliated with the utility. If a private sale, state whether the purchasers are in any way affiliated with the utility. Show in tabular form an estimate in reasonable detail of the expenses to be incurred in issuing the securities, including, by groups, legal fees, fees and documentary taxes to governmental authorities, printing expenses, underwriting or brokerage commission, duplicate interest and other expenses.

(7) The purpose for which the public utility proposes to issue or assume the securities.



(i) If the purpose is the acquisition of all or part of the assets of a going concern, state:

(A) The name and address of vendor, docket number of Commission approval of the acquisition.

(B) A brief description of property, and whether all or part of a completed system.

(C) The full consideration to be paid, including any indebtedness to be assumed by the utility.

(D) The manner of determining consideration.

(E) The manner in which acquisition is to be recorded on the public utility's books.

(F) The original cost of physical property to be acquired, stated according to plant accounts prescribed by the classification of accounts applicable to the public utility.

(G) The depreciation applicable thereto as recorded on the books of the vendor.

(H) The manner of determining the original cost and depreciation.

(i) An income statement for the latest available 12 months applicable to the operation of the property being acquired.

(ii) If the purpose is the purchase or construction of new facilities, or the betterment of existing facilities, give:

(A) A brief description of such new facilities or betterments.

(B) A list of plant accounts prescribed by the classification of accounts applicable to the utility to be charged with the new facilities or betterments, showing opposite each account the estimated cost to be charged.

(C) A list of the accounts and the amounts to be credited thereto for the retirements of any property resulting from the purchase or construction of new facilities or betterments.

(D) The manner of determining amounts at which retired property is to be credited.

(E) The date when it is expected that such purchase or construction or betterment will be completed.

(iii) If the purpose is to obtain working capital, explain any unusual condition which exists, or will exist, in the public utility's current assets or current liabilities, stating:

(A) The approximate cost of average materials and supplies inventory which the public utility expects to carry.

(B) The average time elapsing between the date when the public utility furnishes or begins a period of furnishing service to customers and the date when collection is made from customers for such service.

(C) The minimum bank balance requirements.

(D) A statement, by accounts, of the operating expenses for the latest available 12 months.

(iv) If the purpose is to refund obligations, describe obligations in detail.

(A) Explain purpose for which obligations were issued, or refer to number of securities certificate, securities application or certificate of notification in which the purpose appears.

(B) State the date of last disposition of obligation, the amount disposed of and the price received.

(C) State whether refunding is to meet maturity, or to effect saving in interest or other annual charges; if to effect saving, state date when, and price at which obligations are to be called, and submit statement showing saving to be effected as a result of refunding.

(D) State disposition to be made of any discount or expense remaining unamortized on the obligations to be refunded and of any premium included in the call price.

(E) State whether any unamortized debt discount and expense was originally incurred in connection with securities not now outstanding, and if so, give amount applicable to each issue.

(v) If the purpose is reimbursement for moneys already expended, state the purpose for which the moneys were expended in as complete detail as if the securities now being issued were for that purpose as required by this subsection and by subsections (a), (b) and (d).

(A) List the names and principal amounts of any securities already issued against the expenditures.

(B) State the dates upon or between which the expenditures were made.

(8) State whether a registration statement, application or declaration has been filed or will be filed with the Securities and Exchange Commission in respect to the securities herein proposed to be issued or assumed. If so, state:

(i) The date filed.

(ii) The nature of application or declaration.

(iii) The closing date before the Securities and Exchange Commission.

(9) The public utility shall attach to each securities certificate:

(i) A balance sheet of the public utility set up by ledger accounts and not by groupings dated within at least 3 months of the date of securities certificate, including any transactions which have occurred between the date of the balance sheet and the date of filing the securities certificate and an explanation of any major contingent liabilities faced by the public utility.

(ii) An income account of the public utility set up by general ledger accounts, not by groupings, showing in detail the other credits and charges made to surplus during the year, for the 12-month period ending by the date of the balance sheet.

(iii) A statement with respect to the plant accounts appearing on the balance sheet showing the following:

(A) A summary by the detailed plant accounts prescribed in the system of accounts applicable to the public utility.

(B) The portion of the plant account balance representing increments in plant book values resulting from the acquisition of property through purchase, merger and consolidation or reorganization.

(C) The portion of the plant account balance representing increases in plant book values resulting from the recording of appraised values by the public utility unless the public utility has filed with the Commission an original cost study.

(iv) A statement of securities of other corporations owned by the public utility, including:

(A) The name of the issuer.

(B) The exact title of the security.

- (C) The amount owned.
- (D) The date acquired.
- (E) The price paid.
- (F) The book value.
- (G) The market value.
- (H) The cost to the affiliate, if acquired from an affiliate.

(v) A statement showing the status of the funded debt of the public utility outstanding at the date of the balance sheet, plus particulars of any important changes in the funded debt outstanding which have taken place since that date. The statement shall be in the form available from the Commission.

(vi) A statement showing the status of outstanding capital stock of the public utility as of the date of the balance sheet, including any important changes in the capital stock outstanding which have taken place since the date of the balance sheet according to the form available from the Commission.

(vii) A copy of the registration statement filed by the public utility with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa) with respect to the proposed issuance or assumption of securities.

(viii) Copies of applications and declarations filed by the public utility with the Securities and Exchange Commission with respect to the proposed issuance or assumption of securities, under the Public Utility Holding Company Act of 1935 (15 U.S.C.A. §§ 79—79 z-6).

(ix) A copy of the resolution of the board of directors of the public utility authorizing the proposed issuance or assumption of securities.

(x) A copy of the stock certificate or other security proposed to be issued or assumed. Bonds or other evidences of indebtedness secured by mortgage, collateral trust agreement or other underlying instrument. This exhibit shall be a copy of the underlying instrument, rather than of the evidence of indebtedness itself.

(xi) A statement showing, in journal entry form, all charges and credits to be made on the books of account of the public utility as a result of the proposed issuance or assumption of securities.

(xii) An affidavit in form prescribed by §§ 1.35 and 1.36 (relating to execution; and verification).

**§ 3.602. Abbreviated securities certificate.**

(a) *Scope of rule.* The abbreviated procedure of subsections (b) and (c) applies to an issuance or assumption of a security which meets one of the following requirements:

- (1) The issuance or assumption of securities has been authorized by another state commission having primary jurisdiction.
- (2) The financing is provided by an agency of a state or the United States government.
- (3) The issuance or assumption of securities is by a utility having a presence in this Commonwealth of less than 10% as measured by either:
  - (i) The ratio of gross investment within this Commonwealth to the utility's total gross investment.
  - (ii) The ratio of gross operating revenues from service rendered during the immediately preceding fiscal year under tariffs filed with the Commission for intrastate service to the total gross operating revenues of the public

utility during the fiscal year from all service, wherever rendered, of the type described in section 102 of the act (relating to definitions).

(b) *Form.* At the election of the issuing public utility, a securities certificate relating to an issuance of securities within the scope of this rule may consist of two copies of a letter addressed to the Prothonotary consistent with the form available from the Commission.

(c) *Filing and registration.* An abbreviated securities certificate under this section, together with the filing fee specified in § 1.43 (relating to schedule of fees payable to the Commission), shall be filed with the Prothonotary. If, at the end of 10 days after the filing of a securities certificate under this section, no order of rejection has been entered, the certificate shall be deemed, in fact and in law, to have been registered; provided that the Prothonotary may, by notice to the public utility served before the expiration of the 10-day period, extend the 10-day consideration period to not more than a total of 30 days. Further extension to the period shall be by the order of the Commission.

(d) *Exemption.* The filing of a securities certificate with this Commission under Chapter 19 of the act (relating to securities and obligations), relating to an issuance or assumption of securities is not required of a public utility which owns or operates facilities within this Commonwealth, but which has received no gross operating revenues for service rendered during the immediately preceding fiscal year and 12-month period under tariffs filed with the Commission for intrastate service within this Commonwealth.

**CHAPTER 5. FORMAL PROCEEDINGS**  
**Subchapter A. PLEADINGS AND OTHER PRELIMINARY MATTERS**

**§ 5.11. Applications generally.**

(a) Applications for authorization or permission filed with the Commission should conform to the requirements of this chapter. To the extent practicable, applications should conform to the requirements of § 3.551 (relating to official forms).

(b) Subsection (a) supersedes 1 Pa. Code § 35.1 (relating to applications generally).

**§ 5.12. Contents of applications.**

(a) If a form or other specific requirements are not provided for in Chapter 3 (relating to special provisions), applications shall conform to this section. Applications shall be in writing, shall state clearly and concisely the authorization or permission sought, shall cite by appropriate reference the statutory provisions, regulations or other authority under which the Commission authorization or permission is sought, and shall set forth, in the order indicated, the following—unless otherwise provided by this chapter or in Chapter 3 for the specific type of application involved:

- (1) The exact legal name of the applicant, and, if the applicant is a corporation, trust, association or other entity, the jurisdiction under the statutes of which the applicant was created or organized and the location of the principal place of business of the applicant.
- (2) The name, title and post office address of the person to whom correspondence or communications in regard to the application are to be addressed. The Commission will serve, where required, notices, orders and other papers upon the person named, and service shall be deemed to be service upon the applicant.

(b) Subsection (a) supersedes 1 Pa. Code § 35.2 (relating to contents of applications).

**§ 5.14. Applications requiring notice.**

(a) An application to the Commission for authority under sections 1101, 1102, 2503 and 2505 of the act or as otherwise provided by the act, is subject to one or more of the following notice requirements as directed by the Prothonotary under § 1.51 (relating to instructions for service and notice):

- (1) Publication in the *Pennsylvania Bulletin*.
- (2) Publication in a newspaper of general circulation serving the geographical territory affected by the application.
- (3) Actual notification to the parties affected by the application.
- (4) Another form of actual or constructive notification as may be required by the Prothonotary.

(b) Except as set forth in §§ 3.361—3.363, 3.381, 3.501(f) (as relating to the 60 day protest period) and 57.71, 57.72, 57.74—57.77 or as otherwise provided by the Prothonotary, application to the Commission for the following types of authority shall be published in the *Pennsylvania Bulletin* and, as directed by the Prothonotary, in a newspaper of general circulation serving the geographical territory affected by the application and shall be subject to a 15 day protest period.

(1) To initiate fixed utility service to the public, including the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Sewer.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(2) To initiate, in a different nature or to a different territory than is currently authorized, fixed utility service to the public, including the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Sewer.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(3) To abandon, in whole or in part, fixed utility service to the public, including the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Sewer.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(4) To initiate rail utility service to the public.

(5) To initiate, in a different nature or to a different territory than is currently authorized, rail utility service to the public.

(6) To abandon, in whole or in part, rail utility service to the public.

(7) To acquire or transfer tangible or intangible utility property through sale, merger, consolidation, lease or transfer of stock.

(8) To acquire 5% or more of the voting stock of another corporation.

(9) To secure exemption under section 619 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10619).

(10) To construct, alter or abandon, in whole or in part, or to change the status of a rail utility agency station or team track.

**FORMAL COMPLAINTS**

**§ 5.21. Formal complaints generally.**

(a) A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission.

(b) If the complaint relates to a provision in a tariff, regulation, report or other similar document on file with the Commission as a matter of public record, the document should be identified.

(c) A copy of the complaint will be served by the Commission, by certified mail, upon the respondent. If the complaint proposes to change an existing or proposed tariff rate of a fixed public utility subject to the jurisdiction of the Commission, a copy of the complaint will be served by the Commission on the Office of Trial Staff, Office of Consumer Advocate and Office of Small Business Advocate.

(d) The filing of a formal complaint entitles the complainant to a formal hearing before the Commission except that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. Motions may be filed in accordance with §§ 5.101 and 5.102 (referring to preliminary motion; and motions for summary judgment and judgment on the pleadings).

(e) With respect to complaints filed against the Commission, no answer need be filed. The issues in the proceeding will be determined by prehearing conference memoranda or as specified by the presiding officer.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.9 (relating to formal complaints generally).

**§ 5.22. Contents of formal complaint.**

(a) A formal complaint shall set forth the following:

(1) The name and address of the complainant and the attorney of the complainant.

(2) The name and address of the respondent complained against and the nature and character of its business.

(3) The interest of the complainant in the subject matter—for example, customer, competitor, and the like.

(4) The act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the

Commission has jurisdiction to administer, or of a regulation or order of the Commission.

(5) A clear statement of the relief sought.

(b) A verification executed in accordance with § 1.36 (relating to verification) shall be attached to the formal complaint.

(c) A complaint by a public utility or other person or corporation subject to the act against a regulation or order of the Commission, which the complainant is or has been required to observe or carry into effect, shall be substantially in the form prescribed by subsection (a) and reference shall be made to the particular regulation, order or part thereof complained against and shall quote the pertinent portions thereof.

(d) Subsections (a) and (c) supersede 1 Pa. Code § 35.10 (relating to form and content of formal complaints).

**§ 5.31. Staff-initiated complaints.**

(a) A Commission bureau may commence a proceeding under statutory or other authority against a person by filing a complaint setting forth the grounds for the action. The complaint will contain a statement of the particular matter about which the bureau is complaining or inquiring, and the complaint will require that the respondent named respond in writing as provided in § 5.61 (relating to answers to complaints, petitions and motions).

(b) Whenever a party petitions the Commission to commence an action, the Secretary will refer the petition to the appropriate bureau for evaluation and disposition.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.14 (relating to orders to show cause).

**§ 5.41. Petitions generally.**

(a) Petitions for relief, other than those covered by §§ 5.42—5.44 (relating to petitions for declaratory orders; petitions for issuance, amendment, waiver or repeal of regulations; and petitions for appeal from actions of the staff) under the act or other statute that the Commission administers, shall be in writing, shall state clearly and concisely the grounds of interest of the petitioner in the subject matter, the facts relied upon and the relief sought. Petitions to intervene shall conform to the requirements of §§ 5.71—5.76 (relating to intervention).

(b) A copy of the petition shall be served on all persons directly affected and on other parties whom petitioner believes will be affected by the petition, including the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff. The service shall be evidenced with a certificate of service filed with the petition.

(c) Subsection (a) supersedes 1 Pa. Code § 35.17 (relating to petitions generally).

**§ 5.42. Petitions for declaratory orders.**

(a) Petitions for the issuance of a declaratory order to terminate a controversy or remove uncertainty shall state clearly and concisely the controversy or uncertainty which is the subject of the petition, shall cite the statutory provision or other authority involved and shall include a complete statement of the facts and grounds prompting the petition, together with a full disclosure of the interest of the petitioner.

(b) A copy of the petition shall be served on the Office of Consumer Advocate, Office of Trial Staff, Office of Small Business Advocate and all persons directly affected and on other parties whom petitioner believes will be

affected by the petition. The service shall be evidenced with a certificate of service filed with the petition.

(c) Copies shall also be served in compliance with Commission direction.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.19 (relating to petitions for declaratory orders).

**PROTESTS**

**§ 5.52. Content of a protest to an application.**

(a) A protest to an application shall on its face set out clearly and concisely the facts from which the alleged interest or right of the protestant can be determined, the grounds of the protest and the facts establishing protestant's standing to protest.

(b) A person objecting to the approval of an application shall file with the Prothonotary and serve upon the applicant and applicant's attorney, if any, a written protest to the application which shall conform with the requirements of § 3.381(c)(1) (relating to applications for transportation of property and persons).

**§ 5.53. Time of filing.**

A protest shall be filed within the time specified in § 3.381(d) or § 3.502(d) (relating to applications for transportation of property and persons; and protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment and disposal supplier).

**ANSWERS**

**§ 5.61. Answers to complaints, petitions and motions.**

(a) Answers to complaints, petitions and motions shall be filed with the Commission within 20 days after the date of service, unless a different time is prescribed by statute or by the Commission.

(b) The answer shall be in writing and shall be set forth in paragraphs numbered to correspond with the complaint. Answers shall advise the parties and the Commission as to the nature of the defense. They shall admit or deny specifically all material allegations of the pleading answered, and state concisely the facts and matters of law upon which they rely.

(c) Except for complaints which are docketed with Commission-instituted rate proceedings, a respondent failing to file an answer within the applicable period shall be deemed in default, and relevant facts stated in the complaint or petition may be deemed admitted.

(d) For complaints which are docketed with Commission-instituted rate proceedings, an answer may be filed within the time specified. However, no answer is required, except as may be directed by the Commission or the presiding officer.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.35 (relating to answers to complaints and petitions).

**§ 5.62. Answers seeking affirmative relief or raising new matter.**

(a) In its answer, a respondent may seek relief against other parties in a proceeding by reason of the presence of common questions of law or fact and shall set forth in its answer the facts constituting the grounds of complaint, the provisions of the statutes, rules, regulations or orders relied upon, the injury complained of and of the relief sought. The answer shall conform to the requirements of this chapter for answers generally.

(b) An affirmative defense shall be pleaded in an answer or other responsive pleading under the heading of "New Matter." A party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.

(c) A reply to new matter shall be filed within 20 days of the date of service of the answer or other pleading raising the new matter. Failure to file a timely reply to new matter shall be deemed in default, and relevant facts stated in the new matter may be deemed admitted.

**§ 5.64. (Reserved).**

**INTERVENTION**

**§ 5.71. Initiation of intervention.**

(a) Participation in a proceeding as an intervenor may be initiated as follows:

(1) By the filing of a notice of intervention by another agency of the Commonwealth which is authorized by statute to participate in the proceeding.

(2) By order of the presiding officer or the Commission upon grant of a petition to intervene.

(b) Subsection (a) supersedes 1 Pa. Code § 35.27 (relating to initiation of intervention).

**§ 5.74. Filing of petitions to intervene.**

(a) Petitions to intervene and notice of intervention may be filed following the filing of an application, petition, complaint or other document seeking Commission action, but no later than the date fixed for the filing of petitions to intervene in an order or notice with respect to the proceedings or, except for good cause shown, the date fixed for filing protests as published in the *Pennsylvania Bulletin*. Intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances.

(b) The Commission or presiding officer may, where the circumstances warrant, permit the waiver of the requirements of § 5.409 (relating to copies and form of documentary evidence) with respect to copies of exhibits for the intervenor.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.30 (relating to filing of petitions to intervene).

**MOTIONS**

**§ 5.102. Motions for summary judgment and judgment on the pleadings.**

(a) *Motion for judgment on the pleadings.* After the pleadings are closed, but within a time so that the hearing is not delayed, a participant may move for judgment on the pleadings. An answer to a motion for judgment on the pleadings may be filed within 20 days of the date of service of the motion.

(b) *Motion for summary judgment.* After the pleadings are closed, but within a time so that the hearing is not delayed, a participant may move for summary judgment based on the pleadings and depositions, answers to interrogatories, admissions and supporting affidavits. Documents not already filed with the Commission shall be filed with the motion.

(1) An answer, including an opposing affidavit to a motion for summary judgment, may be filed within 20 days of the date of service of the motion.

(2) The answer may be supplemented by pleadings and depositions, answers to interrogatories or further affidavits and admissions.

(c) *Decisions on motions.*

(1) The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving participant is entitled to a judgment as a matter of law. If a motion is granted, the presiding officer will do so in the form of an initial or recommended decision which shall be subject to exceptions. As in the case of other initial or recommended decisions, the procedures regarding exceptions to the Commission apply. If the motion is denied, the presiding officer will do so in the form of a written order.

(2) The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving participant is entitled to a judgment as a matter of law on one or more but not all outstanding issues. The presiding officer will grant or deny the motion in the form of an order, or initial or recommended decision.

**§ 5.103. Motions.**

(a) *Scope and content.* A request may be made by motion for relief desired, except as may be otherwise expressly provided in this chapter and Chapters 1 and 3 (relating to rules of administrative practice and procedure; and special provisions). A motion shall set forth the ruling or relief sought, and state the grounds therefor and the statutory or other authority upon which it relies.

(b) *Presentation of motions.* A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be reduced to writing and filed separately.

(c) *Response to motions.* A participant has 10 days from the date of service within which to answer or object to a motion, unless the period of time is otherwise fixed by the Commission or the presiding officer.

(d) *Rulings on motions.*

(1) The presiding officer is authorized to rule and will rule upon motions:

(i) Not formerly acted upon by the Commission prior to the commencement of the hearing where an immediate ruling is essential in order to proceed with the hearing.

(ii) Filed or made after the commencement of the hearing and prior to the submission of a decision in the proceeding.

(2) A motion made during the course of hearing, which if granted would otherwise dispose of parties' rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, the action is warranted.

(3) If a motion involves a question of jurisdiction, the establishment of a prima facie case or standing, the presiding officer may render a final determination with regard to a motion prior to the termination of hearings by issuing an initial or recommended decision.

(e) *Supersession.* Subsection (a) is identical to 1 Pa. Code § 35.177 (relating to scope and contents of motions). Subsection (b) is identical to 1 Pa. Code § 35.178 (relating to presentation of motions). Subsection (c) supersedes

1 Pa. Code § 35.179 (relating to objections to motions). Subsection (d) supersedes 1 Pa. Code § 35.180 (relating to action on motions).

**Subchapter B. HEARINGS**

**PREHEARING AND OTHER CONFERENCES**

**§ 5.222. Initiation of prehearing conferences in nonrate proceedings.**

(a) In order to make possible a more effective use of hearing time in formal proceedings, other than rate proceedings which are governed by § 5.224 (relating to prehearing conference in rate proceedings), to otherwise expedite the orderly conduct and disposition of the proceedings and to serve the ends of justice and the public interest, it is the policy of the Commission to arrange for conferences between participants to the proceedings prior to the commencement of hearings.

(b) The Commission, or the presiding officer, with or without motion, and after consideration of the probability of beneficial results to be derived therefrom, may direct that a prehearing conference be held, and direct the participants to the proceeding to appear there to consider the matters enumerated in subsection (c). Notice of the time and place of the conference shall be given to all participants to the proceeding. Upon agreement of all the parties, the conferences may be conducted telephonically.

(c) The following matters shall be considered at prehearing conference:

(1) The possibilities for settlement of the proceeding, subject to the approval of the Commission.

(2) The amount of hearing time which will be required to dispose of the proceeding and the establishment of a schedule of hearing dates.

(3) Arrangements for the submission of direct testimony of witnesses in writing in advance of hearing to the extent practicable, and for the submission in advance of hearing or written requests for information which a participant contemplates asking another participant to present at hearing.

(4) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, but not limited to, the following:

(i) The simplification of the issues.

(ii) The exchange and acceptance of service of exhibits proposed to be offered in evidence.

(iii) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.

(iv) The limitation of the number of witnesses.

(v) A proposed plan and schedule of discovery which may include specific limitations on the number of written interrogatories and requests for admissions a participant may propound on another participant.

(d) Participants and counsel will be expected to attend the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. The preparation should include, among other things, advance study of all relevant materials, and advance informal communication between the participants, including requests for additional data and information, to the extent it appears feasible and desirable. Failure of a participant to attend the conference,

after being served with notice of the time and place thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto.

(e) Subsections (a)—(c) supersede 1 Pa. Code § 35.112 (relating to conferences to expedite hearings). Subsection (d) is identical to 1 Pa. Code § 35.113 (relating to initiation of conferences).

**§ 5.224. Prehearing conference in rate proceedings.**

(a) In a rate proceeding, the presiding officer may schedule the following:

(1) A first prehearing conference to establish a schedule for discovery and tentative hearing dates, as well as the matters in § 5.222 (relating to initiation of prehearing conferences in nonrate proceedings).

(2) Other conferences as deemed necessary.

(3) A conference held telephonically, upon agreement of the parties.

(b) The first prehearing conference shall be held as soon as practicable after the entry of the order of investigation. The participants shall come to the first prehearing conference prepared to discuss the following:

(1) A proposed plan and schedule of discovery, which may include specific limitations on the number of written interrogatories and requests for admissions a participant may propound on another participant.

(2) Other proposed orders with respect to discovery, including the establishment of sanctions (in addition to those provided by §§ 5.371 and 5.372 (relating to sanctions—general; and sanctions—types)) against any party failing to respond to discovery in a timely manner.

(3) Tentative scheduling of evidentiary hearings, close of the record, filing of briefs and other matters deemed appropriate.

(c) At the first prehearing conference, participants may submit a written statement addressing the issues in subsection (b).

(d) Following the first prehearing conference, the presiding officer will enter an order establishing a tentative set of hearing dates, establishing a plan and schedule for discovery, identifying the active participants for purposes of service of documents, determining whether a public input hearing will be held, if that decision has not already been made, and addressing other matters deemed necessary.

(e) The second prehearing conference should be scheduled not fewer than 10 days prior to the first scheduled evidentiary hearings to do the following:

(1) Resolve outstanding discovery disputes.

(2) Schedule order of witnesses.

(3) Incorporate stipulations in record.

(4) Resolve other matters.

(f) Combined with the second prehearing conference should be a settlement conference for the purpose of discussing settlement of the case or stipulation of certain issues, or both. In addition to the authority conferred by §§ 5.223(b), 5.232 and 5.233 (relating to authority of presiding officer at conferences; stipulations made in conferences; and refusal to make admissions or stipulate), if all parties agree, the presiding officer or a mediator may participate in the settlement discussions. A different judge or mediator will be assigned to participate in settlement discussions upon the request of a party. Participants, except the filing utility, shall file and serve on

all other participants, on or before the date of the conference, a statement of position which identifies the issues as they appear. Also included shall be a listing of the names and addresses of the witnesses each participant intends to call and their proposed area of testimony.

(g) The presiding officer, or the Commission will have the authority to amend the requirements of this section either sua sponte or upon motion of a participant when justice so requires.

(h) The rules applicable to prehearing and other conferences in §§ 5.221—5.223 (relating to conferences to adjust, settle or expedite proceedings; initiation of prehearing conferences in nonrate proceedings; and authority of presiding officer at conferences) are applicable to prehearing conferences in rate cases except to the extent they are inconsistent with this section.

#### § 5.231. Offers of settlement.

(a) It is the policy of the Commission to encourage settlements. Nothing contained in this chapter or Chapter 1 or 3 (relating to rules of administrative practice and procedure; and special provisions) precludes a participant in a proceeding from submitting, at any time, offers of settlement or proposals of adjustment, or from requesting conferences for that purpose. Participants may request that the presiding officer participate in the settlement conferences or that an additional presiding officer or mediator be designated to participate in the settlement conferences. Proposals of settlement, of adjustment, or of procedure to be followed, and proposed stipulations not agreed to by every participant, will not be admissible in evidence against a counsel or participant claiming the privilege.

(b) Subsection (a) supersedes 1 Pa. Code § 35.115 (relating to offers of settlement).

#### § 5.232. Stipulations and settlement petitions.

(a) When the participants to a proceeding other than a general rate increase seek to settle the proceeding, but do not seek to have the underlying pleadings withdrawn, a stipulation or settlement petition shall be presented to the presiding officer, if one has been assigned. Otherwise, the stipulation or settlement petition shall be filed with the Prothonotary. If the petition is presented to the presiding officer, the Prothonotary shall also be served with three copies.

(b) A settlement agreement shall specifically identify the other participants that were provided or denied an opportunity to enter into the settlement.

(c) A copy of each stipulation or settlement petition shall be served upon each participant to the proceeding, and each participant shall have the opportunity to comment on the proposed settlement unless otherwise ordered by the presiding officer.

(d) The stipulation or settlement petition will be reviewed by the presiding officer, if one has been assigned, and otherwise will be reviewed by the Commission. If the presiding officer rules on the petition, the ruling will be made in the form of an initial or recommended decision, subject to § 5.537 (relating to rate case settlements).

(e) Upon agreement of the parties to waive the exception period, the presiding officer may present the recommended decision or initial decision directly to the Commission for review.

(f) If timely exceptions are filed, they will be considered in a ruling made on the settlement petition.

#### § 5.235. Motor carrier restrictive amendments.

(a) The participants to motor carrier applications for passenger or household goods in use authority may stipulate as to restrictions or modifications to proposed motor carrier rights. Stipulations in the form of restrictive amendments or modifications shall be in writing, signed by each participant to the stipulation, and a copy submitted to the Prothonotary for insertion into the document folder.

(b) Restrictive amendments shall be binding on the parties but not on the Commission should it determine they are not in the public interest. If a restrictive amendment is not accepted by the Commission, it may remand the matter for appropriate proceedings.

#### § 5.242. Order of procedure.

(a) In a proceeding, the complainant, petitioner or other participant having the burden of proof, shall open and close unless otherwise directed by the presiding officer. In a hearing on investigations and in proceedings which have been consolidated for hearing, the presiding officer may direct who shall open and close.

(b) Intervenors shall follow the participants on whose behalf the intervention is made. If the intervention is not in support of an original participant, the presiding officer will designate at what stage the intervenor will be heard.

(c) In proceedings where the evidence is peculiarly within the knowledge or control of another participant, the order of presentation set forth in subsections (a) and (b) may be varied by the presiding officer.

(d) The presiding officer may direct the order of participants for purposes of cross-examination, subject to the requirements of § 5.243(f) (relating to presentation by participants).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.125 (relating to order of procedure).

#### § 5.243. Presentation by participants.

(a) A participant, subject to the limitations in §§ 5.75 and 5.76 (relating to notice, service and action on petitions to intervene; and limitation of participation in hearings), has the right of presentation of evidence, cross-examination, objection, motion and argument. The taking of evidence and subsequent proceedings shall proceed with reasonable diligence and with the least practicable delay.

(b) When an objection to the admission or exclusion of evidence before the Commission or the presiding officer is made, the ground relied upon shall be stated briefly. A formal exception is unnecessary and may not be taken to rulings thereon.

(c) The presiding officer may require or allow a factual statement of the scope of a pleading or the position of a participant in the proceeding. Facts admitted on record by a participant or by testimony, exhibits or in writing, need not be further proved.

(d) The Commission or the presiding officer may limit appropriately the number of witnesses who may be heard upon an issue.

(e) No participant will be permitted to introduce evidence during a rebuttal phase which is repetitive, which should have been included in the participant's case-in-chief or which substantially varies from the participant's case-in-chief unless the evidence is introduced in support of a proposed full or partial settlement between or among any of the participants.

(f) If a participant conducts friendly cross-examination of a witness, the presiding officer may permit the other participants a second opportunity to cross-examine after friendly cross-examination is completed. The recross-examination shall be limited to the issues on which there was friendly cross-examination.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.126 (relating to presentation by the parties).

**§ 5.253. Transcript corrections.**

(a) A correction in the official transcript may be made only to make it conform to the evidence presented at the hearing and to speak the truth.

(b) Proposed corrections of a transcript may be submitted by either of the following means:

(1) By written stipulation by the participants of record who were present when the transcription was taken.

(2) Upon written request of one or more participants of record present when the transcription was taken.

(c) Proposed corrections shall be filed as follows:

(1) Within 30 days after the transcript has been filed with the Commission.

(2) Within 15 days after the electronically recorded testimony has been reviewed.

(3) Upon permission of the presiding officer granted prior to the closing of the record.

(d) Objections or other comments to the proposed corrections shall be filed within 15 days of service of the proposed corrections.

(e) Proposed corrections and objections or other comments shall be served upon the participants of record present when the original transcription was taken.

(f) The presiding officer will rule upon a proposed correction of a transcript within 30 days of its receipt. A request for corrections not acted upon within 30 days is deemed to be:

- (1) Denied if opposed in a timely manner.
- (2) Granted if unopposed.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.132 (relating to transcript corrections).

**Subchapter C. INTERLOCUTORY REVIEW**

**§ 5.301. Interlocutory review generally.**

(a) The Commission will not permit interlocutory review of rulings made by a presiding officer during the course of proceedings, except as permitted by the act and as specified in this subchapter.

(b) Subsection (a) supersedes 1 Pa. Code § 35.190 (relating to appeals to agency head from rulings of presiding officers).

**§ 5.302. Petition for interlocutory Commission review and answer to a material question.**

(a) During the course of a proceeding, a participant may file a timely petition directed to the Commission requesting review and answer to a material question which has arisen or is likely to arise. The petition shall be in writing with copies served on all participants and the presiding officer and shall state, in not more than three pages, the question to be answered and the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding.

(b) Within 7 days of service of the petition, each participant may submit a brief directed to the Commission supporting or opposing the petition and addressing the merits of the question for which an answer is requested and whether a stay of proceedings is required to protect the substantial rights of a participant. The brief may not exceed 15 pages.

(c) The participant petitioning for Commission review and answer shall also provide with the brief rulings on its question and extracts from the record as will assist the Commission in reaching a decision.

(d) No additional briefs are permitted unless directed by the Commission.

**§ 5.303. Commission action on petition for interlocutory review and answer.**

(a) Within 30 days of receipt of the petition, the Commission will, without permitting oral argument, do one of the following:

- (1) Continue, revoke or grant a stay of proceedings if necessary to protect the substantial rights of the participants.
- (2) Determine that the petition was improper and return the matter to the presiding officer.
- (3) Decline to answer the question.
- (4) Answer the question.

(b) The Commission will act promptly on petitions. Petitions for Commission review and answer which are not granted within 30 days of filing will be deemed to be denied.

**§ 5.304. Interlocutory review of discovery matters.**

(a) Unless otherwise ordered by the Commission in exceptional situations, rulings of presiding officers on discovery are not subject to interlocutory review absent certification by the presiding officer that the ruling involves an important question of law or policy that should be resolved immediately by the Commission, except that an order of a presiding officer regarding the deposing of a Commissioner or Commission employe will be subject to interlocutory appeal to the Commission as provided in §§ 5.301—5.303 (relating to interlocutory review generally; petition for Commission review and answer to a material question; and Commission action on petition for review and answer).

(1) Participants desiring interlocutory review of a presiding officer's ruling on discovery shall, within 3 days of the ruling, petition the presiding officer to certify the question to the Commission. The request shall be in writing with copies served on all participants and shall state, in not more than three pages, the question to be certified and the reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceedings.

(2) Within 7 days of a request for certification, each participant may submit a brief to the presiding officer supporting or opposing certification and, in addition, addressing the merits of the question for which certification is requested and whether a stay of proceedings is required to protect the substantial rights of a participant. The brief may not exceed 15 pages.

(3) The presiding officer will, within 3 days of the deadline for filing briefs, announce the decision in writing or orally on the record, with the reasons why certification has been granted or denied and whether a stay of proceedings has been granted.



(4) If the presiding officer denies the request for certification, then no further action is required of the presiding officer.

(5) If the presiding officer's decision is to grant the request for certification, and unless the moving participant has withdrawn the request for certification, the presiding officer will, within 4 days of the announcement of the decision, deliver to the Commission and serve to each Commissioner the certified question, the reasons justifying certification, rulings on the certified question, and extracts from the record that will assist the Commission in reaching a decision.

(b) Each participant may, on or before the date the presiding officer is required to file the certification, submit a brief, not to exceed 15 pages, directed to the Commission addressing the issue of certification, the merits of the certified question, and the stay of proceedings. No additional briefs are permitted unless directed by the Commission.

(c) Upon the expiration of the time provided for filing briefs, the Secretary will schedule the certified question for consideration at the next meeting of the Commission.

(d) Within 30 days of receipt of the certified question by the Secretary, the Commission will, without permitting oral argument, do one of the following:

- (1) Continue, revoke or grant a stay of proceedings.
- (2) Determine that the certification was improper and return the matter to the presiding officer for resolution.
- (3) Answer the certified question.

(e) Failure of the Commission to act on a certified question within 30 days of its receipt will be deemed to be an affirmance of the decision of the presiding officer.

(f) An interlocutory appeal from the ruling of the presiding officer on discovery will not result in a stay of the proceedings except upon a finding by the presiding officer or the Commission that extraordinary circumstances exist, or to protect the substantial rights of the participants.

**§ 5.305. Interlocutory review of a material question submitted by a presiding officer.**

(a) During the course of a proceeding, a presiding officer may certify to the Commission for review and answer a material question which has arisen or is likely to arise. The question shall be accompanied by the following:

- (1) An explanation of the compelling reasons why interlocutory review will prevent prejudice or expedite the conduct of the proceeding.
- (2) A statement as to whether a stay of the proceedings has been placed in effect.
- (3) An extract from the record that will assist the Commission.

(b) A copy of the question certified and the accompanying information shall be sent to the participants at the same time it is submitted to the Commission.

(c) Within 7 days of service of the certification, each participant may submit a brief directed to the Commission addressing the merits of the question for which an answer is requested and whether a stay of proceedings is required to protect the substantial rights of a participant. The brief may not exceed 15 pages.

(d) No additional briefs are permitted unless directed by the Commission.

(e) Within 30 days of receipt of the certified question, the Commission will, without permitting oral argument, do one of the following:

- (1) Continue, revoke or grant a stay of proceedings.
- (2) Determine that the certification was improper and return the matter to the presiding officer for resolution.
- (3) Answer the certified question.

(f) Failure of the Commission to act upon a certified question within 30 days of its receipt will be deemed to be an affirmance of the decision of the presiding officer.

**§ 5.306. Notification by telephone.**

A presiding officer may order notification of participants by telephone when time periods are short and delivery by mail may not prove adequate. A telephone notification will be confirmed by the presiding officer by service in writing.

**Subchapter D. DISCOVERY**

**§ 5.321. Scope.**

(a) *Applicability.* This subchapter applies to a proceeding in which:

- (1) A complaint, protest or other adverse pleading has been filed.
- (2) The Commission institutes an investigation.
- (3) The Commission institutes an on-the-record proceeding.

(b) *Discretion.* The presiding officer may vary provisions of this subchapter as justice requires.

(c) *Scope.* Subject to this subchapter, a participant may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or participant, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(d) *Exceptions.* This subchapter will not apply to discovery sought of Commissioners or Commission staff serving in an advisory or adjudicatory capacity.

(e) *Commission staff.* This subchapter shall apply equally to Commission staff serving in a prosecutory or party capacity in proceedings before the Commission, with no exceptions other than as specifically set forth in this chapter.

(f) *Purpose and methods.* A participant may obtain discovery for the purpose of preparation of pleadings, or for preparation or trial of a case, or for use at a proceeding initiated by petition or motion, or for any combination of these purposes, by one or more of the following methods:

- (1) Deposition upon oral examination or written questions.
- (2) Written interrogatories to a participant.
- (3) Production of documents and things and entry for inspection and other purposes.
- (4) Requests for admission.

(5) On the record data requests.

(g) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 35.145 (relating to depositions).

**§ 5.324. Discovery of expert testimony.**

(a) Discovery of facts known and opinions held by an expert, otherwise discoverable under § 5.321 (relating to scope), may be obtained as follows:

(1) A participant may through interrogatories require both of the following:

(i) The other participant to identify each person whom the participant expects to call as an expert witness at hearing and to state the subject matter on which the expert is expected to testify.

(ii) The other participant to have each expert identified by the participant state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. The participant answering the interrogatories may file as the answer a report of the expert, have the interrogatories answered by the expert or provide written direct testimony of the expert. The answer, separate report or testimony shall be signed by the expert and shall be deemed to be provided under oath in accordance with section 333(d) of the act (relating to prehearing procedures).

(2) If the participant against whom discovery is sought, under paragraph (1)(ii), responds by the filing of written direct testimony, the response shall be considered timely, regardless of § 5.342 (relating to answers or objections to written interrogatories by a participant), if the written direct testimony is served on all participants at least 10 days prior to the date on which the expert is scheduled to testify or in accordance with the schedule for the submission of written testimony established by the presiding officer. However, the participant shall still comply with paragraph (1)(i) within the time otherwise applicable.

(3) Upon cause shown, the presiding officer may order further discovery by other means, subject to restrictions as to scope and provisions concerning fees and expenses as he may deem appropriate.

(b) If the identity of an expert witness is not disclosed in compliance with subsection (a)(1), the witness will not be permitted to testify on behalf of the defaulting participant at hearing. If the failure to disclose the identity of the witness is the result of extenuating circumstances beyond the control of the defaulting participant, the presiding officer may grant a continuance or other appropriate relief.

(c) To the extent that the facts known or opinions held by an expert have been developed in discovery proceedings under subsection (a), the expert's direct testimony at hearing may not be inconsistent with or go beyond the fair scope of his testimony in the discovery proceedings as set forth in his deposition, answer to an interrogatory, separate report, written direct testimony or supplement thereto. The expert will not be prevented from testifying as to facts or opinions on matters on which he has not been interrogated in the discovery proceedings.

(d) The answering participant may supplement answers only to the extent that facts, or opinions based on those facts, can reasonably be shown to have changed after preparation of the answer or where additional facts or information have become known to the answering participant or where the interest of justice otherwise requires.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.152 (relating to fees of officers and deponents).

**TIMING AND SUPPLEMENTAL RESPONSES**

**§ 5.331. Sequence and timing of discovery.**

(a) A participant or a person who has formally applied to the Commission for participant status may conduct discovery.

(b) A participant shall endeavor to initiate discovery as early in the proceedings as reasonably possible. In a proceeding, the right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an investigation or on the record proceeding, whichever is earlier.

(c) Commission staff may initiate discovery at an earlier time. Commission staff discovery prior to formal Commission action to initiate a proceeding shall be designated as "data requests" and shall be answered fully and completely by the utility within the time periods specified at § 5.342(d) (relating to answers or objections to written interrogatories by a participant). Unless a presiding officer has been designated, objections and motions to compel shall be ruled upon by the Chief Administrative Law Judge.

(d) In a rate proceeding, initial discovery directed to data or information supplied by the public utility at the time of the initiation of the proceeding shall be submitted to the utility within 10 working days following the first prehearing conference. Discovery directed to other matters shall be available until the close of evidentiary hearings. In other proceedings, the presiding officer, upon motion of a participant, may establish reasonable limitations upon the timing of discovery.

(e) Unless the presiding officer upon motion, for the convenience of participants and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a participant is conducting a discovery will not operate to delay another participant's discovery.

**§ 5.332. Supplementing responses.**

A participant or an expert witness who has responded to a request for discovery with a response that was complete when made is under a duty to supplement a response to include information thereafter acquired, as follows:

(1) A participant is under a continuing duty to supplement responses with respect to a question directly addressed to the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called as an expert witness at hearing, the subject matter on which the expert is expected to testify and the substance of the testimony as provided in § 5.324(a)(1) (relating to discovery of expert testimony).

(2) A participant or an expert witness is under a continuing duty to amend a prior response upon discovering that the response is incorrect or incomplete.

(3) A duty to supplement responses may be imposed by order of the presiding officer, agreement of the participants, or at a time prior to hearing through new requests to supplement prior responses.

**§ 5.342. Answers or objections to written interrogatories by a participant.**

(a) An answer to an interrogatory shall be in writing and the answer shall identify the name and position of

the individual who provided the answer. An answer shall be submitted as an answer and may not be submitted as an exhibit or in another form. Each interrogatory shall be answered fully and completely unless an objection is made. The answer shall first restate the interrogatory which is being answered.

(b) An answer may be used by a participant for an appropriate purpose, if admissible under the applicable rules of evidence. An answer may not be offered into evidence by the participant who provided it, except through the sworn oral testimony of the person who provided the answer.

(c) If objected to, the reasons for the objection to an interrogatory shall be stated in lieu of an answer. An objection shall be prepared, filed and served in the same manner provided for an answer, except that an objection shall be contained in a document separate from an answer as required by the time provisions of subsection (d). An objection shall restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection. The objection shall include a description of the facts and circumstances purporting to justify the objection. The objection shall be signed by the attorney making it. An interrogatory otherwise proper is not objectionable solely because an answer will involve an opinion or contention that is related to a fact or the application of law to fact. The statement of an objection does not excuse the answering participant from answering the remaining interrogatories or subparts of interrogatories to which no objection is stated.

(d) The answering participant shall serve interrogatories and answers within 15 days for rate proceedings, and 20 days after service of the interrogatories for other cases. Time periods may be modified by the presiding officer, on motion or by agreement of the participants.

(1) An objection shall be served within 10 days of service of the interrogatories, except as agreed by the participants or as ordered by the presiding officer. Within the time periods prescribed in this subsection, the answering or objecting participant shall serve copies of the answer and the objection, if any, on the active participants. If there is an objection, then the objecting participant shall file copies of the objection with the Prothonotary, along with a certificate of service, which shall identify specifically the interrogatories to which an answer and objection have been provided. A copy of the objection shall also be served upon the presiding officer.

(2) The participant against whom the interrogatories are directed shall remain under a duty to meet the time requirements for answering or objecting to the interrogatories or subpart of interrogatories for which the time period for response has not been modified specifically.

(e) The participant submitting the interrogatories may move that the presiding officer dismiss an objection and direct that the interrogatory be answered.

(1) The participant against whom the motion to compel is directed may file an answer within 5 days of service of the motion or, in the alternative, respond orally at the hearing if a timely hearing has been scheduled within the same 5-day period.

(2) The presiding officer shall rule on the motion as soon as practicable; however, the motion should be decided within 15 days of its presentation, unless the motion presents complex or novel issues. If it does have complex or novel issues the presiding officer shall, upon notice to the participants, rule in no more than 20 days of its presentation.

### § 5.343. Procedures in deposition by oral examination.

(a) A participant desiring to take the deposition of a person upon oral examination, other than under § 5.322 (relating to informal agreement regarding discovery or deposition procedure), shall give 20 days notice in writing to the active participant and to the presiding officer. A participant, or witness within the control of a participant, noticed to be deposed is required to appear without subpoena. A nonparticipant is not required to appear unless subpoenaed.

(b) The notice shall conform with the requirements in subsections (c)—(f) and § 5.344 (relating to approval by presiding officer) and shall state the time and place of taking the deposition and the name and address of each person to be examined if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs.

(c) The notice shall include a brief statement of the matters for which inquiry is being made.

(d) If the person to be examined is a participant, the notice may include a request made in compliance with § 5.349 (relating to requests for documents, entry for inspection and other purposes) for the production of documents and tangible things at the taking of the deposition. If the person to be examined is not a participant, and is to be served with a subpoena duces tecum to provide designated materials, the notice shall specify the materials to be produced.

(e) A participant may in his notice and in a subpoena, if issued, name as the deponent a public or private corporation, a partnership or association or a governmental agency. In that event, the organization named shall file within 10 days of service a designation of one or more officers, directors or managing agents, or other persons who consent to testify on its behalf, and may set forth, for the persons designated, the matters on which he will testify. A subpoena shall advise a nonparticipant organization of its duty to make a designation. The person designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by other procedures authorized in this chapter.

(f) An objection to the notice of deposition may be filed within 10 days of service of the notice. A copy of the objection shall be served upon the presiding officer and the active participants. A notice of deposition which is served upon a nonparticipant shall state that the nonparticipant may file objections within 10 days of service and identify the persons—names and addresses—to whom the objections shall be sent.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.142, 35.145 and 35.146 (relating to subpoenas; depositions; and notice and application).

### § 5.345. Procedure on depositions by written questions.

(a) A participant taking a deposition by written questions shall serve the questions upon the deponent and serve a copy upon each other participant or his attorney of record. Within 30 days thereafter the participant served and other participants may serve cross questions upon the deposing participant and upon each other participant or his attorney of record. Reply questions shall be similarly served by a participant within 10 days of the service of cross questions.

(b) The questions shall contain a notice stating the name and address of each person to be examined if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. A deposition upon written questions may be taken of a public or private corporation, a partnership or association, or a governmental agency in accordance with § 5.343(e) (relating to procedures in deposition by oral examination).

(c) Objections to the form of questions are waived unless filed and served upon the participant propounding them within the time allowed for serving the succeeding cross or other questions or within 10 days after service of the last questions. Other objections may be made at the hearing except as otherwise provided by §§ 5.346—5.348 (relating to persons before whom depositions may be taken; taking of depositions—objections; and transcript of deposition, objections and filing).

(d) A copy of questions for the taking of a deposition, as well as a signature page and envelope bearing the caption and marked "Deposition of \_\_\_\_\_" (name of witness), shall be transmitted to the person being deposed who shall complete, certify and return the completed deposition to the sender.

(e) After the service of questions and prior to the taking of the testimony of the deponent, the presiding officer, on motion promptly made by a participant or a deponent, may make an order in accordance with § 5.362 (relating to protective orders) or an order that the deposition may not be taken except upon oral examination.

**§ 5.346. Persons before whom depositions may be taken.**

(a) Within the United States or within a territory or possession subject to the dominion of the United States, depositions other than by interrogatories shall be taken before an officer authorized to administer oaths by the laws of the United States, of the Commonwealth or of the place where the examination is held, or before a person appointed by the presiding officer. A person so appointed shall have power to administer oaths and take testimony.

(b) No deposition may be taken before a person who is a relative, employe or attorney of any of the parties, who is a relative or employe of the attorney, or who is financially interested in the action.

(c) Depositions by written questions need only be answered under oath and notarized.

(d) Attendance of a witness at a deposition may be compelled by subpoena.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.148 (relating to officer before whom deposition is taken).

**§ 5.348. Transcript of deposition, objections and filing.**

(a) The person before whom the deposition is taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness.

(b) The testimony of the witness shall be transcribed. Objections to the manner of preparation or the correctness of the transcript are waived unless they are filed in writing with the presiding officer promptly after the grounds of objection become known or could have been discovered with reasonable diligence.

(c) When the testimony is fully transcribed, a copy of the deposition with the original signature page shall be submitted to the witness for inspection and signing and shall be read to or by him and shall be signed by him unless the witness is ill or cannot be found or refuses to sign. Changes which the witness desires to make shall be entered upon the deposition by the person before whom it was taken with a statement of the reasons given by the witness for making the changes. If the deposition is not signed by the witness within 30 days of its submission to him, the person before whom the deposition was taken shall sign it and state on the record why it was not signed. The deposition may then be used as fully as though signed, unless the presiding officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(d) The person before whom the deposition is taken shall certify on the deposition that the witness was sworn by the person and the deposition is a true record of the testimony given by the witness.

(e) In lieu of participating in the oral examination, participants served with notice of taking a deposition may transmit written questions to the person taking the deposition, who shall propound them to the witness and record the answers verbatim.

(f) Upon payment of reasonable charges, the person before whom the deposition was taken shall furnish a copy thereof to participants or to the deponent.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.149 (relating to oath and reduction to writing).

**§ 5.349. Requests for documents, entry for inspection and other purposes.**

(a) A participant may serve on another participant a request for either of the following:

(1) To produce and permit the participant making the request, or someone acting on the participant's behalf, to inspect and copy designated documents—including writings, drawings, graphs, charts, photographs, computer records and other compilations of data from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonable usable form—or to inspect a copy, test or sample tangible things which constitute or contain matters within the scope of §§ 5.321(b), 5.323 and 5.324 (relating to scope; trial preparation material; and discovery of expert testimony) and which are in the possession, custody or control of the participant upon whom the request is served.

(2) To permit entry upon designated land or other property in the possession or control of the participant upon whom the request is served for the purpose of inspecting and measuring, surveying, photographing, testing or sampling the property or a designated object or operation thereon, within the scope of §§ 5.321(b), 5.323 and 5.324.

(b) As an alternative to permission to inspect and copy, and if requested by the participant seeking discovery, the participant against whom discovery is sought shall reproduce the designated documents at the requesting participant's expense. Regulated utilities shall provide copies of requested materials to Commission staff, which shall include the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate at no charge.

(c) The request shall set forth the items to be inspected either by individual item or by category, describe items

and categories with reasonable particularity, and specify a reasonable time, place and manner of making the inspection and performing the related acts.

(d) The participant upon whom the request is served shall serve a written response within 15 days for rate proceedings, and 20 days after service of the request for all other cases. Time periods may be modified by the presiding officer, on motion, or by agreement of the participants. The response shall state that inspection and related activities will be permitted as requested. If the request is objected to, the objection shall be made in the manner described in § 5.342 (relating to answers or objections to written interrogatories by a participant). A participant may request another participant to produce or inspect documents as part of interrogatories filed under § 5.341 (relating to written interrogatories to a party). The participant submitting the request may move for an order under § 5.342(e) with respect to an objection or to other failure to respond to the request or any part thereof, or failure to permit inspection as requested.

(e) This section does not apply to official files of the Commission, or materials which are the product of or within the control of Commission advisory or adjudicatory staff, but shall apply only to materials within the control of staff as may be participating in the action as a participant. Access to official files of the Commission shall be as prescribed in §§ 1.71—1.77 (relating to public access to Commission records).

#### SANCTIONS

##### § 5.371. Sanctions—general.

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A participant fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

(2) A participant deponent or an officer or managing agent of a participant refuses to obey or induces another to refuse to obey an order of a presiding officer respecting discovery, or induces another not to appear.

(b) A motion for sanctions may be answered within 5 days of service or, in the alternative, the motion may be answered orally at a hearing if a timely hearing has been scheduled within the same 5-day period.

(c) The presiding officer shall rule on the motion as soon as practicable; however, the motion should be decided within 15 days of its presentation, unless the motion presents complex or novel issues. If it does have complex or novel issues, the presiding officer shall, upon notice to the participants, rule in no more than 20 days of its presentation.

(d) A failure to act described in subsection (a) may not be excused on the ground that the discovery sought is objectionable unless the participant failing to act has filed an appropriate objection or has applied for a protective order.

(e) If a deponent refuses to be sworn or to answer a question, the deposition shall be completed on other matters or adjourned, as the proponent of the question may prefer. Thereafter, on reasonable notice to persons affected thereby, the proponent may apply to the presiding officer for an order compelling the witness to be sworn or to answer.

#### Subchapter E. EVIDENCE AND WITNESSES

##### § 5.401. Admissibility of evidence.

(a) Relevant and material evidence is admissible subject to objections on other grounds, but there shall be excluded evidence that is repetitious or cumulative, or evidence that is not of the kind which would affect reasonable and fair-minded persons in the conduct of their daily affairs.

(b) Subsection (a) supersedes 1 Pa. Code § 35.161 (relating to form and admissibility of evidence).

##### § 5.412. Written testimony.

(a) Use of written testimony in Commission proceedings is encouraged, especially in connection with the testimony of expert witnesses. Written direct testimony is required of expert witnesses testifying in rate cases.

(b) Whenever in the circumstances of a particular case it is deemed necessary or desirable, the presiding officer may direct that expert testimony to be given upon direct examination shall be reduced to the form of prepared written testimony. A reasonable period of time will be allowed for the preparation of written testimony.

(c) Written testimony is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.

(d) Except in a rate proceeding, cross-examination of the witness presenting written testimony shall proceed at the hearing at which testimony is authenticated if, not less than 20 days prior to the hearing, service of the written testimony is made upon each participant of record, unless the presiding officer for good cause otherwise directs. Unless the Commission by rule or order establishes otherwise, in a rate proceeding, the presiding officer will establish the schedule for the filing and authentication of written testimony, and for cross-examination by other participants.

(e) Written testimony shall normally be prepared in question and answer form, include a statement of the qualifications of the witness and be accompanied by exhibits to which it relates. A participant offering prepared written testimony shall insert line numbers in the left-hand margin on each page. A participant should also use a logical and sequential numbering system to identify the written testimony of individual witnesses.

(f) Written testimony shall be served upon the presiding officer and active participants in the proceeding in accordance with the schedule established by this chapter. At the same time the testimony is served, a certificate of service for the testimony shall be filed with the Prothonotary.

(g) At the hearing at which the testimony is authenticated, counsel for the witness shall provide two copies of the testimony to the court reporter.

(h) Subsections (a)—(g) supersede 1 Pa. Code §§ 35.138, 35.150 and 35.166 (relating to expert witnesses; scope and conduct of examination; and prepared expert testimony).

##### § 5.413. (Reserved).

#### SUBPOENAS AND PROTECTIVE ORDERS

##### § 5.421. Subpoenas.

(a) *Issuance.* A subpoena for the attendance of witnesses or for the production of documentary evidence,

unless directed by the Commission upon its own motion, will issue only upon application in writing to the presiding officer, except that during a hearing in a proceeding, the application may be made orally on the record before the presiding officer, who will determine the necessity of issuing the subpoena. The written application shall specify as nearly as possible the general relevance, materiality and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as possible of the documents desired and the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents. The proposed subpoena may be attached to the application.

(b) *Notice.* An application for a subpoena shall be filed with the Commission and copies served by the petitioner upon the affected participant, the presiding officer, active participants of record, and if the subpoena is directed to a Commission employe, to the Commission's Law Bureau. The application shall contain a notice that an answer or objection thereto shall be filed with the Commission and presiding officer within 10 days of service of the application. When the person for whom a subpoena is sought is not a participant to the case, a copy of the subpoena application shall be served on the person. When the person for whom a subpoena is sought is not a party to the case, the application shall identify the persons—names and addresses—including the Secretary and presiding officer, to whom the answer or objection shall be sent.

(c) *Service and return.*

(1) *Personal service.* If service of the subpoena is made by a sheriff, like officer or deputy, service shall be evidenced by the return thereof. If made by another person, the person shall make affidavit thereof, describing the manner in which service was made, and shall return the affidavit on or with the original subpoena. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit or statement, shall be returned to the Secretary, or, if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

(2) *Service by mail.* Service of a subpoena upon a participant may also be accomplished by mail under §§ 1.54 and 1.55 (relating to service by a participant; and service on attorneys), or by a form of mail requiring a return receipt, postage prepaid, restricted delivery. Service is complete upon delivery of the mail to the participant or the persons referred to in Pa.R.C.P. No. 402(a)(2).

(d) *Fees of witnesses.* A witness subpoenaed by the Commission shall be paid the same fees and mileage as are paid for the like services in the courts of common pleas. A witness subpoenaed by a participant shall be paid the same fees by the participant. The Commission, before issuing a subpoena as provided in this section may require a deposit of an amount adequate to cover the fees and mileage involved.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code § 35.142 (relating to subpoenas).

**§ 5.431. Close of the record.**

(a) Once the record is closed, no additional evidence may be introduced or relied upon by a participant unless

allowed for good cause shown by the Commission or presiding officer upon motion of a participant under § 5.402(b) (relating to admission of evidence) and § 5.571 (relating to reopening prior to a final decision), consistent with § 5.253 (relating to transcript corrections).

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.231 and 35.232 (relating to reopening on application of party; and reopening by presiding officer).

**Subchapter F. PRESIDING OFFICERS**

**§ 5.482. Disqualification of a presiding officer.**

(a) A participant may file a motion for disqualification of a presiding officer which shall be accompanied by affidavits alleging personal bias or other disqualification.

(b) A presiding officer may withdraw from a proceeding when deemed disqualified in accordance with law.

(c) A motion for disqualification shall be served on the presiding officer and the participants to the proceeding.

(d) The presiding officer will rule upon a motion for disqualification within 30 days of receipt. Failure to rule upon a motion for disqualification within 30 days of its receipt will be deemed to be a denial of the motion.

(e) The ruling of the presiding officer on a motion for disqualification is subject to the interlocutory appeal procedure in § 5.303 (relating to Commission action on petitions for review and answer).

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.186 (relating to disqualification of a presiding officer).

**§ 5.483. Authority of presiding officers.**

(a) The presiding officer will have the authority specified in the act, subject to this title. This authority includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding.

(b) Subsection (a) supersedes 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

**Subchapter G. BRIEFS**

**§ 5.502. Filing and service of briefs.**

(a) An original and nine copies of a brief shall be filed with the Commission under § 1.4 (relating to filing generally).

(b) Except for rate proceedings or as provided by agreement or by direction of the presiding officer, the first or initial brief shall be filed by the participants upon whom rests the burden of proof and the other participants may then respond. If briefs are filed simultaneously, reply briefs may be filed. No additional briefs will be accepted. An initial brief, responding briefs and reply brief shall be filed and served within the time fixed by the presiding officer. If no specific times are fixed, initial briefs shall be filed and served within 30 days after the date of service of notice of the filing of the transcript and responding briefs or reply briefs shall be filed within 50 days after date of service of the notice of the filing of the transcript.

(c) Briefs not filed and served on or before the dates fixed therefor will not be accepted, except by special permission of the Commission or the presiding officer.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.191 and 35.193 (relating to proceedings in which briefs are to be filed; and filing and service of briefs).

### Subchapter H. EXCEPTIONS, APPEALS AND ORAL ARGUMENT

#### § 5.533. Procedure to except to initial, tentative and recommended decisions.

(a) In a proceeding, exceptions may be filed by a participant and served within 20 days after the initial, tentative or recommended decision is issued unless some other exception period is provided. No exceptions may be filed with respect to an interlocutory decision.

(b) Each exception shall be numbered and shall identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions shall follow each specific exception.

(c) The exceptions shall be concise. The exceptions and supporting reason shall be limited to 40 pages in length. Statements of reasons supporting the exception shall, insofar as practicable, incorporate by reference and citation, relevant portions of the record and passages in previously filed briefs. No separate brief in support of or in reply to exceptions shall be filed with the Prothonotary under § 1.4 (relating to filing generally).

(d) An original and nine copies of the exceptions shall be filed with the Prothonotary under § 1.4.

(e) Unless otherwise ordered by the Commission, the provisions of §§ 1.11(a)(2) and (3) and 1.56(b) (relating to date of filing; and date of service) will not be available to extend the time periods for filing exceptions and replies to exceptions.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.211 and 35.212 (relating to procedure to except to proposed report; and content and form of briefs on exceptions).

#### § 5.536. Effect of failure to file exceptions.

(a) If no exceptions are filed in a proceeding included within § 5.533(a) (relating to procedure to except to initial, tentative and recommended decisions), the decision of the administrative law judge will become final, without further Commission action, unless, within 15 days after the decision is issued, two or more Commissioners request that the Commission review the decision.

(b) A tentative decision, issued by the Commission, subject to exceptions, shall become final, without further Commission action, if no exceptions are filed under § 5.333(a).

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.213 and 35.226 (relating to effect of failure to except to proposed report; and final orders).

#### § 5.539. Withdrawal of appeals.

(a) The filing of exceptions to a recommended or initial decision shall be deemed to be an appeal to the Commission of the recommended or initial decision and is subject to review by the Commission.

(b) An appeal to the Commission may be withdrawn at any time. If the presiding officer's previous decision is not otherwise subject to Commission review, it becomes final and effective upon the filing of a notice of withdrawal.

### Subchapter I. REOPENING, RECONSIDERATION AND REHEARING

#### § 5.572. Petitions for relief following a final decision.

(a) Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like shall be in writing and shall specify, in numbered

paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.

(b) A copy of every petition covered by subsection (a) shall be served upon each participant to the proceeding.

(c) Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others shall be filed within 15 days after the Commission order involved is entered or otherwise becomes final.

(d) Petitions for rescission or amendment may be filed at any time according to the requirements of section 703(g) of the act (relating to fixing of hearings).

(e) Answers to a petition covered by subsection (a) shall be filed and served within 10 days after service of a petition.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

### Subchapter J. REPORTS OF COMPLIANCE

#### § 5.591. Reports of compliance.

(a) When a person subject to the jurisdiction of the Commission is required to do or perform an act by a Commission order, permit or license provision, there shall be filed with the Prothonotary within 30 days following the date when the requirement becomes effective, a notice, stating that the requirement has or has not been met or complied with, unless the Commission, by regulation, by order or by making specific provision therefor in a license or permit, provides otherwise for compliance or proof of compliance.

(b) Subsection (a) is identical to 1 Pa. Code § 35.251 (relating to reports of compliance).

#### § 5.592. Compliance with orders prescribing rates.

(a) When the Commission makes a final decision concerning a rate filing, as defined in sections 1307 and 1308 of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates) and permits or requires the adoption of rates other than the rates originally filed, the public utility affected shall file, within 20 days of entry of the final order, a tariff revision consistent with the Commission's decision together with a proof of revenues and supporting calculations. The utility shall simultaneously serve copies of the tariff revision, along with the proof of revenues and supporting calculations, on the active participants in the proceeding.

(b) Unless otherwise specified in the order, the tariff revision shall be effective upon statutory notice to the Commission and to the public and, whether made effective on statutory notice or under authority granted in the order, shall bear under the effective date on the title page the following notation:

Filed in compliance with the order of Pennsylvania Public Utility Commission, entered \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_.

(c) Exceptions to a tariff revision under this section may be filed by a participant to the proceeding within 10 days of the date of service of the compliance filing, and shall be strictly limited in scope to the factual issue of alleged deviation from requirements of the Commission order. The utility making the compliance filing may respond to exceptions within 5 days. No further pleadings will be permitted.

(d) No rates contained in a tariff revision filed in compliance with a Commission order may be imposed prior to entry of a subsequent order by the Commission approving the compliance filing. Notwithstanding the filing of an exception, the Commission may allow the compliance rates to become effective.

**CHAPTER 57. ELECTRIC SERVICE**

**Subchapter B. SERVICE AND FACILITIES**

**§ 57.26. Construction and maintenance of facilities.**

Overhead and underground transmission and distribution facilities and crossings of the wires or cables of every public utility over or under the facilities of other public utilities, cooperative associations or communication utilities, including parallel or random installation of underground electric supply and communications conductors or cable, shall be constructed and maintained in accordance with safe and reasonable standards, as set forth in the most recent National Electrical Safety Code.

**Subchapter D. ACCOUNTS AND RECORDS**

**§ 57.45. Preservation of records.**

A public utility shall keep and preserve its records in conformity with the provisions applicable to it in the most

recent publication of the National Association of Regulatory Utility Commissioners, entitled "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities."

**CHAPTER 59. GAS SERVICE**

**ACCOUNTS AND RECORDS**

**§ 59.45. Preservation of records.**

Each gas utility shall keep and preserve its record in conformity with the provision applicable to it in the current publication of the National Association of Regulatory Utility Commissioners, 1102 ICC Bldg., Post Office Box 684, Washington, D. C. 20044, entitled "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities."

[Pa.B. Doc. No. 97-113. Filed for public inspection January 24, 1997, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Agriculture

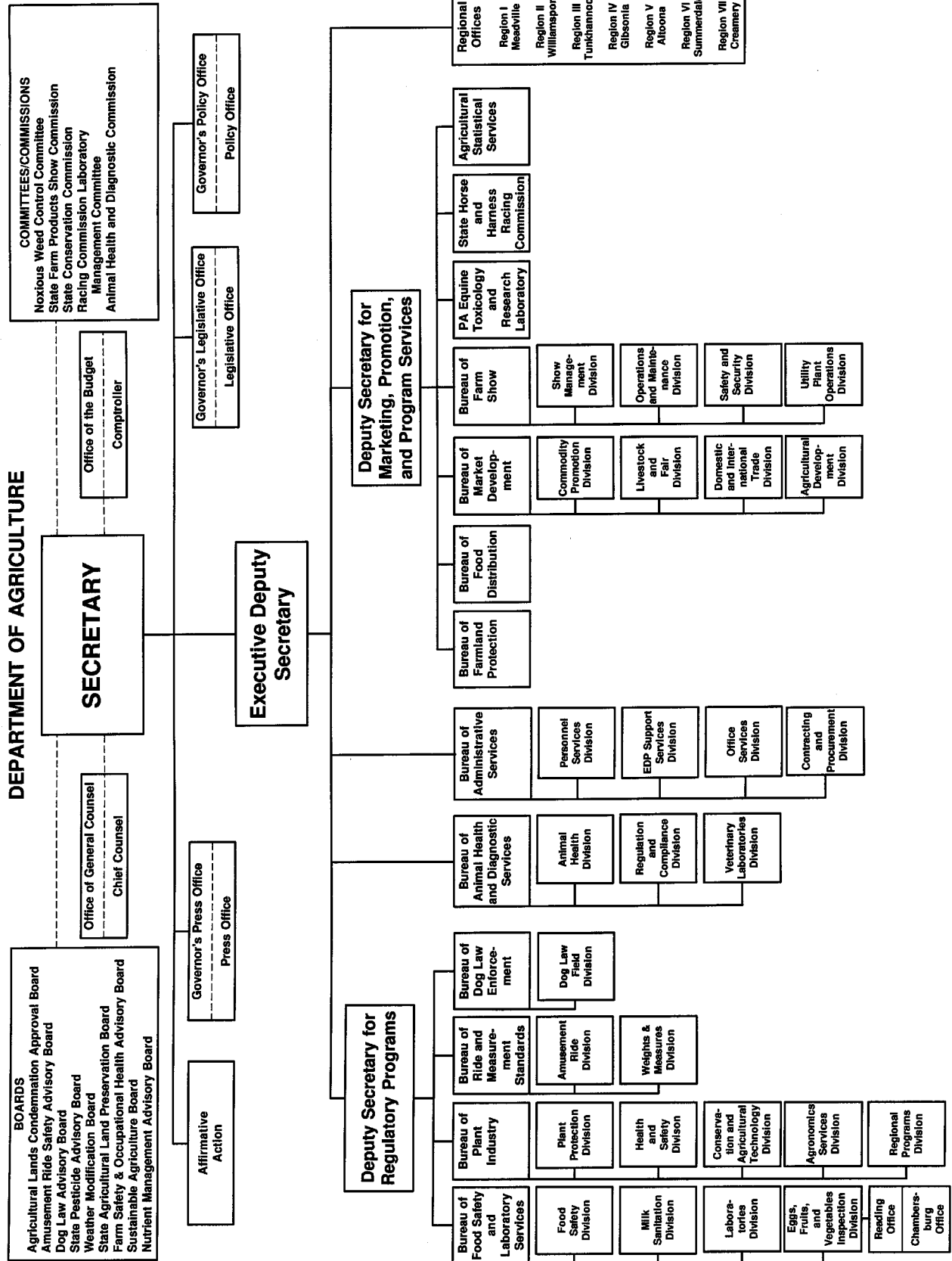
The Executive Board approved a reorganization of the Department of Agriculture effective January 8, 1997.

The organization chart at 27 Pa.B. 451 (January 18, 1997) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 97-114. Filed for public inspection January 24, 1997, 9:00 a.m.]

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# 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 January 14, 1997.

### BANKING INSTITUTIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-8-97	Clearfield Bank and Trust Company Clearfield Clearfield County  Purchase of assets/asumption of liabilities of one branch office of Mid-State Bank and Trust Company, Altoona, located at: 1925 Daisy Street Clearfield Clearfield County	Clearfield	Approved
1-9-97	Pennwood Savings Bank, Pittsburgh, and Pennwood Interim Savings Bank, Pittsburgh surviving institution— Pennwood Savings Bank, Pittsburgh  Subject merger is being effected solely to facilitate the acquisition of Pennwood Savings Bank, Pittsburgh, by Pennwood Bancorp, Inc., Pittsburgh, a bank holding company in organization.	Pittsburgh	Filed
1-9-97	S & T Bank, Indiana, and Peoples Bank of Unity, Pittsburgh surviving institution— S & T Bank, Indiana	Indiana	Filed

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-6-97	First Commonwealth Bank Indiana Indiana County	2009 Pleasant Valley Boulevard Altoona Blair County	Opened
1-6-97	Iron and Glass Bank Pittsburgh Allegheny County	1100 Washington Ave. Scott Township Allegheny County	Opened
1-9-97	Harris Savings Bank Harrisburg Dauphin County	6301 Grayson Road Harrisburg Swatara Township Dauphin County	Filed
1-9-97	Northwest Savings Bank Warren Warren County	744 South Broad St. Lititz Lancaster County	Filed
1-9-97	Northwest Savings Bank Warren Warren County	1 Center Square Hanover York County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-9-97	Northwest Savings Bank Warren Warren County	Stonybrook Shopping Center Route 462 and E. Market St. Springettsbury Twp. York County	Filed
1-13-97	Jefferson Bank Haverford Montgomery County	3720 Main Street Manayunk Philadelphia County	Filed
1-13-97	Jefferson Bank Haverford Montgomery	Northeast Corner of America and Lehigh Sts. Philadelphia Philadelphia County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-20-96	Mifflin County Savings Bank Lewistown Mifflin County	<i>To:</i> 23-27 E. Shirley St. Mount Union Huntingdon County  <i>From:</i> 23 W. Shirley St. Mount Union Huntingdon County	Effective
1-8-97	Franklin First Savings Bank Wilkes-Barre Luzerne County	<i>To:</i> 815 Kidder Street (Rte. 115 and Mundy St.) Wilkes-Barre Luzerne County  <i>From:</i> 685 Kidder Street Wilkes-Barre Luzerne County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-6-97	Bank of Hanover and Trust Company Hanover York County	#2299 North Hanover Mall Carlisle Street Hanover York County	Effective

**SAVINGS ASSOCIATIONS**

No activity.

**CREDIT UNIONS**

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 97-115. Filed for public inspection January 24, 1997, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Pennsylvania Heritage Parks Program: Fiscal Year 1997-1998 Grant Application Announcement

The Department of Conservation and Natural Resources (DCNR) announces that applications are now being accepted for grants to be funded from the 1997-1998 fiscal year Pennsylvania Heritage Parks Program. Funding is subject to an appropriation being made available to DCNR for the Pennsylvania Heritage Parks Program in the upcoming 1997-1998 fiscal year budget. The deadline for submission of applications is April 4,

1997. Applications must be received no later than 5 p.m. in the Harrisburg Central Office of DCNR's Bureau of Recreation and Conservation. Applications received after this deadline will not be considered for funding. FAX submissions are not acceptable.

It is the intent of the program to create a system of State Heritage Parks that will preserve and interpret the significant contributions that certain regions of the Commonwealth have made to the industrial heritage of the State and Nation. The historic, cultural, natural, scenic and recreational resources with a Heritage Park area are inventoried, preserved, enhanced and promoted as a strategy to enhance regional economic development through the attraction of tourists, creation of new jobs, stimulation of small business growth, and the promotion of public and private investment opportunities. There are currently eight designated State Heritage Parks including

the Allegheny Ridge State Heritage Park, the Delaware and Lehigh Canal Heritage Park Corridor, the Lackawanna Heritage Valley, the Lincoln Highway Heritage Corridor, the National Road Heritage Park, the Schuylkill Heritage Corridor, the Oil Heritage Region and the Rivers of Steel Heritage Area. Efforts are underway to determine the feasibility of establishing a Lumber Region Heritage Park in the Northcentral and Northwestern part of the state and to develop a management action plan for the Endless Mountains Heritage Area.

Designated State Heritage Parks are eligible to apply for grants to undertake heritage park management activities, special purpose studies and implementation projects. The Endless Mountains Heritage Area is eligible to apply for early implementation project grants in this grant round. Other regions wishing to participate in the Pennsylvania Heritage Parks Program may apply for feasibility study grants if they meet the following criteria:

—Must have a strong industrial theme based on one or more of the following industries—coal, oil, iron and steel, lumber, textile, transportation, machine and foundry, and agriculture.

—Must be multicounty in size.

—Must have natural, cultural, historic, recreational and scenic resources of State or National significance.

—Have a broad-based public and private partnership and regional coalition supporting the project.

—Must demonstrate a local commitment and leadership capacity to undertake the initiative.

*Program Manual/Application Forms*

The Pennsylvania Heritage Parks Program Manual provides more specific information on funding levels,

program requirements and the application process for this round of funding. The program manual and application forms are available from DCNR. Since each project type has a specific set of application forms and instructions, please specify the type of project you're interested in when requesting application forms. The Program Manual, application forms and additional information about the program can be obtained from the Central Office of DCNR's Bureau of Recreation and Conservation in Harrisburg or from one of DCNR's Heritage Parks District Supervisors: Tim Keptner, Chief, Heritage Parks Division, Bureau of Recreation and Conservation, Pennsylvania Heritage Parks Program, PA Department of Conservation and Natural Resources, Room 555 Forum Building, Harrisburg, PA 17120, (717) 783-0988; Allen Sachse, Supervisor, Eastern District—Pennsylvania Heritage Parks Program, PA Department of Conservation and Natural Resources, Room 201, Samters Building, 101 Penn Avenue, Scranton, PA 18503-2025, (717) 963-4973; Alan Chace, Supervisor, Western District—Pennsylvania Heritage Parks Program, PA Department of Conservation and Natural Resources, Room 576 Forum Building, Harrisburg, PA 17120, (717) 772-4361.

Persons with a disability who wish to submit an application for Pennsylvania Heritage Parks Program funding and require assistance with the application should contact Darrel J. Siesholtz at (717) 783-2661 to discuss how the Department may best accommodate their needs. TTY or TDD users call 1 (800) 654-5984.

JOHN C. OLIVER,  
*Secretary*

[Pa.B. Doc. No. 97-116. Filed for public inspection January 24, 1997, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

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

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

Following the 30-day comment period, the Water Management Program Managers 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 Field 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 proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

**PA 0098779.** Industrial waste, SIC: 4941, **The Municipal Authority of the Borough of Portage**, 606 Cambria Street, Portage, PA 15946.

This application is for renewal of an NPDES permit to discharge treated process water from water treatment plant operations in Portage, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Trout Run, 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 Saltsburg Water Authority, located at Saltsburg, 90 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.029 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	monitor and report				
TSS			30		60
Aluminum			2.2		4.4
Iron			2		4
Manganese			1		2
TRC			0.5		1.0
pH	6.0—9.0				

The EPA waiver is in effect.

**PA 0098787.** Industrial waste, SIC: 4941, **Municipal Authority of the Borough of Portage**, 606 Cambria Street, Portage, PA 15946.

This application is for renewal of an NPDES permit to discharge treated process water from water treatment plant operations in Portage Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ben's Creek, classified as a high quality 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 the Saltsburg Municipal Authority, located at Saltsburg, 96 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.033 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	monitor and report				
Total Suspended Solids			30		60
Aluminum			4		8
Manganese			1		2
Iron			2		4
Total Residual Chlorine			0.5		1.0
pH	6.0—9.0				

*Other Conditions:*

The EPA waiver is in effect.

**PA 0204901.** Industrial waste, SIC: 4111, **Port Authority of Allegheny County—Ross Maintenance Garage**, 2253 Beaver Avenue, Pittsburgh, PA 15233.

This application is for renewal of an NPDES permit to discharge treated stormwater from Ross in Ross Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, of Nelson Run, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Millvale MWW, located on the Allegheny River, 6.0 miles below the discharge point.

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

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	monitor and report				
TSS			30		60

<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>
Oil and Grease			15		30
Iron			3.5		7.0
Lead			monitor and report		

The EPA waiver is in effect.

**PAS 406101.** Industrial waste, SIC: 4953, **Envirotrol, Inc.**, 432 Green Street, P. O. Box 61, Sewickley, PA 15143.

This application is for issuance of an NPDES permit to discharge stormwater from roof drains and parking areas in Darlington Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, North Fork Little Beaver Creek, classified as a high quality 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 the City of Stubenville, located at Stubenville, Ohio.

Outfall 001: existing discharge.

<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>
Total Suspended Solids					monitor/report
Oil and Grease					monitor/report

The EPA waiver is in effect.

**PA 0025968.** Sewage, **Municipal Water Authority of Aliquippa**, 160 Hopewell Avenue, Aliquippa, PA 15001.

This application is for renewal of an NPDES permit to discharge treated sewage from the Aliquippa STP in Aliquippa Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the ARCO Chemical Company, BV Plant, on the Ohio River.

Outfall 001: existing discharge, design flow of 3.4 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Fecal Coliforms (5-1 to 10-31)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine				
1st month—36th month	monitor and report			
37th month—expiration		1.0		3.3
pH	6.0—9.0			

The EPA waiver is not in effect.

**PA 0028177.** Amendment No. 1, Sewage, **McCandless Township Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237.

This application is for an amendment of an NPDES permit to discharge treated sewage from A&B Sewage Treatment Plant in McCandless Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as a tributary of Pine Creek, which are classified as a trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Millvale Municipal Water Works.

Outfall 001: existing discharge, design flow of 0.4 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub> (5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (3-1 to 11-30)	1.5	2.3		3.0
(12-1 to 2-29)	3.0	4.5		6.0
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine 1st month—36th month	monitor and report			
37th month—expiration	0.22			0.72
Dissolved Oxygen	not less than 6 mg/l			
pH	6.0—9.0			

The EPA waiver is in effect.

**PA 0205737.** Sewage, **CNG Transmission**, 445 West Main Street, Clarksburg, WV 26302-2450.

This application is for renewal of an NPDES permit to discharge treated sewage from the South Oakford Station Sewage Treatment Plant in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Brush Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Western Pennsylvania Water Company on the Monongahela River.

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

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31)	3			6
(11-1 to 4-30)	9			18
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 3 mg/l			
pH	6.0—9.0			

The EPA waiver is in effect.

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

**PA 0210285.** Sewage, **James Newton—SRST**, 350 Page Hollow Road, Warren, PA 16365.

This application is for renewal of an NPDES permit to discharge treated sewage to unnamed tributary to Glade Run in Glade Township, **Warren County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Emlenton Water Company on the Allegheny River located at Emlenton, approximately 90 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .0004 mgd, are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	50
TSS	30	60
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average	



<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine		
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0100650.** Sewage. **Forest Brooke Mobile Home Park**, 7266 West Market Street, Mercer, PA 16137.

This application is for renewal of an NPDES permit to discharge treated sewage to unnamed tributary to Magargee in Lakawannock Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Sharpville Municipal Water Company on the Shenango River located at Sharpville, approximately 12 miles below point of discharge.

The proposed effluent limits for Outfall No. 001, based on a design flow of .036 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Ammonia-Nitrogen		
(5-1 to 10-31)	1.4	2.8
(11-1 to 4-30)	4.2	8.4
Fecal Coliforms		
(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	
Phosphorus	1	2
Total Residual Chlorine		
(Interim)		
(Final)	.03	.1
Dissolved Oxygen	minimum of 5 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0031437.** Sewage, **Edinboro Mobile Home Village**, 13041 Capp Road, Box 1, Edinboro, PA 16412-1888.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary to Conneauttee Creek in Washington Township, **Erie County**. This is an existing discharge.

The receiving water is classified for warm water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Franklin General Authority on French Creek located at Franklin, approximately 45 miles below the point of discharge.

The proposed effluent limits for Outfall 001, based on an average design flow of 0.015 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N		
(5-1 to 10-31)	5	10
(11-1 to 4-30)	15	30
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
Total Residual Chlorine	0.5	1.2
Fecal Coliforms		
(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 standard units at all times	

The EPA waiver is in effect.

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*Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Williamsport, PA 17701-6448, telephone (717) 327-3666.*

**PA 0209449.** SIC: 3399, **Sinter Metals, Inc.**, R. R. 2, Box 47, Emporium, PA 15834.

This proposed action is for issuance of an NPDES permit for a new discharge of treated industrial wastewater to the Driftwood Branch of Sinnemahoning Creek and West Creek in Emporium Borough, **Cameron County**.

The receiving streams are classified for the following uses: Driftwood Branch—trout stocked fishery, and aquatic life, water supply and recreation. West Creek—high quality cold water fishery, and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is the proposed intake located at Lock Haven.

Outfall 001 (NCCW) and 003 (Stormwater) combined discharge point:

The proposed effluent limits, based on a design flow of 0.033 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	15.0	30.0
Temperature*	monitor	
pH	6.0—9.0 std units	

\*Outfall 001 only.

Outfall 002 (Stormwater):

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Oil and Grease	15.0	30.0
pH	6.0—9.0 std units	

The EPA waiver is in effect.

**PA 0209457.** Industrial waste, SIC: 2499, **Masonite**, Division of International Paper Co., P. O. Box 311, Towanda, PA 18848.

This proposed action is for issuance of an NPDES permit for a new discharge of treated industrial wastewater to a stormwater drainage channel to Laning Creek in Wysox Township, **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, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Water Authority located at Danville.

The proposed effluent limits for Outfall 001, based on a design flow of 0.06 mgd, are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
TSS	100	150	200
Total Iron	4.4	6.6	8.8
Total Zinc	0.22	0.33	0.44
Oil and Grease	15	20	30
TDS	report	report	
pH	within the range of 6.0—9.0		

The EPA waiver is in effect.

**PA 0115053.** Sewerage, SIC: 4952, **Nicholas Wolff Foundation, Inc.**, R. D. 2, Box 180, Millville, PA 17846.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to Mud Run in Greenwood Township, **Columbia County**.

The receiving stream is classified for the following uses: trout stocking, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is United Water Pennsylvania, Inc., located at Bloomsburg.

The proposed effluent limits for Outfall 001, based on a design flow of 0.01 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
TSS	30		60
Ammonia-N (5-1 to 10-31)	20		
Total Residual Cl <sub>2</sub>	2.0		4.7
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 0010561.** SIC: 0921, **Fish and Boat Commission**, 450 Robinson Lane, Bellefonte, PA 16823-9620.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Logan Branch Spring Creek in Benner Township, **Centre 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, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is located at Lock Haven approximately 34 miles below the discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 5.59 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10.0	20.0
TSS	15.0	30.0
NH <sub>3</sub> -N		
(5-1 to 10-31)	1.0	2.0
(11-1 to 4-30)	3.0	6.0
Total Dissolved Phosphorus		
(3-1 to 10-31)	0.3	0.6
Dissolved Oxygen	minimum 6.0 mg/l at all times	
pH	6.0—9.0 s.u. at all times	

*Other Conditions:* Whole Effluent Toxicity testing for Outfall 001.

The EPA waiver is in effect.

*Northeast Regional Office: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

**PA 0062766.** Sewerage, **Henry A. Stout**, 6427 Saddle Road, New Tripoli, PA 18066.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into a drainage swale of Jordan Creek in Heidelberg Township, **Lehigh County**.

The receiving stream is classified for the following uses: high quality, cold water fishery, aquatic life, water supply and recreation.

Effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, were evaluated at the first point of use—Jordan Creek.

The proposed effluent limits for Outfall 001, based on a design flow of 0.0003 mgd, are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	50.0
Total Suspended Solids	30.0	60.0
Fecal Coliforms	200/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine	monitor and report	

The EPA waiver is in effect.

*Southeast Regional Office: Regional Manager; Water Management, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.*

**PA 0036455.** Industrial waste, **Naval Facilities Engineering Command—Northern Division**, Philadelphia Naval Complex, South Broad Street, Philadelphia, PA 19112.

This application is for renewal of an NPDES permit to discharge cooling water, stormwater and groundwater from the Philadelphia Naval Shipyard in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to the Delaware and Schuylkill Rivers.

The receiving stream is classified for warm water fish, trout stocking, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 010, 011 and 012, based on an average flow of .487 mgd, 1.206 mgd and .605 mgd respectfully are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	100	200	250
Oil and Grease	15		30
pH	within limits of 6.0—9.0 standard units at all times		
Total Iron	monitor/report		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Copper	monitor/report	monitor/report	
Total Lead	monitor/report	monitor/report	
Total Zinc	monitor/report	monitor/report	

The EPA waiver is in effect.

**PA 0043966.** Sewage, **Valley Forge Terrace Mobile Home Park**, 1311 Catfish Lane, Norristown, PA 19403.

This application is for renewal of an NPDES permit to discharge treated sewage from the Valley Forge Terrace Mobile Home Park STP in Lower Providence Township **Montgomery County**. This is an existing discharge to Catfish Dam Creek, tributary of the Schuylkill River.

The proposed effluent limits for Outfall 001, based on an average flow of 45,000 gpd, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	7.0	14.0
(11-1 to 4-30)	20.0	40.0
Total Residual Chlorine (years 1 and 2)	1.2	2.5
Total Residual Chlorine (years 3, 4 and 5)	0.5	1.3
Fecal Coliforms	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0057096.** Sewage, **Oxford Area Sewer Authority**, 401 East Market Street, P. O. Box 380, Oxford, PA 19363.

This application is for issuance of an NPDES permit to discharge treated sewage from the treatment lagoons in East Nottingham Township, **Chester County**. This is a new discharge to Tweed Creek.

The receiving stream is classified for warm water fish, trout stocking, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed interim effluent limits for Outfall 001 (effective during the first year of permit issuance) based on an average flow of 500,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12
Phosphorus (as P)	monitor/report		
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 std units at all times		
Total Residual Chlorine	monitor/report		

The proposed final effluent limits effective at the beginning of the second year of permit issuance, for Outfall 001, based on an average flow of 500,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12
Phosphorus (as P)	2.0		4.0
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 std units at all times		
Total Residual Chlorine	0.05		0.12

**PA 0036447.** Industrial waste, **Naval Ship Systems Engineering Station**, Naval Surface Warfare Center—Carderock Division.

This application is for amendment of an NPDES permit to discharge cooling water and stormwater from the Philadelphia Naval Shipyard in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to the Delaware Estuary—Zone 4.

The receiving stream is classified for warm water fish, migratory fish, industrial water supply, livestock water supply, wildlife water supply, boating, fishing and navigation.

The permit is amended to transfer two outfalls to the Naval Surface Warfare Center—Carderock Division.

The proposed effluent limits for Outfall 008, based on an average flow of 29 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature			110°F
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is in effect.

Outfall 009 consists solely of stormwater and is not monitored.

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District Office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

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

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

*Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.*

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

*Northcentral Regional Office, Regional Water Management Program Manager, 208 W. Third Street, Williamsport, PA 17701, telephone (717) 327-3669.*

*Southcentral Regional Office, Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

*Beaver County Conservation District, District Manager, 1000 Third St., Ste. 202, Beaver, PA 15009-2026, telephone (412) 774-7090.*

**NPDES Permit PAS100240.** Stormwater. **Harry Fisher**, 166 SW 8th Avenue, Boca Raton, FL 33486 has applied to discharge stormwater from a construction activity located in Franklin Township, **Beaver County**, to UNT to the Connoquenessing Creek.

*Centre County Conservation District, District Manager, 414 Holmes Ave., Ste. 4, Bellefonte, PA 16823, telephone (814) 355-6817.*

**NPDES Permit PAS10F062.** Stormwater. **Richard Kalin**, Partner, Calibre Boalsburg Associates, LP, 100 N. Patterson Street, State College, PA 16801 has applied to discharge stormwater from a construction activity located in Harris Township, **Centre County**, to Spring Creek.

*Chester County Conservation District, District Manager, Gov. Serv. Ctr., Ste. 395, 601 Westtown Rd., West Chester, PA 19382, telephone (610) 696-5126.*

**NPDES Permit PAS10G239.** Stormwater. **North Coventry Municipal Authority**, 1485 Schuylkill Road, Pottstown, PA 19464 has applied to discharge stormwater from a construction activity located in North Coventry Township, **Chester County**, to UNT to the Schuylkill River.

**NPDES Permit PAS10G240.** Stormwater. **Alfred and Betty Zeigler**, R. D. 5, P. O. Box 303, Howell and Chester Springs Road, Malvern, PA 19355 has applied to discharge stormwater from a construction activity located in Charlestown Township, **Chester County**, to Pickering Creek.

*Clinton County Conservation District, District Manager, 2 State Route 150, Mill Hall, PA 17751, telephone (717) 726-3798.*

**NPDES Permit PAS101911.** Stormwater. **Walmart Stores Inc.**, 701 S. Walton Boulevard, Bentonville, AR 72716-0095 has applied to discharge stormwater from a construction activity located in Bald Eagle Township, **Clinton County**, to Fishing and Bald Eagle Creeks.

*York County Conservation District, District Manager, 118 Pleasant Acres Rd., York, PA 17402, telephone (717) 840-7430.*

**NPDES Permit PAS10Y061.** Stormwater. **CFR Development Inc.**, R. D. 3, Box 137, Glen Rock, PA 17327 has applied to discharge stormwater from a construction activity located in West Manheim Township and Penn Township, **York County**, to UNT to Furnace Creek.

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection. Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number, identification of the plan or application to which the protest is addressed and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protests. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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**Industrial waste and sewerage applications received under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**WQM Permit No. 4397201.** Industrial waste. **Caparo Steel Company, Inc.**, 15 Roemer Boulevard, Farrell, PA 16121. This project is for the construction of water recycle systems for a new continuous caster in the Cities of Farrell and Sharon, **Mercer County**.

**WQM Permit No. 4397202.** Industrial waste. **Caparo Steel Company, Inc.**, 15 Roemer Boulevard, Farrell, PA 16121. This project is for construction of water recycle systems for two existing hot strip mill slab reheat furnaces in the Cities of Farrell and Sharon, **Mercer County**.

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

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*Southcentral Regional Office: Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.*

**A. 3696508.** Public water supply. **City of Lancaster Authority**, Manheim Township, **Lancaster County**, (James J. Kirchner, Chairperson, City of Lancaster Authority, P. O. Box 1599, 120 N. Duke St., Lancaster, PA 17608), construction of an underground packaged water booster pump station to replace the existing Blossom Hill Pump Station, (William K. Corliss, Jr., Vice-President and Manager, Water Supply Section, Gannett Fleming, Inc., P. O. Box 67100, Harrisburg, PA 17106-7100).

*Northcentral Field Operations: Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**A. 5596502. Shamokin Dam Borough,** Water Treatment Plant, Shamokin Dam, **Snyder County**. The permit authorizing construction of a new flocculation/sedimentation unit has been issued.

**A. 1496502. Howard Borough,** 780 Black Street, Howard, PA 16841, Howard Borough, **Centre County**. The permit application for operation of corrosion control system has been issued.

*Northeast Regional Office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

**1396503.** Public water supply. **Schleicher Trailer Park**, Duane Schleicher, R. R. 7, Box 198, Lehighton, PA 18235. This proposal involves the construction of a water supply system to serve the residents of Schleicher Trailer Park, East Penn Township, Carbon County. Facilities include a new well, treatment facilities, pump station, standpipe and distribution system serving a proposed facility consisting of 96 units. This is located in East Penn Township, **Carbon County**.

**3546441.** Bulk water hauling facility (Eagle Springs II). **Eagle Spring, Inc.**, 88 West Donaldson Street, Tremont/Zerbe, PA 17981. This proposal involves a new spring source, cartridge filtration and disinfection, storage tank and tanker fill station. It is located in Hegins Township, **Schuylkill County**.

*Engineer: Joseph J. Matalavage, P. E. Alfred Benesch & Company.*

**4596510.** Public water supply. Major Amendment. **Stroudsburg Municipal Authority**, Kenneth Brown, Stroudsburg Municipal Authority, 410 Stokes Ave., P. O. Box 237, East Stroudsburg, PA 18301. This proposal involves changing the coagulant aid polymer, switching the prime coagulant form alum to a polyaluminum hydroxychlorosulphate, installing a soda ash feed system for pH adjustment, replacing well pumps and constructing a baffle wall in sedimentation Basin 1A. It is located in Stroud Township, **Monroe County**.

*Engineer: E. Charles Wunz, P. E. Herbert, Rowland & Grubic, Inc., 369 East Park Drive, Harrisburg, PA 17111.*

**4896503.** Public water supply. **East Allan Township Municipal Authority**, 5344 Nor-Bath Boulevard, Northampton, PA 18067-9062, Charles Wert, Chairperson. This proposal involves the permittee of two water distribution systems known as East Allan Estates/Delaware Trace already interconnected to the City of Bethlehem. The extension of this system (via a transmission line) to the Victoria Square (VS) Development (with distribution piping), and the additional transmission extension to the Spring Lake Village (SLV) Development (with distribution

pipng). SLV will also require a booster pump station for adequate pressure. All wells in VS and SLV will be abandoned. This is located in **Northampton County**.

*Engineer:* Kay B. Huston, Hanover Engineering Associates, Inc., 3897 Adler Place, Suite 350, Bethlehem, PA 18017.

#### **Acknowledgment of Notices of Intent to Remediate**

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified below, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified below. During this comment period, a municipality may request that the person identified below, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, please contact the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

*Southeast Regional Office: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.*

**Action Arms Ltd.**, City of Philadelphia, **Philadelphia County**. Henry DeH Alexander, Senior Project Manager, SMITH Environmental Technologies Corp., One Plymouth Meeting, Plymouth Meeting, PA 19462, has submitted a Notice of Intent to Remediate site soils contaminated

with lead, heavy metals, petroleum hydrocarbons and polycyclic aromatic hydrocarbons; groundwater contaminated with pesticides, solvents and petroleum hydrocarbons. The applicant proposes to remediate the site to meet a combination of background, Statewide health and site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Inquirer* on December 21, 1996.

**Pizza Box Restaurant**, West Chester Borough, **Chester County**. Thomas R. Severino, Integrated Environmental Solutions, Inc., 105 E. Evans St., West Chester, PA, 19380, has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX and petroleum hydrocarbons. The applicant proposes to remediate the site to meet site-specific standards for groundwater and Statewide health standards for soil. A summary of the Notice of Intent to Remediate was reported to have been published in *The Daily Local* on December 13, 1996.

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use 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, please contact the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

*Northcentral Regional Office: Environmental Cleanup Program Manager, 208 West Third Steet, Suite 101, Williamsport, PA 17701-6448, telephone (717) 321-6525.*

**International Paper—Lock Haven Mill**, Castanea Township, **Clinton County**. International Paper, P. O. Box 268, Lock Haven, PA 17745 has submitted a notice of Intent to Remediate ground water contaminated with lead and heavy metals. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lock Haven Express* on December 24, 1996.

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**Proposed Consent Order and Agreement**


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Shaler/JTC Site  
Bruin Borough, Butler County

Under section 1113 of the Pennsylvania Hazardous Sites Cleanup Act (35 P. S. § 6020.1113) notice is hereby provided that the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement with Witco Corporation (Witco) concerning the Shaler/JTC site (Site). The Site is located in Bruin Borough, Butler County, PA.

As the result of past operations and possible waste disposal activities, hazardous substances have contaminated the soil, surface water, groundwater and sediments at the Site, as well as other media in tanks, drums, vats and buildings at the Site. The Department has already incurred approximately \$3,335,000 in response costs at the Site, and estimates that it will cost between 4 and 6 million additional dollars to clean up the Site in the future. However, the Department has determined that Witco is a de minimis settlor, based upon the Department's determination that: the amount of hazardous substances contributed by Witco is minimal compared to the amount of the other hazardous substances at the Site; the toxic or other hazardous effects of these hazardous substances are minimal compared to the effects of the other hazardous substances at the Site; and these hazardous substances have caused and will cause only a minor portion of the response costs at the Site. Accordingly, the Department has agreed to enter into a de minimis financial settlement with Witco to, among other things, pay \$500,000 to the Commonwealth of Pennsylvania Hazardous Sites Cleanup Fund. The specifics of the Department's de minimis settlement with Witco are set forth in the Consent Order and Agreement.

The Department will receive and consider comments relating to the Consent Order and Agreement for 60 days from the date of this public notice. The Department may withdraw its consent to the settlement with Witco if the comments concerning the Consent Order and Agreement disclose facts or considerations which indicate that the settlement is inappropriate, improper, inadequate or not in the public interest. After the public comment period, the Department's settlement with Witco shall become final upon the filing of the Department's response to any significant comments to the Consent Order and Agreement.

Copies of the Consent Order and Agreement are available for inspection at both the Department's Northwest Regional Office, located at 230 Chestnut Street, Meadville, PA, and at the Department's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA. Comments may be submitted, in writing, to Harold Nye, Project Manager, Department of Environmental Protection, Hazardous Sites Cleanup, 230 Chestnut Street, Meadville, PA 16335-3481. Further information may be obtained by contacting Harold Nye at (814) 332-6648. TDD users may contact the Department through the Pennsylvania Relay Service at 1 (800) 654-5984.

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**Renewal applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport infectious and chemotherapeutic waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Safety Medical Systems, Inc.**, 43 Hercules Drive, Colchester, VT 05446; Lynn Pope-Allen, Transportation Manager; application received December 31, 1996.

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**Applications received for Plan Approval under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.**

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*Southwest Regional Office: Bureau of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PA-65-788B. Sony Electronics, Inc.** (1001 Technology Drive, Mt. Pleasant, PA 15666) for two wave solder machines at its Pittsburgh Manufacturing Center facility located in Mt. Pleasant Township, **Westmoreland County**.

**PA-65-881A. Innovative Carbide, Inc.** (P. O. Box 389, 11099 Rte. 993, Irwin, PA 15642) for a dust collector on the metal powder mixing and drying operation at its facility located in North Huntingdon Township, **Westmoreland County**.

**PA-65-882A. CSM Industries, Inc.** (R. R. 6, Box 21, Center Drive, Building D, Latrobe, PA 15650) for an electroplating operation at its Latrobe Facility located in Unity Township, **Westmoreland County**.

*Northcentral Regional Office: Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**14-313-034A.** Modification of a chemical process facility (Lactofen) by **Ruetgers-Nease Corporation** (201 Struble Road, State College, PA 16801) in College Township, **Centre County**.

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**Applications received for Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.**

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*Southeast Regional Office: Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described below for the specified companies.

Permit: **46-302-202A**  
Source: Two Boilers  
Company: **Jet Plastica Industries, Inc.**  
Location: Hatfield  
County: **Montgomery**

*Southwest Regional Office: Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**26-313-013.** The Department intends to issue an Air Quality Operating Permit to **Welland Chemical, Inc.**, (P. O. Box 26, Mill Street, Newell, PA 15466) for a nitric acid facility at its Newell Works located in Newell Borough, **Fayette County**.

**63-399-002.** The Department intends to issue an Air Quality Operating Permit to **McGrew Welding & Fabricating, Inc.**, (P. O. Box 87, Donora, PA 15033) for belt covers and sprays on the materials handling operation at its facility located in Donora Borough, **Washington County**.



**32-310-001A.** The Department intends to issue an Air Quality Operating Permit to **Edward C. Griffith Quarrying, Inc.**, (R. R. 1, Box 176, Rochester Mills, PA 15771) for a Hewitt Robins Jaw Crusher at its Griffith Quarry located in North Mahoning Township, **Indiana County**.

**65-307-065A.** The Department intends to issue an Air Quality Operating Permit to **Latrobe Steel Company**, (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) for a batch heating furnace at its Latrobe Plant located in Latrobe Borough, **Westmoreland County**.

**PA-04-468B.** The Department intends to issue an Air Quality Operating Permit to **S. H. Bell Company**, (644 Alpha Drive, P. O. Box 11495, Pittsburgh, PA 15238) for a low carbon ferro chrome crusher at its State Line Terminal located in Glasgow Borough, **Beaver County**.

*Northeast Regional Office: Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

The Department intends to issue an Air Quality Operating Permit for the air contamination sources and associated air cleaning devices described below for the specified company.

Permit: **35-323-017**

Source: Burn Off Oven With Afterburner

Company: **Scranton Army Ammunition Plant**

Location: City of Scranton

County: **Lackawanna**

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**Applications received for Minor Source Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Southwest Regional Office: Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**OP-63-633.** The Department received an Air Quality Operating Permit application from **The Woods Quality Cabinetry Company**, (42 Eighty-Four Drive, Eighty Four, PA 15330) for a cabinet manufacturing process at its Eighty Four Plant located in South Strabane Township, **Washington County**.

**OP-03-170.** The Department received an Air Quality Operating Permit application from **Sylvan America, Inc.**, (West Hills Industrial Park, R. R. 3, Kittanning, PA 16201) for a mushroom spawn production facility at its West Hills Spawn Plant located in East Franklin Township, **Armstrong County**.

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**Applications received for Title V Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Southwest Regional Office: Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**TV-65-693.** The Department received an Air Quality Title V Operating Permit application from **National Waste & Energy Corporation**, (R. R. 2, Box 282A, Pleasant Valley Road, Irwin, PA 15642) for a sanitary landfill at its Valley Landfill located in Penn Township, **Westmoreland County**.

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**Notice of Intent to Issue**

Title V Operating Permit  
Permit No. TV-36-05009

Lancaster County

The Department of Environmental Protection intends to issue a Title V Operating Permit to J. L. Clark Manufacturing Company located in Lancaster, Lancaster

County. The Title V Operating Permit is required under 25 Pa. Code, Chapter 127, Subchapter G for major stationary sources.

An appointment to review the application and other pertinent documents at the Southcentral Regional Office may be scheduled by contacting Mary DiSanto at (717) 541-7937 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

Those wishing to comment on the proposed action may contact Kanubhai Patel, Chief, Title V Facilities Section, One Ararat Boulevard, Harrisburg, PA 17110.

Comments may be submitted during the 30-day period immediately following the publication of this notice. Each comment must include the name, address and telephone number of the persons submitting the comments along with the reference number of the permit (TV-36-05009).

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the comment period. The Department will give notice of any scheduled public hearing at least 30 days in advance of the hearing as per 25 Pa. Code, § 127.521.

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**Public Hearing Notice**

The Department of Environmental Protection (DEP) will hold a public hearing on February 27, 1997, at 6 p.m. at the Ross Township Municipal Building, Anchorage Road, Saylorsburg, PA.

The hearing is for DEP to take testimony concerning the air quality application submitted by Puritan Products, Inc., 635-711 Mill Street, Allentown, PA for its proposed facility to be located at 5526 Kunkletown Road, Ross Township, Monroe County, PA. The air quality application is for the construction and operation of chemical storage, blending and packaging operations at the Ross Township facility.

Those wishing to present testimony during the hearing should contact Thomas A. DiLazaro, Air Quality Program Manager, at (610) 861-2070 by February 20, 1997, to register. Oral testimony will be limited to a maximum of 10 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present testimony on its behalf.

Those unable to attend the hearing, but who wish to comment, should provide written comment by March 27, 1997, to Thomas A. DiLazaro, Air Quality Program Manager, DEP, 4530 Bath Pike, Bethlehem, PA 18017.

Copies of the air quality application are available for review from 8 a.m. to 4 p.m. in the DEP Office, 4530 Bath Pike, Bethlehem, PA. Appointments for scheduling a review may be made by calling (610) 861-2070.

Persons with disabilities who wish to attend the hearing and who require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Richard Shudak of DEP at (717) 826-2060 or the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how DEP may accommodate their needs.

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**Plan approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources and associated air cleaning devices.**

*Northeast Regional Office: Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

An application for Plan Approval has been received by this office for the construction, modification or reactivation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **54-305-019**  
 Source: Coal Prep Plant W/Water Sprays  
 Received: December 16, 1996  
 Company: **Girard Estate (Girard College)**  
 Location: Butler Township  
 County: **Schuylkill**

**Reasonably Available Control Technology; Public Hearing**

Approval of Reasonably Available Control Technology (RACT) Plans for:

Garlock, Inc., Plastomer Products (Newtown Township, Bucks County)

*Garlock, Inc., Plastomer Products (Compliance Permit CP-09-0035 and Plan Approval PA-09-0035)*

<i>Source</i>	<i>VOC Emission Limit (tons/year)</i>	<i>Control Technique</i>	<i>Implementation Schedule</i>
Two PTFE Extrusion Lines	6.78	Condensation/Collection System	Implemented

*Waste Management of PA, Inc., Tullytown Resource Recovery Facility (Operating Permit OP-09-0024)*

<i>Source</i>	<i>Emission Limit (tons/year)</i>	<i>Control Technique</i>	<i>Implementation Schedule</i>
Landfill	3.7 VOC	Flare	Implemented
Landfill Gas Flare	38.9 NOx	Manufacturers Specification	Implemented

*O'Brien Environmental Energy, Inc. (Operating Permit OP-46-0067)*

<i>Source</i>	<i>Emission Limit NOx (tons/year)</i>	<i>Control Technique</i>	<i>Implementation Schedule</i>
Reciprocating I. C. Engine	23.93	Low Emission Combustion Technology	Upon Issuance of Permit

This facility is not a major VOC emitter.

*Beckett Corporation (Operating Permit OP-15-0040)*

<i>Source</i>	<i>VOC Emission Limit (tons/year)</i>	<i>Control Technique</i>	<i>Implementation Schedule</i>
Eight Flexographic Presses	70.5	Operation Restriction	Implemented
Clean-up Operation	10.5	Material Substitution	Implemented

This facility is not a major NOx emitter.

One public hearing will be held for the purpose of receiving comments on the proposed SIP revisions. The hearing will be held at 2 p.m. on February 27, 1997, at the Department of Environmental Protection Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA. The hearing will represent the opportunity for oral comment to DEP on the proposed SIP revisions and will not be a question and answer session. Persons wishing to present testimony at the hearing are encouraged to contact Clarke Rupert, DEP Community Relations Coordinator, at (610) 832-6020 to register prior to the hearing, but may also register at the hearing. Those unable to attend the hearing but who wish to

comment should send their written comments to Francine Carlini, Air Quality Program Manager, Department of Environmental Protection, Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428 on or before February 27, 1997.

WMP, Inc., Tullytown Resource Recovery Facility (Tullytown Borough, Bucks County)

O'Brien Environmental Energy, Inc. (Upper Merion Township, Montgomery County)

Beckett Corporation (Lionville Township, Chester County).

DEP has made a preliminary determination to approve RACT plans as amendments to the State Implementation Plan (SIP) for the above facilities. The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for these facilities to comply with current regulations.

These preliminary determinations, if finally approved, will be incorporated into Plan Approval(s) and/or Operating Permit(s) for the facilities and will be submitted to the U. S. Environmental Protection Agency (EPA) as revisions to Pennsylvania's SIP.

The following is a summary of the preliminary RACT determinations for these facilities:

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate should contact Clarke Rupert at (610) 832-6020 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Copies of the pertinent documents are available for review at the DEP Southeast Regional Office. Appointments for scheduling a review may be made by calling (610) 832-6003.

### MINING ACTIVITY APPLICATIONS

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

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

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

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

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

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

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

#### *Coal Applications Received*

**56840110.** Permit renewal, **Fieg Brothers** (3070 Stoystown Road, Stoystown, PA 15563-8164), commencement, operation and restoration of bituminous strip mine in Brothersvalley Township, **Somerset County**, affecting 83.0 acres, receiving stream Stony Creek, application received December 31, 1996.

**32950104.** Transfer from **General Mining, Inc.** to **Big Mack Leasing Company, Inc.** (R. D. 6, Box 231, Kittanning, PA 16201), commencement, operation and restoration of bituminous strip mine in Young Township, **Indiana County**, affecting 62.6 acres, receiving stream unnamed tributary to Whisky Run to Whisky Run to Blacklegs Creek, application received January 2, 1997.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

**17910125.** **Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine-auger permit in Lawrence Township, **Clearfield County** affecting 78 acres, receiving streams unnamed tributary to Wallace Run and McLaughlin Run to Little Clearfield Creek to Clearfield Creek to west branch of the Susquehanna River, application received December 13, 1996.

**17673057.** **Power Operating Co., Inc.** (P. O. Box 25, Osceola Mills, PA 16666), major permit modification to an existing bituminous surface mine permit to apply biosolids to enhance vegetation, affecting 1,180 acres, Gulich and Woodward Townships, **Clearfield County**, application received December 12, 1996.

**17714022.** **A. W. Long Coal Company** (1203 Presqueisle Street, Philipsburg, PA 16866), major permit modification to an existing bituminous surface mine permit to authorize reclamation use of biosolids, Morris Township, **Clearfield County**, application received December 12, 1996.

**17960122.** **E. P. Bender Coal Co., Inc.** (P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of a bituminous surface mine-auger permit in Bigler Township, **Clearfield County** affecting 118 acres, receiving streams Banian Run and Muddy Run, application received December 19, 1996.

**17960123.** **Johnson Brothers Coal Co., Inc.** (R. D. 1, Box 580, Mahaffey, PA 15757), commencement, operation and restoration of a bituminous surface mine permit in Brady Township, **Clearfield County** affecting 8.4 acres, receiving streams unnamed tributary to Little Anderson Creek, Little Anderson Creek, application received December 19, 1996.

**17960124.** **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), commencement, operation and restoration of a bituminous surface mine-auger permit in Brady and Bell Townships, **Clearfield County** affecting 127 acres, receiving streams Buck Run to Beech Creek to east branch Mahoning Creek, three unnamed tributaries to east branch Mahoning Creek to Mahoning Creek to Allegheny River, application received December 27, 1996.

**17960125.** **Penn Grampian Coal Company** (Box 249, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine permit in Beccaria Township, **Clearfield County** affecting 110 acres, receiv-

ing streams unnamed tributary to Muddy Run, Muddy Run. This application also includes an encroachment of an unnamed tributary to Muddy Run. Application received December 24, 1996.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**33960109. TDK Coal Sales, Inc.** (P. O. Box 627, Clarion, PA 16214), commencement, operation and restoration of a bituminous surface strip, auger and rock removal operation in Union Township, **Jefferson County** affecting 157.4 acres. Receiving streams an unnamed tributary to Little Mill Creek. Application received December 27, 1996.

**33930111. Falls Creek Energy Co., Inc.** (R. D. 6, Box 231, Kittanning, PA 16201), transfer of an existing bituminous surface strip and auger operation in Young, Bell and McCalmont Townships, **Jefferson County** affecting 212.0 acres. Receiving streams unnamed tributaries to Elk Run. Transfer from Maud Mining Company. Application received January 2, 1997.

**33930102. John R. Yenzi, Jr.** (P. O. Box 287, Anita, PA 15711), renewal of an existing bituminous surface strip and auger operation in Oliver Township, **Jefferson County** affecting 120.3 acres. Receiving streams two unnamed tributaries to Little Sandy Creek and Little Sandy Creek. Application received January 9, 1997.

*Mining and Reclamation, 3913 Washington Road, McMurray, PA 15317.*

**30841316. Consol Pennsylvania Coal Company,** (P. O. Box 174, Graysville, PA 15337), to revise the permit for the Bailey bituminous deep mine in Richhill Township, **Greene County** to revise subsidence control plan area and surface area, no additional discharge. Application received December 20, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54861303R2. R. & D. Coal Company,** (214 Vaux Avenue, Tremont, PA 17981), renewal of an existing anthracite underground mine operation in Tremont Township, **Schuylkill County** affecting 7.8 acres, receiving stream Lorberrry Creek. Application received January 7, 1997.

**49910201R. Rosini Enterprises, Inc.,** (P. O. Box 568, Shamokin, PA 17872), renewal of an existing coal refuse reprocessing operation in Coal Township, **Northumberland County** affecting 68.0 acres, receiving stream none. Application received January 9, 1997.

*District Mining Operations, 437 South Center Street, Ebensburg, PA 15931-0625.*

*Industrial Minerals NPDES Permit Renewal Application Received*

**4074SM12. New Enterprise Stone & Lime Co., Inc.,** (P. O. Box 77, New Enterprise, PA 16664), renewal of NPDES Permit #PA0599352, Jefferson Township, **Somerset County** receiving streams unnamed tributaries to Kooser Run to Kooser Run to Laurel Hill Creek to Youghiogheny River, NPDES renewal application received January 3, 1997.

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection. Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to

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

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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*Northcentral Regional Office: Soils and Waterways Section, 208 W. Third St., Suite 101, Williamsport, PA 17701, telephone (717) 327-3574.*

**E14-300.** Encroachment. **Jerry B. Haney,** 15009 South 24th Way, Phoenix, AZ 85048. To remove the existing structure and to construct and maintain a concrete box culvert with a 3-foot rise, a 18-foot span and a 22-foot length in an unnamed tributary to Halfmoon Creek located approximately 1 mile south of the SR 0550 and T-309 intersection on the left hand side of T-309 (Port Matilda, PA Quadrangle N: 0.25 inch; W: 7.5 inches) in Halfmoon Township, **Centre County.** Estimated stream disturbance is 30 linear feet; stream classification is High Quality.

**E08-310.** Encroachment. **Calvin C. Cole, Inc.,** 809 North Elmira St., Sayre, PA 18840. To place and maintain fill in 0.7 acre of palustrine emergent wetlands for the purpose of expanding a materials storage area of an existing asphalt plant. To compensate for unavoidable impacts, the permit applicant proposes onsite replacement of the affected wetlands. The project site is located adjacent to the west side of SR 220, approximately 0.6 mile south of the village of Greenes Landing (Sayre, PA Quadrangle N: 8.2 inches; W: 3.7 inches) in Athens Township, **Bradford County.**

**E53-295.** Encroachment. **James Neagle,** 1884 Felker Rd., Middletown, PA 17057. To excavate 0.08 acre palustrine emergent wetland and to construct and maintain a water intake on Crowley Run for the purpose of constructing a 1/2 acre recreational pond. The site is located along the floodplain of Nine Mile Run on the north side of SR 006 and west of the Pine Log Motel and Thompson Hollow Road (Brookland, PA Quadrangle N: 5.7 inches; W: 8.2 inches) Ulysses Township, **Potter County.** Wetlands will be replaced at a 1:1 ratio. Stream classification is HQ-CWF.

*Northeast Regional Office: Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-5485.*

**E35-177.** Encroachment. **City of Scranton,** R800 Providence Road, Scranton, PA 18508. To remove the existing structure and to construct and maintain a 12 foot high reinforced earth retaining wall (MESA System)

having a length of approximately 60 linear feet along the right bank of Leggetts Creek (TSF). The project is located immediately downstream of the intersection of North Main Avenue and Leggetts Creek (Scranton, PA Quadrangle N: 12.6 inches; W: 2.7 inches) in the City of Scranton, **Lackawanna County** (Baltimore District, Army Corps of Engineers).

**E45-315.** Encroachment. **Gerald and Mary Gheraldi**, 4 James Towne Road, Manalapan, NJ 07726. To remove the existing structure and to construct and maintain a private single span bridge having a span of approximately 18 feet and an underclearance of 5.5 feet across a tributary to Appenzell Creek (HQ-CWF). The project is located on the south side of S. R. 3026, approximately 500 feet east of the intersection of S. R. 3026 and S. R. 3024 (Saylorsburg, PA Quadrangle N: 19.5 inches; W: 15.0 inches) in Jackson Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

**E45-316.** Encroachment. **Stillwater Lakes Civic Association, Inc.**, P. O. Box 118, Pocono Summit, PA 18346. To remove the existing structure and to construct and maintain a 22' x 4' reinforced concrete box culvert in Hawkey Run (HQ-CWF). The project is located along Holiday Drive in Stillwater Lake Estates on the east side of S. R. 0380, approximately 1.9 miles north of the intersection of S. R. 0380 and S. R. 0440 (Tobyhanna, PA Quadrangle N: 1.6 inches; W: 3.3 inches) in Coolbaugh Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

**E48-243.** Encroachment. **Liberty Property Limited Partnership**, 1510 Valley Center Parkway, Bethlehem, PA 18017. To construct and maintain a concrete solid fill dock having a surface area of approximately 420 s. f. in the reservoir of Dam No. D48-151 situated across a tributary to Monocacy Creek (HQ-CWF). The purpose of the dock is to provide a recreational patio for the tenants of a proposed office building. The project is located in Lehigh Valley Corporate Center, approximately 0.5 mile northeast of the intersection of S. R. 0022 and S. R. 3017 (Catasauqua, PA Quadrangle N: 5.2 inches; W: 4.3 inches) in Hanover Township, **Northampton County** (Philadelphia District, Army Corps of Engineers).

**E52-147.** Encroachment. **Dingman Township Supervisors**, 961 Fisher Lane, Milford, PA 18337. To construct and maintain a 42-inch culvert along side an existing 72-inch x 42-inch C.M.P. arch culvert in Swale Brook (HQ-CWF) and 800 feet downstream alongside a 42-inch x 27-inch C.M.P. arch culvert to alleviate existing flooding of the roadway. This project is located along Fisher Lane (T-379) between S. R. 2001 and S. R. 2011 (Milford, PA-NJ Quadrangle N: 11.1 inches; W: 13.7 inches and N: 10.7 inches; W: 13.7 inches) in Dingman Township, **Pike County** (Philadelphia District, Army Corps of Engineers).

**E64-178.** Encroachment. **Anthony V. Herzog and Jane H. McNulty**, 200 Delaware Avenue, Honesdale, PA 18431. To place fill in 0.01 acre of isolated wetlands (PEM) to develop the property for a commercial building and parking lot. This project is located on the east side of SR 0191, 0.7 mile south of SR 3033 (Honesdale, PA Quadrangle N: 5.3 inches; W: 1.5 inches) in Cherry Ridge Township, **Wayne County** (Philadelphia District, Army Corps of Engineers).

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

**E15-533.** Encroachment. **Department of Transportation**, 200 Radnor-Chester Road, St. Davids, PA 19087. To

remove a bridge with a timber beam and deck superstructure having a span of 14.5 feet, an average underclearance of 3.8 feet, and associated stone masonry abutments. Also to install and maintain a precast reinforced concrete box culvert having a span of 18.0 feet, rise of 5.0 feet on a 60 degree skew; and to construct and maintain associated wingwalls and roadway approach fills at this location situated in and along the north branch of Indian Creek (HQ, CWF). This site is located approximately 165 feet southwest of the intersection of Springton Road (SR 4021) and Indiantown Road (SR 4023) (Wagontown, PA USGS Quadrangle N: 13.95 inches; W: 4.40 inches) in Wallace Township, **Chester County**.

*DEP Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 6, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.*

**D13-085A.** Dam. **Bethlehem Authority**, City Center Administration Building, Room 502, 10 East Church Street, Bethlehem, PA 18018. To modify, operate and maintain Penn Forest Dam located across Wild Creek and Hell Creek in Penn Forest Township, **Carbon County**.

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#### Initial Notice of Request for Certification under Section 401 of the Federal Water Pollution Control Act

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The following requests have been made to the Department of Environmental Protection for certification under section 401(a) of the Federal Clean Water Act, (33 U.S.C.A. § 1341(a)), that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of that act, and that the construction will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments, suggestions or objections which are submitted in writing within 30 days of the date of this notice. Comments should be submitted to the Department of Environmental Protection at the address indicated above each of the following requests for certifications. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments are addressed and a concise statement of comments, objections or suggestions in sufficient detail to inform the Department of the exact basis of the proposal 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 comments if deemed necessary to resolve conflicts. Each individual will be notified in writing of the time and place of any scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated above each request for certification between the hours of 8 a.m. and 4 p.m. on each working day.

*Northcentral Regional Office: Assistant Regional Director, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, telephone (717) 327-3320.*

*Certification Request Initiated By:* Department of Transportation, District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830.

*Project Description/Location:* To construct and maintain various size culverts and bridges and impact 31.5 acres of wetlands in and along tributaries to South Bald Eagle Creek, North Bald Eagle Creek and Buffalo Run for

improvements to U. S. 220 in Snyder Township, Blair County, and Taylor, Worthy, Huston and Patton Townships, Centre County.

**Applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.**

*Southcentral Regional Office: Field Operations, Sanitarian Regional Manager; One Ararat Boulevard, Harrisburg, PA 17110.*

**WA 36-799A.** Water allocation. Borough of Akron, Lancaster County. The applicant is requesting the right to increase its withdrawal from a spring located in the Borough of Akron from 36,000 gpd to the entire available flow during the months of March, April, May and June.

**ACTIONS**

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

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

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.

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

*Permits Issued*

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

*Permits Issued*

*Northcentral Regional Office: Water Management Program Manager; 208 W. Third Street, Williamsport, PA 17701-6510, telephone (717) 327-3664.*

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR224808	White Lumber Company R. D. 2, Box 1 Mahaffey, PA 15757	Clearfield Bell Twp.	Deer Run	2421

**NPDES Permit No. PA 0033421.** Sewage. Mercer/Grove City KOA Campground, 1337 Butler Pike, Mercer, PA 16137-6211 is authorized to discharge from a facility located in Findley Township, Mercer County to an unnamed tributary to Pine Run.

**NPDES Permit No. PA 0222135.** Sewage. Fort Charles Young, VisionQuest National Ltd., P. O. Box 168, Franklin, PA 16323 is authorized to discharge from a facility located in Sandycreek Township, Venango County to an unnamed tributary to the Allegheny River.

**NPDES Permit No. PA 0222089.** Sewage. Troy Ellsworth, Box 247, Duke Center, PA 16729 is authorized to discharge from a facility located in Otto Township, McKean County to Tram Hollow Run.

**NPDES Permit No. PA 0006441.** Industrial waste. CSX Transportation, Inc., (Riker Yard) 500 Water Street, Jacksonville, FL 32202 is authorized to discharge from a facility located in Bell Township, Jefferson County to Mahoning Creek.

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

**NPDES Permit No. PA0024163.** Sewage, Cambria Township Sewer Authority, P. O. Box 247, Revloc, PA 15948 is authorized to discharge from a facility located at Revloc Sewage Treatment Plant, Cambria Township, Cambria County to south branch Blacklick Creek.

**NPDES Permit No. PA0217476.** Sewage, Edward L. Soloski, 301 South Jefferson Street, Kittanning, PA 16201 is authorized to discharge from a facility located at Audubon Estates Sewage Treatment Plant, East Franklin Township, Armstrong County to unnamed tributary of Glade Run.

**Final Actions**

The Department of Environmental Protection has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

These actions of the Department may be appealed to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Environmental Hearing Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR114806	SMS Engineering 234 S. Potter Street Bellefonte, PA 16823	Centre Bellefonte Boro.	Spring Creek	3547
PAR214816	Resco Product Inc. P. O. Box 1110 Clearfield, PA 16830	Clearfield Lawrence Twp.	West Branch Susquehanna River	3255
PAR224801 and PAR224804	Catawissa Lumber & Specialty Co. P. O. Box 176 Catawissa, PA 17820-0176	Columbia Northumberland Catawissa Boro and Ralpho Township	Catawissa Creek for Columbia Cty. unnamed trib. to Shamokin Creek for Northumberland	2426
PAR224831	Willamette Industries, Johnsonburg Mill Woodland Forest Products R. R. 1, Box 313C Woodland, PA 16881	Clearfield Bradford Twp.	Roaring Run, Tributary to Clearfield Creek and West Branch Susquehanna	2499
PAR304801	Al Hamilton Contracting Co. R. D. 1, Box 87 Woodland, PA 16881	Clearfield Bradford Twp.	Forcey Run	1241

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, telephone (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

*Southcentral Regional Office: Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, telephone (717) 657-4590.*

**PAS-10-H061.** Individual NPDES. **New Penn Motor Express, Inc.**, 625 South 5th Street, Lebanon, PA 17042. To implement an Erosion and Sedimentation Control Plan for a housing development called High Meadows-Phases IV and V on 64.25 acres in Lower Allen Township, **Cumberland County**. The project is located on I76 and Lisburn Road about 0.9 mile southeast of the I76 and Lisburn Road over pass (Lemoyne, PA Quadrangle N: 11.3 inches; W: 7.8 inches). Drainage will be to a dry swale.

**PAS-10-O056.** Individual NPDES. **Marvin M. Roberts, Jr.**, 917 River Road, Holtwood, PA 17532. To implement an Erosion and Sedimentation Control Plan for the Tucquan Park Family Campground on 45 acres in Martic Township, **Lancaster County**. The project is located along east side of River Road, about 0.5 mile south of Erbs Mill (Holtwood, PA Quadrangle N: 20.5 inches; W: 10.5 inches). Drainage will be to Tucquan Creek.

**The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-D084	Trafalgar House Residential 375 Philips Road Trenton, NJ 08618	Northampton Twp. Bucks County	Neshaminy Creek
PAS10-J026	Greenview Estates, Inc. 2 ER Raymond Drive Havertown, PA 19083	Bethel Twp. Delaware County	Naaman's Creek

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10U063	Willow Brook Land Development Corporation, LLC Howertown Road, P. O. Box 32 Catasauqua, PA 18032-0032	Northampton Co. North Catasauqua Borough	Catasauqua Creek

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**The following approvals for coverage under NPDES Individual Permit for Discharges of Stormwater from Construction Activities have been issued.**

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*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS107000	Sandy Creek Township R. D. 4, Box 900 Franklin, PA 16323	Sandycreek Township Venango County	Morrison Run unnamed tributary and the Allegheny River

*Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS100805	Towanda Area Joint Municipal Airport Authority R. R. 2, Box 69A Towanda, PA 18848	Towanda Borough Bradford County	Towanda Creek
	Riggs & Gardner Contracting & Design 475 Valley View Rd. Bellefonte, PA 16823	Howard Borough and Howard Township Centre County	Unt. Lick Run

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**Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**WQM Permit No. 2594413.** Sewage. **Tracy Golf Course** (Crabapple Ridge), 10234 Sharp Road, Waterford, PA 16441. This project is for the construction and operation of a small flow treatment facility with spray irrigation in Waterford Township, **Erie County**.

**WQM Permit No. 4296402.** Sewage. **Troy Ellsworth**, Box 247, Duke Center, PA 16729. This project is for the construction and operation of a proposed wastewater treatment facility located in Otto Township, **McKean County**.

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

**Permit No. 0287204.** Amendment No. 1. Industrial waste, **Allegheny County Department of Aviation**, Pittsburgh International Airport, Landside Terminal, Suite 4000, P. O. Box 12370, Pittsburgh, PA 15231-0370. Construction of the downsized detention basin (leachate collection basin) for the closed onsite landfill located in the Township of Findlay, **Allegheny County**.

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**Approvals for coverage under the General NPDES Permit for Discharge from Stripper Oil Well Facilities—Permit PAG310001.**

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*Northwest Regional Office: Regional Oil and Gas Manager, 230 Chestnut Street, Meadville, PA 16335, telephone (814) 332-6860.*

**6194001.** Amendment No. 1. **James L. Beck**, 15852 Pleasant Valley Drive, Pleasantville, PA 16341 is approved for coverage for a discharge (Outfall 005) to Muskrat Run in President Township, a discharge (Outfall 006) to Pine Run in President Township, and a discharge (Outfall 008) to an unnamed tributary to Pithole Creek in Allegheny Township, **Venango County**. This is a renewal of an existing approval.

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**Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

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

*Location:* Southside of T. R. 439, 1/4 mile west of the intersection of S. R. 2020 and T. R. 439, Whiteley Township, **Greene County**.

*Project Description:* Approval of a revision to the Official Sewage Facility Plan of Whiteley Township, Greene County. Project involves the construction of a sewage treatment plant to serve a proposed deep mine and bath house. Treated effluent is to be discharged to an unnamed tributary of Patterson Run.

*Regional Office: Water Management Program Manager, Southcentral Region, One Ararat Boulevard, Harrisburg, PA 17110.*

*Location:* York Township, York County.

*Project Description:* Approval of a revision granted December 31, 1996 to the Official Sewage Plan of York Township, York County, 25 Oak Street, York, PA 17402. Plan approval is given for the construction of a sewer extension including approximately 7 miles of collection and interceptor sewers, a pump station, and force main to serve portions of the Leaders Heights area. The proposal will serve estimated sewage flows of 133,000 GPD and is tributary to the York City Wastewater Treatment Facility. The project also includes the subdivision of a 48 acre parcel into two lots: Lot no. 1 residual to be used for agricultural purposes with no proposed construction of sewage generating structures, and Lot no. 2 (0.8 acre) to be used for the construction and installation of a pump station along Imperial Drive.

The project name is Leader Heights Service Area and its DEP code number is A3-67971-393-3.

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**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

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*Northwest Regional Office: Sanitarian Regional Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6899.*

**Permit No. 4296502.** Public water supply. **Mt. Jewett Borough Authority**, 1 Center St., Box 441, Mt. Jewett, PA 16740. This permit specifically covers the approval of well no. 9 as a source of supply, the change in the manufacturer for the manganese greensand filters, the installation of a 2,000 gallon holding tank, the approval of the existing zinc orthophosphate feed equipment and other chemical injection point changes and the construction of a 18,000 gallon recycling basin for the filter backwash water in Hamlin Township, **McKean County**.

*Type of Facility:* Community water supply.

*Consulting Engineer:* Allen R. Vanderpoel, P. E., E&M Engineers & Surveyors, PC, 24 Derrick Road, Bradford, PA 16701-3350.

*Permit to Construct Issued:* January 8, 1997.

*Regional Office: Sanitarian Regional Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4692.*

**Permit No. 6795503.** Public water supply. **Windy Brae Mobile Home Park**, N. Hopewell Township, **York County**. (Robert T. Barclay, 14971 Mt. Olivet Road, Stewartstown, PA 17363), proposed well no. 6 utilizing existing treatment facilities.

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**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

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*Northeast Regional Office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

**Permit No. 3594505.** Public water supply. **Belle Aire Acres**, c/o James L. Black, Owner, R. R. 3, Box 509A, Lake Ariel, PA 18436. This proposal involves an application for permit for modifications to an existing public water supply system. Modifications include the addition of chlorination equipment and changes to the piping system. It is located in Jefferson Township, **Lackawanna County**.

*Permit to Operate:* November 12, 1996.

**Permit No. 3995504.** Public water supply. **Kids Peace-Orchard Hills Campus**, c/o Boris Mandich, P. E., 5300 KidsPeace Drive, Orfield, PA 18069-9101. This proposal involves permitting of two existing wells for incorporation into the KidsPeace PWS system. It is located in North Whitehall Township, **Lehigh County**.

*Permit to Operate:* November 6, 1996.

**Permit No. 3996502.** Public water supply. **South Whitehall Township Authority**, Gerald J. Gasda, Township Manager, 4444 Walbert Avenue, Allentown, PA 18104-1699. This proposal involves the installation of chemical feed equipment at the existing Allentown/South Whitehall Township distribution system interconnection to boost the chlorine residual of water supplied from the City of Allentown system. It is located in South Whitehall Township, **Lehigh County**.

*Permit to Operate:* December 23, 1996.

**Permit No. 4089512.** Public water supply. **Four Seasons Mobile Home Park**, c/o Thomas A. Domin, Box 44, Hazle Village, Hazleton, PA 18201. This proposal involves the permitting of an existing public community water supply serving the Four Seasons Mobile Home Park in Hazle Township, **Luzerne County**. The application con-

tains two existing wells supplying the system, which will be upgraded with chlorination and caustic soda addition facilities, metering, a 20,000 gallon concrete storage tank and a booster pump station.

*Permit to Operate:* December 26, 1996.

**Permit No. 4090512.** Public water supply. **Cherone Trailer Court**, c/o Mark Cherone, 807 Schwab Street, Freeland, PA 18224. This proposal involves the permitting of an existing community water supply serving the Cherone Trailer Court in Freeland Borough, **Luzerne County**. This system included two wells, disinfection, iron sequestration, storage facilities and a distribution system.

*Permit to Operate:* November 2, 1996.

**Permit No. 4589518.** Public water supply. **Deer Run Mobile Home Park**, c/o John Shadie, 582 Horseshoe Drive, Easton, PA 18042. This proposal involves the permitting of an existing mobile home park serving 30 lots. The system includes one well, disinfection, storage tank and distribution system. It is located in Stroud Township, **Monroe County**.

*Permit to operate:* November 5, 1996.

**Permit No. 5295501.** Public water supply. **Pennsylvania-American Water Company**, Hickory System, c/o David Modeer, Vice President, 800 West Hershey Park Drive, Hershey, PA 17033. This proposal involves installing caustic soda feed facilities for pH adjustment of the individual well supplies. Corrosion inhibitor feeds will be added. Containment for the sodium hypochlorite, caustic soda and inhibitor feeds will also be included. It is located in Delaware Township, **Pike County**.

*Permit to Operate:* November 12, 1996.

**Permit No. 6496503.** Public water supply. **Holiday Park**, P. O. Box 2875, Branchville, NJ 07826, James Conner. This proposal involves permitting a system existing since 1973 serving 80 people. The system has a single well source, two hydropneumatic tanks, hypochlorinator, contact tank and distribution system. It is located in Cherry Ridge Township, **Wayne County**.

*Permit to Operate:* December 30, 1996.

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**Submission of Final Reports on Attainment of Background and Statewide Health Standards (Sections 302(e)(2) and 303(h)(2))**

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The following final reports were submitted to the Department of Environmental Protection under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, please contact the Environmental Cleanup Program in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

The Department has received the following final reports:

*Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

**Pennsylvania Power & Light Company (PP&L)**—Hauto (former) Steam Electric Station, Nesquehoning Borough, **Carbon County**. PP&L, 2 North Ninth Street, Allentown, PA has submitted a Final Report documenting the remediation of site soils found to be contaminated with lead and arsenic. The applicant remediated the site to meet the Statewide health standard.

*Southeast Regional Office: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-5950.*

**Claymont Development Property**, Birmingham Township, **Delaware County**. Robert S. Terefenko, P. G., EnviroTEL, Inc., 1000 Nutt Road, Phoenixville, PA 19460, has submitted a Final Report concerning remediation of site soils contaminated with BTEX and petroleum hydrocarbons; groundwater contaminated with lead, BTEX, and petroleum hydrocarbons. On December 17, 1996, the applicant elected not to utilize both background and Statewide health standards. The Final Report is intended to document remediation of the site to meet the Statewide health standard alone.

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**License issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Bacte-Nature, Inc.**, 654-A Mount Road, Aston, PA 19014; License No. **PA-AH 0545**; license issued December 18, 1996.

**Envirite of Ohio, Inc.**, 2050 Central Avenue, SE, Canton, OH 44707; License No. **PA-AH 0548**; license issued December 19, 1996.

**Envirite of Pennsylvania**, 1600 Pennsylvania Avenue, York, PA 17404; License No. **PA-AH 0549**; license issued December 19, 1996.

**Envirite of Illinois, Inc.**, 16435 Center Avenue, Harvey, IL 60426; License No. **PA-AH 0547**; license issued December 19, 1996.

**Meklo, Incorporated, d/b/a Eltex Chemical and Supply Company**, 4050 Homestead Road, Houston, TX 77028; License No. **PA-AH 0546**; license issued December 18, 1996.

**Transport Rollex-Ltee.**, 910 Boul. Lionel-Boulet, Varennes (Quebec) J3X 1T6, Canada; License No. **PA-AH 0544**; license issued December 18, 1996.

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**Amended License issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Terra First, Inc.**, P. O. Box 1259, Vernon, AL 35592; License No. **PA-AH 0348**; amended license issued January 3, 1997.

**Wayne W. Sell Corporation**, 236 Winfield Road, Sarver, PA 16055; License No. **PA-AH 0123**; amended license issued January 3, 1997.

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**Renewal licenses issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Terra First, Inc.**, P. O. Box 1259, Vernon, AL 35592; License No. **PA-AH 0348**; renewal license issued January 3, 1997.

**Wayne W. Sell Corporation**, 236 Winfield Road, Sarver, PA 16055; License No. **PA-AH 0123**; renewal license issued January 3, 1997.

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**Hazardous waste transporter license voluntarily terminated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations for license to transport hazardous waste.**

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*Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**J. B. Hunt Special Commodities, Inc.**, c/o J. B. Hunt Transport Services, Inc., J. B. Hunt Corp. Drive, Lowell, AR 72745; License No. **PA-AH 0400**; license terminated December 1, 1996.

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**Application denied under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

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*Central Office—Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA 17101-2301.*

**General Permit Application No. WMGR042. U. S. Steel (USS) Mon Valley Works**, Edgar Thomson Plant, 13th and Braddock Avenue, Braddock, PA 15104. An application to beneficial use steel slag (BOP slag fines) as a construction material. The application was denied by Central Office on December 9, 1996.

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

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*Northcentral Regional Office: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701, telephone (717) 327-3653.*

**Permit No. 301283. Bellefonte Lime Company Residual Waste Landfill, Bellefonte Lime Company, Inc.** (North Thomas Street, Bellefonte, PA 16823). Operation of a demonstration facility Class III Residual Waste Landfill for disposal of the company's lime sludge material located in Benner Township, **Centre County**. Permit issued in the regional office on December 19, 1996.

**Plan Approval extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate and operate air contaminant sources or air cleaning devices.**

*Southwest Regional Office: Bureau of Air Quality, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**04-313-053B.** On December 31, 1996, a plan approval expiration date was extended to May 1, 1997 for **Envirotrol, Inc.** (P. O. Box 61, Sewickley, PA 15143) for a scrubber and afterburner on the rotary kiln carbon regenerator at its Darlington facility located in Darlington Township, **Beaver County**.

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

*Northeast Regional Office: Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

A Plan Approval has been issued by this office for the construction, modification, reactivation or operation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **39-309-046B**

Source: Kiln #3/Tire Fuel/Baghouse

Issued: December 31, 1996

Company: **Lafarge Corporation**

Location: Whitehall Township

County: **Lehigh**

Permit: **40-314-004**

Source: Foam Reticulator w/Spray Scrubber

Issued: December 16, 1996

Company: **G F C Foam Incorporated**

Location: West Hazleton Borough

County: **Luzerne**

Permit: **48-309-095**

Source: Clinker Silo Discharge w/Baghouse

Issued: December 16, 1996

Company: **Essroc Materials Incorporated**

Location: Lower Nazareth Township

County: **Northampton**

Permit: **48-309-096**

Source: Special Clinker Hopper w/Baghouse

Issued: December 16, 1996

Company: **Essroc Materials Incorporated**

Location: Lower Nazareth Township

County: **Northampton**

Permit: **48-318-001A**

Source: Chrome Plating w/Mist Eliminator

Issued: December 18, 1996

Company: **American Nickeloid Company**

Location: Walnutport Borough

County: **Northampton**

#### **MINING ACTIVITY ACTIONS**

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4401—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

#### *Coal Applications Issued*

**32910105.** Permit Renewal, **GLR Mining, Inc.** (P. O. Box 105, Clymer, PA 15728), commencement, operation and restoration of a bituminous strip mine in Canoe Township, **Indiana County**, affecting 52.8 acres, receiving stream unnamed tributary to Brewer Run; application received October 28, 1996, permit issued December 24, 1996.

**56910106.** Permit Renewal, **Pennsylvania Coal Company, Inc.** (One Riverfront Center, Suite 530, 20 Stanwix Street, Pittsburgh, PA 15222), commencement, operation and restoration of a bituminous strip-auger mine, valid for reclamation, only in Shade Township, **Somerset County**, affecting 186.8 acres, receiving stream Miller Run and tributaries to Dark Shade Creek, application received December 23, 1996, permit issued December 24, 1996.

**11850110.** Permit Renewal. **E. P. Bender Coal Company, Inc.** (Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722), commencement, operation and restoration of a bituminous strip-auger mine valid for reclamation, only in White Township, **Cambria County**, affecting 144.0 acres, receiving stream Dutch Run and its unnamed tributaries, application received October 30, 1996, permit issued January 2, 1997.

**11960108.** **Laurel Land Development, Inc.** (P. O. Box 629, Carrolltown, PA 15722), commencement, operation and restoration of a bituminous strip-beneficial use of CFB Ash mine in Blacklick Township, **Cambria County**, affecting 54.1 acres, receiving stream Coalpit Run, application received July 28, 1996, permit issued January 7, 1997.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

**17910121.** **Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine permit in Jordan and Beccaria Townships, **Clearfield County** affecting 195 acres, receiving streams: Buck Run and an unnamed tributary of Buck Run to Buck Run; Buck Run to Clearfield Creek;

Clearfield Creek to West Branch Susquehanna River, application received October 31, 1996, permit issued December 19, 1996.

**17960114. Larry D. Baumgardner Coal Co., Inc.** (P. O. Box 127, Lanse, PA 16849), commencement, operation and restoration of a bituminous surface mine permit in Brady Township, **Clearfield County** affecting 57 acres, receiving streams: unnamed tributaries to Luthersburg Branch, application received July 23, 1996, permit issued December 20, 1996.

**17910115. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661-0225), revision to an existing bituminous surface mine permit for a Change in Land Use from noncommercial forestland to cropland, Decatur Township, **Clearfield County**, application received October 21, 1996, permit issued December 26, 1996.

**14860103. Keystone Coal Company** (P. O. Box 204, Maryland Line, MD 21105), renewal of an existing bituminous surface mine permit in Curtin Township, **Centre County** affecting 199 acres, receiving streams: unnamed tributary to Beech Creek, and Beech Creek to Bald Eagle Creek to west branch of Susquehanna River, application received November 4, 1996, permit issued December 30, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**24910101. Maud Mining Company** (P. O. Box 729, Indiana, PA 15701), renewal of an existing bituminous strip and auger operation in Jay and Benezette Townships, **Elk County** affecting 458.0 acres. Receiving streams: Bakeman's Run and Buttermilk Run. Application received November 7, 1996. Permit issued: December 30, 1996.

**16900109. MAF Coal & Excavation, Inc.** (R. D. 1, Box 261A, Sligo, PA 16255), transfer of an existing bituminous strip and tippel refuse disposal operation in Clarion and Limestone Townships, **Clarion County** affecting 199.2 acres. This permit is transferred from TDK Coal Sales, Inc. Receiving streams: two unnamed tributaries of Piney Creek, one unnamed tributary to Brush Run and two unnamed tributaries to Little Piney Creek. Application received: September 5, 1996. Permit issued: January 2, 1997.

*Mineral Resources Management District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54960101. J and A Coal Company** (R. D. 1, Box 121A, Hegins, PA 17938), commencement, operation and restoration of an anthracite surface mine operation in Barry and Foster Townships, **Schuylkill County** affecting 246.4 acres, receiving stream—Hans Yost Creek. Permit issued January 8, 1997.

**54713002R2. Reading Anthracite Company** (200 Mahantongo Street, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in New Castle Township and St. Clair Borough, affecting 218.0 acres, receiving stream—East Branch Norwegian Creek. Renewal issued January 10, 1997.

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

*Noncoal Applications Issued*

**05960302. New Enterprise Stone & Lime Company, Inc.** (P. O. Box 77, Church Street, New Enterprise, PA

16664), commencement, operation and restoration of a noncoal mine in Snake Spring Valley Township, **Bedford County**, affecting 131.3 acres, receiving stream Cove Creek, application received July 22, 1996, permit issued January 2, 1997.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**16960304. Milestone Crushed, Inc.** (521 South Street, Clarion, PA 16214), commencement, operation and restoration of a sand and gravel operation in Perry Township, **Clarion County** affecting 91.2 acres. Receiving streams: Dunlap Creek. Application received: June 17, 1996. Permit issued: December 30, 1996.

**37960301. Atlantic States Limestone of PA, Inc.** (P. O. Box 348, Sewickley, PA 15143), commencement, operation and restoration of a Limestone operation in North Beaver Twp., **Lawrence County** affecting 308.0 acres. Receiving streams: unnamed tributary to Mahoning River, unnamed tributary to Hickory Run. Application received: January 9, 1996. Permit issued: December 30, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

*Small Industrial Mineral Authorizations Granted*

**53960808. Wending Creek Farms, Inc.** (5 West Third Street, Coudersport, Pa 16915), commencement, operation and restoration of a Small Industrial Mineral (Shale and Rock) permit in Hebron Township, **Potter County** affecting 1 acre, application received September 17, 1996, authorization granted December 30, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

*Coal Applications Denied*

**17950101. Bulldog Coal Company** (R. D. 2, Box 195A, Curwensville, PA 16833), commencement, operation and restoration of a bituminous surface mine permit in Knox Township, **Clearfield County** affecting 102.7 acres, receiving streams: unnamed tributaries to Potts Run to Clearfield Creek, unnamed tributary to Lost Run to Clearfield Creek, application received January 1, 1995, permit denied January 6, 1997.

The Department of Environment Protection has taken the following actions on previously received Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

Any person aggrieved by this action may appeal, under to section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 1 (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 at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of the act of June 22, 1937 (P. L. 1987, No. 394) (35 P. S. § 691.5 and 691.402) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a))** (Note: Permits issued for Small Projects do not include 401 certification, unless specifically stated in the description.)

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

*Permits Issued*

**E03-322.** Encroachment. **Glacial Sand and Gravel Company**, P. O. Box 1022, Kittanning, PA 16201. To extend the time on Permit No. E03-322 to perform commercial sand and gravel dredging in the Allegheny River in Pool No. 7 between Mile Points 46.0 to 46.3, M. P. 46.4 to 46.8, M. P. 47.3 to 50.1, M. P. 50.46 to 50.56, M. P. 50.7 to 51.7 and in Pool No. 8 from Mile Points 52.9 to 54.73, M. P. 54.8 to 55.4, M. P. 55.68 to 60.07, M. P. 60.17 to 61.15 and M. P. 61.27 to 62.0 (Kittanning, PA Quadrangle N: 13.3 inches; W: 4.2 inches) in Boggs, East Franklin, Madison, Pine, Rayburn and Washington Townships and the Borough of Kittanning and Templeton, **Armstrong County**.

**E04-145.** Encroachment. **Campbell Transportation Co. Inc.**, P. O. Box 124, Charleroi, PA 15022. To renew Permit E04-145 to perform commercial sand and gravel dredging in the Ohio River from Mile Point 35.0 to Mile Point 36.1 and from Mile Point 36.3 to Mile Point 39.5 in the Boroughs of Georgetown, Glasgow, Industry, Midland, Ohioville, and Shippingport and Green Township in **Beaver County**.

**E04-242.** Encroachment. **Department of Transportation**, 45 Thoms Run Rd., Bridgeville, PA 15017. To remove the existing bridge and to construct and maintain a R. C. box culvert having a span of 16.0 feet and an effective underclearance of 5.0 feet in an unnamed tributary to Little Traverse Creek. The culvert invert is to be depressed 1.0 foot. The project is located on S. R. 0030 Section B04 Station 502+24 (Hookstown, PA Quadrangle N: 5.2 inches; W: 1.5 inches) in Hanover Township, **Beaver County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E04-237.** Encroachment. **Lisa and James McCoy Jr.**, 208 Silver Slipper Road, Hookstown, PA 15050. To construct and maintain a 6-foot corrugated metal pipe depressed 12 inches; a 5-foot corrugated metal pipe; two 2.5-foot corrugated metal pipe, all 30 feet long in Little Service Run; and to place and maintain fill in 0.097 acre of wetland, for the purpose of providing access to a private residence. The project is located in the Hoover Estate Subdivision on Boyd Road (T-368) approximately 0.25 mile from the intersection of Boyd Road and SR 04046 (Hookstown, PA Quadrangle N: 7.2 inches; W: 8.8 inches) in Hanover Township, **Beaver County**.

**E56-269.** Encroachment. **Dept. of Transportation**, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove the existing structure and to construct and maintain a 13.14 meter long dual-cell box culvert, each cell having a span of 4.57 meters with an underclearance of 1.83 meters (invert depressed 0.3 meter) in Roaring Run (CWF) located on SR 0985, Section 10B, Segment 0160,

Offset 0256M (Boswell, PA Quadrangle N: 10.3 inches; W: 6.3 inches) in Jenner Township, **Somerset County**. The project includes placement and maintenance of fill in a de-minimus area of wetlands less than or equal to 0.05 acre.

**E65-641.** Encroachment. **Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To operate and maintain an existing 80-foot long, 14.0-foot × 7.5-foot concrete pipe arch culvert in a tributary to Little Sewickley Creek and to construct and maintain a 17.0-foot extension to said existing culvert at the outlet, a 12.0-foot extension to the right wing wall at the inlet and a 2.0 foot extension to the left wing wall at the inlet as part of improving Turnpike Bridge B-432. The project is located on T-544 at Turnpike Milepost 69.15 (Irwin, PA Quadrangle N: 6.6 inches; W: 6.2 inches) in Hempfield Township, **Westmoreland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E65-656.** Encroachment. **Dept. of Transportation**, P. O. Box 459, Uniontown, PA 15401. To remove the existing bridge and to construct and maintain a twin cell box culvert, each culvert having a span of 12.0 feet with an underclearance of 4.5 feet (each invert depressed 1.0 foot) in Speers Run (WWF) and to remove the existing retaining wall and place and maintain riprap bank protection for a distance of approximately 67.0 feet along the left bank of said stream. The bridge is located on SR 3003 Section A01 approximately 2,000 feet downstream from Interstate Route 70 (Donora, PA Quadrangle N: 2.7 inches; W: 14.0 inches) in Rostraver Township, **Westmoreland County**. This permit also authorizes the construction and maintenance of temporary diversion pipes. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Permits Issued and Actions on 401 Certification*

*Northwest Regional Office: Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**E16-096.** Encroachment. **Department of Transportation**, District 10-0, P. O. Box 429, Route 286 South, Indiana, PA 15701. To remove the existing two-span pony truss bridge and to construct and maintain a prestressed concrete spread box beam bridge having three clear, normal spans of 80 feet and an average underclearance of 13 feet across Redbank Creek on S. R. 28 (New Bethlehem, PA Quadrangle N: 0.25 inch; W: 11.9 inches) located in the Borough of South Bethlehem, **Armstrong County** and the Borough of New Bethlehem, **Clarion County**.

**E16-097.** Encroachment. **Department of Environmental Protection**. Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105-8476. To fill a total of 0.926 acre of five bodies of water and 1.54 acres of four wetland areas as part of an abandoned mine reclamation project (OSM 16(0823)101.1) eliminating 28 acres of strip mine area and two dangerous highwalls having a total length of 2,500 feet. The project is adjacent to a tributary to Clarion River in the village of West Freedom approximately 2,000 feet southeast of the intersection of S. R. 368 and S. R. 3001 (Rimersburg, PA Quadrangle N: 18.7 inches; W: 16.5 inches) located in Perry Township, **Clarion County**.

**E62-327.** Encroachment. **Department of Transportation**, District 1-0, 1140 Liberty Street, Franklin, PA

16323. To remove the existing bridge and to construct and maintain a prestressed concrete spread box beam bridge having a single clear span of 34 feet, 10.5 inches and an underclearance of 5.6 feet on a 60 degree skew across Storehouse Run on S. R. 1015, Segment 0100, Offset 0000 approximately 2 miles south of the PA-NY state line (Russell, PA-NY Quadrangle N: 18.0 inches; W: 0.55 inch) located in Pine Grove Township, **Warren County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Environmental Assessment Approvals and Actions on 401 Certifications*

**E10-008NW.** Environmental assessment. **Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17015-8476. To place fill in a total of 3.238 acres of six bodies of water and to place fill in a total of 0.535 acre of four wetland areas in order to reclaim two separate abandoned strip mine areas (OSM10(3795)101.1) and eliminate 3,500 linear feet of dangerous highwall. The project is located in the Buffalo Creek Watershed (HQ-CWF) east of S. R. 1023 approximately 5,000 feet north of the intersection of S. R. 1023 approximately 5,000 feet north of the intersection of S. R. 1023 and S. R. 0068. This project will include creation of a 0.54-acre replacement wetland adjacent to the reclamation project (Chicora, PA Quadrangle N: 17.5 inches; W: 14.9 inches) located in Fairview Township, **Butler County**.

*Northeast Regional Office: Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-5485.*

**E35-267.** Encroachment. **South Abington Township**, 104 Shady Lane Road, P. O. Box 259, Chinchilla, PA 18410. To construct and maintain approximately 100 linear feet of streambank protection, consisting of 42 linear feet of gabion wall and 58 linear feet of R-7 riprap lining, along the left bank of a tributary to Leggetts Creek. The project includes removal of two gravel bars within the 100-foot channel reach, and removal of debris from the channel. The project is located along the west side of Willowbrook Road (T-525), approximately 1,000 feet southwest of the intersection of T-525 and S. R. 4019 (Scranton, PA Quadrangle N: 21.7 inches; W: 7.5 inches), in South Abington Township, **Lackawanna County**.

**E39-314.** Encroachment. **Department of Transportation**, District 5-0, 1713 Lehigh Street, Allentown, PA 18103. To remove the existing structure and to construct and maintain a single span prestressed concrete adjacent box beam bridge having a span of 100 feet with an underclearance of approximately 9.3 feet on a 70 degree skew across Ontelaunee Creek. The project, S. R. 0863, Section 01B, is located at the intersection of S. R. 0863 and Ontelaunee Creek approximately 0.1 mile south of S. R. 0863 and S. R. 0143 (New Tripoli, PA Quadrangle N: 8.8 inches; W: 7.7 inches) in Lynn Township, **Lehigh County**.

**E39-315.** Encroachment. **South Whitehall Township**, 4444 Walbert Avenue, Allentown, PA 18104-1699. To construct and maintain two 36-inch storm sewer pipes beneath the Haines Mill Head Race and an outfall structure consisting of three 36 inch pipes along Cedar Creek to alleviate local flooding problems. This project is located approximately 50 feet south of S. R. 2009 (Haines Mill Road) over Cedar Creek (Allentown West, PA Quadrangle N: 15.2 inches; W: 4.5 inches) in South Whitehall Township, **Lehigh County**.

**E39-317.** Encroachment. **City of Allentown**, 2700 Parkway Boulevard, Allentown, PA 18104-5399. To place fill at spot locations within the 100-year floodplain of Little Cedar Creek, for the purpose of constructing golf tees and bunkers at the Allentown Municipal Golf Course. The project is located between Trexler Boulevard and Tilghman Street (Allentown West, PA Quadrangle N: 18.0 inches; W: 5.5 inches) in the City of Allentown, **Lehigh County**.

**E45-301.** Encroachment. **Tannersville Realty Company**, 490 North Main Street, Pittston, PA 18640. To construct and maintain a 1-inch diameter intake structure in and along the left bank of Pocono Creek, for the purpose of providing a maximum of 500 gallons of water per day (at a maximum flow rate of 15 gallons per minute) for washing of equipment at the Insalaco's Market wastewater treatment plant. The project is located on the west side of S. R. 0611, approximately 0.2 mile south of the intersection of S. R. 0611 and S. R. 0715 (Mount Pocono, PA Quadrangle N: 7.5 inches; W: 8.3 inches), in Pocono Township, **Monroe County**.

**E64-168.** Encroachment. **Ariel Land Owners, Inc.**, 513 West 15th Street, Honesdale, PA 18431. Remove the existing structure and to construct and maintain a road crossing consisting of two 66-inch x 51-inch CMP arch culverts in Ariel Creek. The project is located on Schlager Road in the Lake Ariel Development, approximately 150 feet downstream of the Lake Ariel Dam and 0.25 mile northwest of the intersection of S. R. 3025 and S. R. 3011 (Lakeville, PA Quadrangle N: 12.0 inches; W: 16.3 inches) in Lake Township, **Wayne County**.

**E64-169.** Encroachment. **Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To maintain a 91-inch x 58-inch precast concrete elliptical pipe culvert in Mill Creek located along S. R. 0196, Segment 0090, 0.7 mile north of S. R. 0507 (Newfoundland, PA Quadrangle N: 6.9 inches; W: 16.3 inches) in Dreher Township, **Wayne County**. This culvert replaced a collapsed 6-foot diameter C.M.P. culvert at the same location under Emergency Permit No. EP6496406.

*DEP Central Office: Bureau of Waterways Engineering, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.*

*Environmental Assessment Approvals and Actions on 401 Certification*

**EA09-010CO.** Environmental assessment. **Township of Middletown**, 2140 Trenton Road, Levittown, PA 19056. To construct and maintain a nonjurisdictional dam across a tributary to Neshaminy Creek (WWF, MF) impacting a de minimus area of wetland (PFO) equal to 0.05 acre for the purpose of recreation and is located approximately 1,200 feet northwest of the intersection West Maple Avenue (State Route 213) and Oakford Road (State Route 432) at the Middletown Township Country Club (Langhorne, PA Quadrangle N: 9.45 inches; W: 8.25 inches) in Middletown Township, **Bucks County**.

*Northcentral Region: Water Management-Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.*

**E08-235.** Encroachment. **Towanda Area Joint Municipal Airport Auth.**, R. R. 2, Box 69A, Towanda, PA 18848. Construct and maintain an airport runway 4,300 feet in length with associated electrical vault building and oil/water separator within the 100 year designated FEMA floodplain of the Towanda Creek just south of the existing runway and to construct and maintain a 66-inch diameter stream enclosure which is 225-feet in length in Scotts

Run Creek with an overflow spillway 200-feet wide to Towanda Creek (Monroeton, PA Quadrangle N: 22.0 inches; W: 9.5 inches) in Towanda Township, **Bradford County**.

**E59-333.** Encroachment. **Phoenix Resources, Inc.**, P. O. Box 38, Blossburg, PA 16912. To place and maintain excavate or place and maintain fill in a total of 1.44 acres of wetlands, consisting of 0.7 acre of palustrine emergent, 0.63 acre palustrine scrub-shrub and 0.11 acre palustrine forested wetlands. Purpose of the project is to construct a construction/demolition waste landfill facility. The applicant will construct 1.55 acres of replacement wetlands to compensate for unavoidable impacts. The project site is located approximately 1 mile northeast of the village of Antrim (Antrim, PA Quadrangle N: 3.0 inches; W: 2.5 inches) in Duncan Township, **Tioga County**.

**E12-099.** Encroachment. **Cameron County Commissioners**, Edward L. Horning, Chairperson, East 5th St., Emporium, PA 15834. To remove an existing structure and to construct and maintain a single span steel stringer bridge to carry T-327 across Hunts Run. The proposed bridge shall be constructed with a clear single span of 53.7 feet, minimum underclearance of 3.5 feet and clear roadway width of 14.5 feet. The project is located along the northern right-of-way of SR 0120 approximately 1,000 feet east of the intersection of SR 0120 and T-327 (Cameron, PA Quadrangle N: 14.1 inches; W: 6.9 inches) in Lumber Township, **Cameron County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E14-288.** Encroachment. **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. Remove the existing structure and to construct and maintain a single span I-beam bridge with a normal span of 60 feet and underclearance of 3.2 feet over cold stream at a 90 degree skew on SR 504 just east of SR 307 (Philipsburg, PA Quadrangle N: 4.75 inches; W: 11.75 inches) in Philipsburg Borough, **Centre County**.

**E18-220.** Encroachment. **James Eppley, Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Remove an existing structure and to construct and maintain a prestressed concrete spread box beam bridge that will carry Left Branch Young Womans Creek Road across Greenlick Run. The proposed bridge shall be constructed with a clear normal span of 33.0 feet, an underclearance of 8.0 feet and a curb to curb width of 18.0 feet. The project is located along the northern right-of-way of SR 0120 approximately 75.0 feet north of the intersection of Greenlock Road and left branch of Young Womans Creek Road (Young Womans Creek, PA Quadrangle N: 11.7 inches; W: 10.7 inches) in Chapman Township, **Clinton County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-221.** Encroachment. **Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105. To remove the existing structure and to construct and maintain a precast concrete box culvert with a normal clear span of 10.0 feet and minimum underclearance of 8 feet 3 inches over Johnson Run on Kingston Run Road approximately 1 mile from the intersection with Graham Road (Glen Union, PA Quadrangle N: 2.2 inches; W: 11.0 inches) in Grugan Township, **Clinton County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E19-161.** Encroachment. **Richard J. Greco, R. R. 3**, Box 440, Catawissa, PA 17820. To remove the existing structures and to construct and maintain a 8 foot x 12 foot wooden manufactured shed in the floodway of Roaring Creek. This project is located off SR 3003 about 0.6 mile east of Rt. 487 (Catawissa, PA Quadrangle N: 5.25 inches; W: 12.87 inches) in Cleveland Township, **Columbia County**. This permit was issued under section 105.13(e) "Small Projects."

**E49-199.** Water obstruction and encroachment. **Shamokin Township Supervisors**, R. R. 1, Box 936, Paxinos, PA 17860. Remove flood damaged culvert pipes and to place and maintain three 60 inch diameter 40 foot long smooth steel culvert pipes in Little Shamokin Creek located approximately 600 feet south on T-447 from SR 4026 (Trevorton, PA Quadrangle N: 8.7 inches; W: 7.0 inches) in Shamokin Township, **Northumberland County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E49-203.** Encroachment. **Department of Transportation**, 715 Jordan Ave., Montoursville, PA 17754. To replacement existing structure with a precast concrete box culvert to carry SR 0054 across an unnamed tributary to Shamokin Creek. The proposed road crossing shall be constructed with a concrete box culvert that has a span of 15.0 feet, rise of 5.0 feet and a length of 52.0 feet. The project is located along the northern right-of-way of SR 0487 approximately 1,200.0 feet north of the intersection of SR 0487 and SR 0054 (Shamokin, PA Quadrangle N: 20.6 inches; W: 7.2 inches) in Ralpho Township, **Northumberland County**.

**E53-292.** Encroachment. **Sharon Township Supervisors**, R. R. 1, Box 96, Shinglehouse, PA 16748. To remove the existing structure and to construct and maintain a single span precast concrete box beam bridge with a clear span of 45.8 feet and height of 8.1 feet at a 50 degree skew on Honeoye Creek on T-371 approximately 800 feet from SR 4021 and to construct a temporary stream crossing in the village of Honeoye (Shinglehouse, PA Quadrangle N: 20.8 inches; W: 0.9 inch) in Sharon Township, **Potter County**.

**E57-071.** Encroachment. **Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Remove an existing structure and to construct and maintain a precast reinforced concrete box culvert that will carry Mill Creek Road across west branch of Mill Creek. The proposed culvert shall be constructed with a clear normal span of 16.0 feet, a rise of 5.0 feet and a rail to rail width of 18.0 feet. The project is located along the western right-of-way of SR 0087 approximately 1.0 mile north of the intersection of Big Hollow Road and Mill Creek Road (Barbours, PA Quadrangle N: 19.5 inches; W: 1.3 inches) in Fox Township, **Sullivan County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E57-073.** Encroachment. **Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Remove the existing structure and to construct and maintain a precast reinforced concrete box culvert with a 12 foot clear span and a 5 foot 6 inch rise plus the associated precast reinforced concrete end sections in a tributary to Dry Run which is located approximately 2.2 miles northbound on Dry Run Road from its intersection with SR 0087 (Hills Grove, PA Quad-



range N: 10.0 inches; W: 6.0 inches) in Hillsgrove Township, **Sullivan County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E57-075.** Water obstruction and encroachment. **Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Remove an existing structure and to construct and maintain a precast reinforced concrete box culvert with a 16 foot clear span and a 5 foot 3 inch effective rise plus the associated precast reinforced concrete end sections on a 60 degree skew in West Branch Mill Creek which is located approximately 4.6 miles northbound on Mill Creek Road from its intersection with SR 0087 (Barbours, PA Quadrangle N: 19.5 inches; W: 2.65 inches) in Fox Township, **Sullivan County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

## SPECIAL NOTICES

### Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of December 1996, the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (1-800-23RADON).

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Robert J. Haushalter, Jr. Volz Environmental Services, Inc.	1200 Gulf Lab Road Pittsburgh, PA 15238	Laboratory
Terry Howell Radalink, Inc.	5599 Peachtree Road Atlanta, GA 30341-2309	Laboratory
Jeffrey Johnson L. Robert Kimball & Associates, Inc.	45 Moon Clinton Road Moon Township, PA 15108	Testing
Steve Johnson Homechek, Inc.	1529 Rodney Road York, PA 17404	Testing
John J. Kostovick Kleeman Associates	1204 Masons Mill Business Park 1800 Byberry Road Huntingdon Valley, PA 19006	Testing
Microbac Laboratories, Inc.	1962 Wager Road Erie, PA 16509	Laboratory Testing
Luke A. Perisich	1420 Villa Sites Harborcreek, PA 16421	Testing Mitigation
John M. Staz, III	321 S. River Street Harrisburg, PA 17104	Mitigation
P. David Shafer, III Shafer Environmental Associates, Ltd.	P. O. Box 825, 315 Pine Street Meadville, PA 16335	Testing
Bruce R. Thomas B. R. Thomas & Associates, Inc.	17 Fosterville Road Greensburg, PA 15601	Mitigation

### Residual Waste Permit Application No. 301184; Public Hearing

Under 25 Pa. Code §§ 287.152-3 that the Pennsylvania Department of Environmental Protection (DEP) will hold a public hearing on the application for renewal and modification of a residual waste permit submitted by Gemstar Corporation, 2785 Richlandtown Pike, Coopersburg, PA 18036. The application is for renewal of a permit to process waste tires under DEP's residual waste regulations and for modification of the permit to include a cryogenic tire processing unit for the production of crumb rubber. The facility is located on Richlandtown Pike in Springfield Township, Bucks County.

DEP will receive comments on the application from the public at the hearing to be held at the Springfield Elementary School All-Purpose Room, 1950 Route 212, Pleasant Valley/Springtown in Springfield Township, Bucks County at 7 p.m. on Tuesday, February 25, 1997.

In the event of postponement due to weather conditions, the hearing will be held on Tuesday, March 4, 1997, at 7 p.m. at the same location. Postponement notifications will be distributed to local radio stations and newspapers and can be heard by calling DEP at (610) 832-6011 on Feb. 25.

The hearing will not be a question and answer session. Those wishing to testify should contact DEP Community Relations Coordinator Tina Suarez-Murias at (610) 832-6011 to register prior to the hearing, but may also register at the hearing. Oral comments should be kept brief and may be limited to 10 minutes per person, depending on the number of speakers. Where groups are represented, a spokesperson is requested to present the group's concerns and additional time will be allowed.

Anyone wishing to present written comments directly to DEP regarding the residual waste permit application may do so until Mar. 27, 1997. Written comments should include (1) the name, address and telephone number of the person filing comments; (2) identification of residual



waste permit application No. 301184 and (3) a concise statement of information relevant to the residual waste permit renewal and modification application. Written remarks should be sent to Ronald C. Furlan, P.E., Regional Manager, Waste Management Program, Department of Environmental Protection, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Comments from the public will be addressed by DEP during the review process before final action is taken on the proposals. A summary report addressing the concerns raised by the public will be issued should DEP decide to issue the residual waste permit.

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 Tina Suarez-Murias at (610) 832-6011 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Copies of the pertinent documents are available for public review at DEP's Southeast Regional Office in Conshohocken between the hours of 8 a.m. and 4 p.m. weekdays. For an appointment, call the Records Management Section at (610) 832-6003.

[Pa.B. Doc. No. 97-117. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Coal and Clay Mine Subsidence Insurance Fund Board

A Regular Meeting of the Coal and Clay Mine Subsidence Insurance Fund Board will take place on January 29, 1997, at 10 a.m. in the 5th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

Questions concerning the agenda can be directed to Lawrence Ruane at (717) 783-9586 or e-mail to Ruane.Lawrence@a1.dep.state.pa.us. The agenda for this meeting will be available through the Public Participation Center on the DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in needs of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lawrence Ruane directly at (717) 783-9586 or through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,  
Secretary

[Pa.B. Doc. No. 97-118. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Proposed General Permits No. PAG-7, PAG-8 and PAG-9 For Beneficial Use of Sewage Sludge by Land Application

In compliance with the provisions of the Federal Clean Water Act (act), and Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.101), sections 1905-A, 1917-A, and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20), 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), the Department of Environmental Protection (Department) by this notice proposes to issue (1) a proposed general permit for beneficial use of exceptional quality (EQ) sewage sludge by land application (PAG-7), (2) a proposed general permit for beneficial use of nonexceptional quality (non-EQ) sewage sludge by land application (PAG-8), and (3) a proposed general permit for beneficial use of residential septage by land application (PAG-9), in the Commonwealth of Pennsylvania.

These general permits are proposed for use by eligible persons or municipalities for the generation or preparation of sewage sludge that will be applied to the land, who are required in 25 Pa. Code Chapters 91, 92 or 271, as applicable, to obtain a permit for the beneficial use of sewage sludge that will be land applied in the Commonwealth. The general permits will be issued subject to several standards including, but not limited to, general requirements, pollutant limitations, management practices, operational standards, pathogen and vector attraction reduction requirements, other terms, conditions, criteria for specific sewage sludge and, if applicable, special requirements, for the beneficial use of such sewage sludge, in the Commonwealth.

The issuance of these general permits shall only be valid for eligible persons or municipalities that have submitted an administratively complete and acceptable "Notice of Intent" (NOI), in accordance with the requirements of the general permits, using an NOI form provided by the Department (or photocopy thereof), and receive approval from the Department for coverage under the general permits.

The Department may deny approval of coverage under these general permits and require submittal of an application for an individual permit based on a review of the NOI or other information submitted, or available to the Department.

#### Notice of Intent Requirements

Persons or municipalities seeking approval for coverage under these general permits, will be required to file an administratively complete and acceptable NOI as soon as possible, after the publication date of the availability of the final general permits or as indicated in the general permits. Generation or preparation of sewage sludge for beneficial uses by land application subject to the permitting requirements in 25 Pa. Code Chapters 91, 92 or 271, as applicable, without a permit issued by the Department is unlawful and could lead to Federal or Department enforcement action or third party litigation.

#### Eligibility Requirements for Land Application of Sewage Sludge

To be eligible to land apply sewage sludge for beneficial uses, a person or a municipality must demonstrate all of the following:

1. The concentration of each pollutant in the sewage sludge must not exceed the following concentrations:

#### Ceiling Concentrations

<i>Pollutant</i>	<i>Ceiling concentrations (milligrams per kilogram)<sup>1</sup></i>
Arsenic	75
Cadmium	85
Copper	4300
Lead	840

<i>Pollutant</i>	<i>Ceiling concentrations (milligrams per kilogram)<sup>1</sup></i>
Mercury	57
Molybdenum	75
Nickel	420
PCBs	8.6
Selenium	100
Zinc	7500

<sup>1</sup>Dry weight basis.

2. The applicant has submitted a Pennsylvania Notice of Intent (NOI) for Coverage Under General Permit For Beneficial Use of Sewage Sludge by Land Application in accordance with the requirements of the general permits, using an NOI form provided by the Department.

*Eligibility Requirements for Coverage Under the General Permits*

1. Eligibility Requirements For Coverage Under the General Permit For Beneficial Use Of Exceptional Quality Sewage Sludge (PAG-7):

Sewage sludge may qualify as exceptional quality sewage sludge and be eligible for coverage under the PAG-7 for beneficial use as specified in the general permit if: (1) the sewage sludge is nonliquid; (2) the sewage sludge is nonrecognizable as human waste; (3) the concentration of each pollutant in the sewage sludge does not exceed pollutant concentrations in Table 3 of § 271.914(b); (4) one of Class A pathogen requirements in § 271.932(a) is met; and (5) one of vector attraction reduction requirements in § 271.933(b)(1) through (8) is met.

Exceptional quality sewage sludge covered under the PAG-7 is authorized to be land applied for beneficial use to agricultural land, forest land, a site assessable to the public or a reclamation site or to be sold, given away in a bag or other container for land application.

2. Eligibility Requirements For Coverage Under the General Permit For Beneficial Use Of Non-Exceptional Quality Sewage Sludge (PAG-8):

Sewage sludge may qualify as nonexceptional quality sewage sludge and be eligible for coverage under the PAG-8 for beneficial use as specified in the general permit if the sewage sludge: (1) does not exceed concentrations for any pollutant in the ceiling concentrations table above; and (2) does not meet one or all criteria for the exceptional quality sewage sludge.

Nonexceptional quality sewage sludge covered under the PAG-8 is authorized to be land applied for beneficial use to agricultural land, forest land, a site assessable to the public or a reclamation site.

3. Eligibility Requirements For Coverage Under the General Permit For Beneficial Use of Residential Septage (PAG-9):

Residential septage is eligible for coverage under the PAG-9 for beneficial use as specified in the general permit if the residential septage (1) meets the annual application rate in § 271.914(c); (2) meets processes to significantly reduce pathogen (PSRP) or processes to further reduce pathogens (PFRP) prior to land application; and (3) meets one of the vector attraction reduction requirements in § 271.933(b)(9) through (11).

Residential septage covered under the PAG-9 is authorized to be land applied for beneficial use to agricultural land, forest or a reclamation site.

Once the notices of availability of the final general permits for beneficial use of sewage sludge by land application are published in the *Pennsylvania Bulletin*, eligible persons or municipalities with sewage sludge that met criteria specified in the general permits who wish to be covered by these general permits will need to file an NOI for coverage under the general permits for the generation of sewage sludge. The NOI must be filed with the appropriate regional office of the Department. Persons or municipalities who are eligible and wish to participate in these general permits, must file an administratively complete and acceptable NOI as soon as possible after the issuance of the final availability of the general permits. Persons or municipalities must submit administratively complete renewal NOI applications for continued coverage under these general permits at least 180 days prior to the expiration date of existing permit coverage. In the event that a timely and complete application for renewal has been submitted and the Department is unable, through no fault of the permittee, to reissue the permit or approval for coverage before its current coverage expiration date, the terms and conditions of the approved coverage will automatically continue, unless notified by the Department that land applications of sewage sludge for beneficial uses must be abated. The existing approved coverage will remain fully effective and enforceable pending the issuance or denial of the renewal of permit coverage, provided the permittee is, and has been, operating in compliance with the terms and conditions of the general permits.

A fee of \$500 will be required to be submitted to the Department with the NOI. The Department will assign a unique identification number to each NOI. Public notice of receipt of each NOI for coverage and each approval for coverage will be published by the Department in the *Pennsylvania Bulletin*.

The proposed general permits have been sent to the EPA Regional Administrator for Region III. Persons wishing to comment on the proposed general permits are invited to obtain a copy of the proposed general permits from and to submit a written statement to:

Department of Environmental Protection, Bureau of Water Quality Protection, Division of Wastewater Management, Rachel Carson State Office Building, P. O. Box 8465—10th Floor, Harrisburg, Pa 17105-8465, (717) 787-8184; E-mail address: [cuongvu@a1.dep.state.pa.us](mailto:cuongvu@a1.dep.state.pa.us), World Wide Web Address: <http://www.dep.state.pa.us>.

Comments must be submitted within 30 days from the date of this public notice. If there is significant interest in the proposal, the period for comment may be extended at the discretion of the Department for one additional 15-day period. Comments received within this 30-day period will be considered in the formulation of the final determination of the general permits. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Comments will not be accepted by facsimile. Comments will be accepted by electronic mail to Cuong D. Vu at [cuongvu@a1.dep.state.pa.us](mailto:cuongvu@a1.dep.state.pa.us). A public hearing may be held if the Department considers the public interest in holding a hearing significant. Following the 30-day period, the Department will make a final determination regarding the proposed general permits. Notice of this determination will be published in the *Pennsylvania Bulletin*. The proposed general permits and related documents are on file at the Harrisburg office of the Division of Wastewater Management, Bureau of Wa-

ter Quality Protection at the location noted above. Anyone wishing to review or receive a copy of the permit document, or to receive further information, should contact C. D. Vu of that office. 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).

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 97-119. Filed for public inspection January 24, 1997, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Laboratories Approved to Determine Blood Alcohol Content Under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code

The following laboratories are licensed by the Department of Health under the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the analysis of serum proficiency testing specimens are approved to analyze both serum and plasma. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), and the Game and Wildlife Code, 34 Pa.C.S. § 2502, (relating to hunting or furtaking under the influence of alcohol or controlled substance) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside the Commonwealth may not provide blood and/or serum and plasma alcohol testing services in Pennsylvania unless they are specifically licensed by the Department under the Clinical Laboratory Act.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes, and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised semiannually and published in the *Pennsylvania Bulletin*.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the U.S. Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demon-

strate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P.O. Box 500, Exton, PA 19341-0500, (610) 363-8500. Persons with a disability may submit questions to Dr. Shoemaker in alternative formats, such as by audio tape, braille or using TDD: (717) 783-6514. Persons with a disability who require an alternative format of this document (for example, large print, audio tape, braille), should contact Dr. Shoemaker so that he may make the necessary arrangements.

DANIEL F. HOFFMANN, FACHE,  
*Acting Secretary*

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

Abington Memorial Hospital-S

1200 Old York Road  
Abington, PA 19001  
215-576-2350

Albert Einstein Medical Center-Northern Division-S

5500 Old York Road  
Philadelphia, PA 19141  
215-456-6100

Allegheny County Dept. of Labs., Toxicology Section-SB

10 County Office Building  
Pittsburgh, PA 15219  
412-355-6873

Allegheny General Hospital-Dept. Lab. Medicine-S

320 East North Avenue  
Pittsburgh, PA 15212  
412-359-3521

Allegheny University Hospital-SB

Stat Tox Lab MS 431, Broad and Vine Streets  
Philadelphia, PA 19102-1192  
215-762-7828

Allegheny University Hospital-Center City-SB

Broad and Vine Streets, MS 113  
Philadelphia, PA 19102  
215-448-7154

Allegheny University Hospital-East Falls-S

3300 Henry Avenue  
Philadelphia, PA 19129  
215-842-6615

Allegheny University Hospital-Elkins Park Campus-SB

60 East Township Line  
Elkins Park, PA 19117  
215-663-6102

Allegheny University Hospitals-Bucks County Division-S

225 Newtown Road  
Warminster PA 18974  
215-633-5221

Allegheny Valley Hospital-SB

1300 Carlisle Street  
Natrona Heights, PA 15065  
412-224-5100

Allentown Osteopathic Medical Center-S

1736 Hamilton Street  
Allentown, PA 18104  
610-439-4000

Altoona Hospital-SB  
620 Howard Avenue  
Altoona, PA 16601  
814-946-2340

American Medical Laboratories, Inc.-SB  
14225 Newbrook Drive  
Chantilly, VA 22021  
703-802-6900

Analytic Bio-Chemistries, Inc.-SB  
1680-D Loretta Avenue  
Feasterville, PA 19053  
215-322-9210

Armstrong County Memorial Hospital-SB  
R.D.#8, Box 50  
Kittanning, PA 16201  
412-543-8122

Associated Clinical Laboratories-B  
1526 Peach Street  
Erie, PA 16501  
814-453-6621

Associated Regional and University Pathologists-SB  
500 Chipeta Way  
Salt Lake City UT 84108  
800-242-2787

Ayer Clinical Laboratory-Penna. Hospital-S  
8th & Spruce Streets  
Philadelphia, PA 19107  
215-829-3541

Braddock Medical Center-S  
412 Holland Avenue  
Braddock, PA 15104  
412-636-5000

Bradford Hospital-SB  
116-156 Interstate Parkway  
Bradford, PA 16701  
814-834-8282

Brandywine Hospital and Trauma Center-S  
Route 30 Bypass  
Coatesville, PA 19320  
610-383-8000

Brownsville General Hospital Laboratory-SB  
125 Simpson Road  
Brownsville, PA 15417  
412-785-7200

Butler Memorial Hospital-S  
911 East Brady Street  
Butler, PA 16001  
412-284-4510

Canonsburg General Hospital-SB  
R.D.#1, Box 147, Route 519  
Canonsburg, PA 15317  
412-745-6100

Carlisle Hospital-S  
245 Parker Street  
Carlisle, PA 17013  
717-249-1212

Centre Community Hospital-B  
1800 East Park Avenue  
State College, PA 16803  
814-234-6117

Chambersburg Hospital-S  
112 North Seventh Street  
Chambersburg, PA 17201  
717-267-7152

Charles Cole Memorial Hospital-S  
R.D.#3, U.S. Route 6  
Coudersport, PA 16915  
814-274-9300

Chester County Hospital-S  
701 East Marshall Street  
West Chester, PA 19380  
610-431-5182

Chestnut Hill Hospital-S  
8835 Germantown Avenue  
Philadelphia, PA 19118  
215-248-8630

The Children's Hospital of Philadelphia-S  
One Children's Center, 34th and Civic Center Blvd.  
Philadelphia, PA 19104  
215-590-1000

Citizens General Hospital-SB  
651 Fourth Avenue  
New Kensington, PA 15068  
412-337-5031

Clarion Hospital-SB  
One Hospital Drive  
Clarion, PA 16214  
814-226-9500

Clearfield Hospital Lab-S  
809 Turnpike Avenue, P.O. Box 992  
Clearfield, PA 16830  
814-765-5341

Clintox Laboratories-S  
601 Gay Street  
Phoenixville, PA 19460  
610-933-6550

Community General Hospital-S  
145 North Sixth Street  
Reading, PA 19603  
610-378-8350

Community General Osteopathic Hospital-SB  
4300 Londonderry Road, P.O. Box 3000  
Harrisburg, PA 17109  
717-657-7214

Community Hospital-B  
North Fraley Street  
Kane, PA 16735  
814-837-8585

Community Hospital of Lancaster-S  
1100 Orange Street  
Lancaster, PA 17604  
717-397-3711

Community Medical Center-S  
1822 Mulberry Street  
Scranton, PA 18510  
717-969-8000

Conemaugh Valley Memorial Hospital-SB  
1086 Franklin Street  
Johnstown, PA 15905  
814-534-9000

Corning Clinical Laboratories, Inc.-SB  
900 Business Center Drive  
Horsham PA 19044  
215-957-9300

Corning Clinical Laboratories-SB  
875 Greentree Road  
4 Parkway Center  
Pittsburgh PA 15220  
412-920-7600

Corning Clinical Laboratories, Inc.-SB  
One Malcolm Avenue  
Teterboro, NJ 07608  
201-288-0900

Crozer-Chester Medical Center-Springfield-S  
190 West Sproul Road  
Springfield, PA 19064  
610-328-9200

Crozer Chester Medical Center-SB  
1 Med Ctr. Blvd., 15th Street and Upland Avenue  
Chester, PA 19013  
610-447-2000

Delaware County Memorial Hospital-SB  
501 N. Lansdowne Avenue  
Drexel Hill, PA 19026  
610-284-8100

Delaware Valley Medical Center-S  
200 Oxford Valley Road  
Langhorne, PA 19047  
215-949-5275

Department of Pathology & Lab Med-HUP-SB  
3400 Spruce Street  
Philadelphia, PA 19104  
215-662-3435

Divine Providence Hospital-B  
1100 Grampian Boulevard  
Williamsport, PA 17701  
717-326-8167

Doylestown Hospital-S  
595 West State Street  
Doylestown, PA 18901  
215-345-2250

DrugScan, Inc.-SB  
1119 Mearns Road, P.O. Box 2969  
Warminster, PA 18974  
215-674-9310

DuBois Regional Medical Center-West Unit-S  
100 Hospital Avenue  
DuBois, PA 15801  
814-371-2200

Easton Hospital-SB  
250 S. 21st Street  
Easton, PA 18042  
610-250-4140

Elk County Regional Medical Center-S  
94 Hospital Street  
Ridgway PA 15853  
814-776-6111

Ellwood City General Hospital-S  
724 Pershing Street  
Ellwood City, PA 16117  
412-752-0081

Ephrata Community Hospital-S  
169 Martin Avenue, P.O. Box 1002  
Ephrata, PA 17522  
717-733-0311

Episcopal Hospital-S  
Front Street and Lehigh Avenue  
Philadelphia, PA 19125  
215-427-7333

Evangelical Community Hospital-SB  
1 Hospital Drive  
Lewisburg, PA 17837  
717-522-2510

Forbes Regional Health Center-SB  
2570 Haymaker Road  
Monroeville, PA 15146  
412-858-2560

Frankford Hospital-Frankford Division-S  
Frankford Avenue and Wakeling Street  
Philadelphia, PA 19124  
215-831-2068

Frankford Hospital-Torresdale Division-S  
Red Lion and Knights Road  
Philadelphia, PA 19114  
215-612-4000

Frick Hospital and Community Health Center-S  
508 South Church Street  
Mount Pleasant, PA 15666  
412-547-1500

Fulton County Medical Center-S  
216 South First Street  
McConnellsburg, PA 17233  
717-485-3155

Geisinger Medical Center-SB  
North Academy Road  
Danville, PA 17822  
717-271-6338

Geisinger Wyoming Valley Medical Center-S  
1000 East Mountain Drive  
Wilkes-Barre, PA 18711  
717-826-7830

George Tolstoi Laboratory-Uniontown Hospital-S  
500 W. Berkeley Street  
Uniontown, PA 15401  
412-430-5143

Germantown Hospital and Medical Center-S  
One Penn Boulevard  
Philadelphia, PA 19144  
215-951-8800

Gettysburg Hospital-SB  
147 Gettys Street  
Gettysburg, PA 17325  
717-334-2121

GHS-Parkview Hospital-S  
1331 East Wyoming Avenue  
Philadelphia, PA 19124  
215-537-7430

GHS-City Avenue Hospital-S  
4150 City Avenue, Dept. of Pathology  
Philadelphia, PA 19131  
215-871-1000

Gnaden Huetten Memorial Hospital-SB  
Eleventh and Hamilton Streets  
Lehighon, PA 18235  
610-377-1300

Good Samaritan Hospital-SB  
Fourth and Walnut Streets, P.O. Box 1281  
Lebanon, PA 17042  
717-270-7500

Good Samaritan Medical Center-S  
1020 Franklin Street  
Johnstown, PA 15905  
814-533-1906

Good Samaritan Regional Medical Center-SB  
700 East Norwegian Street  
Pottsville, PA 17901  
717-622-3400

Graduate Hospital-S  
One Graduate Plaza, 4th Floor, Pepper Pavilion  
Philadelphia, PA 19146  
215-893-2240

Grand View Hospital-S  
700 Lawn Avenue  
Sellersville, PA 18960  
215-257-3611

Greene County Memorial Hospital-SB  
Bonar Avenue  
Waynesburg, PA 15370  
412-627-3101

Hamot Medical Center-S  
201 State Street  
Erie, PA 16550  
814-455-6711

Hanover General Hospital-SB  
300 Highland Avenue  
Hanover, PA 17331  
717-637-3711

Harrisburg Polyclinic Medical Center-SB  
South Front Street  
Harrisburg, PA 17101  
717-782-3131

Hazleton General Hospital-SB  
East Broad Street  
Hazleton, PA 18201  
717-454-2441

Health Network Laboratories-SB  
2024 Lehigh Street  
Allentown PA 18103  
610-402-8150

Highlands Hospital and Health Center-SB  
401 East Murphy Avenue  
Connellsville, PA 15425  
412-628-1500

Holy Spirit Hospital-SB  
503 North 21st Street  
Camp Hill, PA 17011  
717-763-2206

Horizon Hospital System-Greenville Campus-SB  
110 North Main Street  
Greenville, PA 16125  
412-588-2100

Horizon Hospital System-Shenango Campus-SB  
2200 Memorial Drive  
Farrell, PA 16121  
412-981-3500

Indiana Hospital-Department of Medicine-S  
P.O. Box 788  
Indiana, PA 15701  
412-357-7166

Jameson Memorial Hospital-S  
1211 Wilmington Avenue  
New Castle, PA 16105  
412-658-9001

J. C. Blair Memorial Hospital-S  
Warm Springs Avenue  
Huntingdon, PA 16652  
814-643-8645

Jeanes Hospital - S  
7600 Central Avenue  
Philadelphia, PA 19111  
215-728-2347

Jeannette District Memorial Hospital-S  
Jefferson Avenue  
Jeanette, PA 15644  
412-527-3551

Jefferson Regional Health Services, Inc.-Brookville Div.-S  
100 Hospital Road  
Brookville, PA 15825  
814-849-2312

John F. Kennedy Memorial Hospital-S  
Cheltenham Avenue and Langdon Streets  
Philadelphia, PA 19124  
215-831-7203

Kensington Hospital-S  
136 W. Diamond Street  
Philadelphia, PA 19122  
215-426-8100

LabOne, Inc.-SB  
8915 Lenexa Drive  
Overland Park KS 66214  
913-888-1770

Laboratory Corporation of America-SB  
13900 Park Center Road  
Herndon, VA 22071  
703-742-3100

Lab Corp. of America Holdings-SB  
69 First Avenue, PO Box 500  
Raritan NJ 08869  
201-526-2400

Lab Corp. of America Holdings-B  
6370 Wilcox Road  
Dublin, OH 43017  
800-282-7300

Lancaster General Hospital-S  
555 North Duke Street, P.O. Box 3555  
Lancaster, PA 17603  
717-299-5511

Lancaster General Hospital-Susquehanna Division-S  
631 Poplar Street  
Columbia, PA 17512  
717-684-2841

Latrobe Area Hospital-B  
West Second Avenue  
Latrobe, PA 15650  
412-537-1550

Lee Hospital-SB  
320 Main Street  
Johnstown, PA 15901  
814-533-0130

Lewistown Hospital-SB  
Highland Avenue  
Lewistown, PA 17044  
717-248-5411

Lock Haven Hospital-B  
24 Cree Drive  
Lock Haven, PA 17745  
717-893-5000

Lower Bucks Hospital-SB  
501 Bath Road  
Bristol, PA 19007  
215-785-9200

Main Line Clinical Laboratories-Bryn Mawr-CP-S  
Bryn Mawr Avenue  
Bryn Mawr, PA 19010  
610-526-3554

Main Line Clinical Laboratories-Lankenau-CP-S  
100 East Lancaster Avenue  
Wynnewood, PA 19096  
610-645-2615

Main Line Clinical Laboratories-Paoli Memorial-CP-S  
255 W. Lancaster Avenue  
Paoli, PA 19301  
610-648-1000

Marian Community Hospital-S  
100 Lincoln Avenue  
Carbondale, PA 18407  
717-282-2100

McKeesport Hospital-S  
1500 Fifth Avenue  
McKeesport, PA 15132  
412-664-2233

Meadville Medical Center-Liberty Street-S  
751 Liberty Street  
Meadville, PA 16335  
814-336-3121

MedExpress/National Laboratory Center, Inc.-SB  
3955 Vantech Drive  
Memphis TN 38115  
901-795-1515

The Medical Center, Beaver, PA, Inc.-S  
1000 Dutch Ridge Road  
Beaver, PA 15009  
412-728-7000

Medical Center of Delaware-Department of Pathology-S  
4755 Ogletown-Stanton Road  
Newark, DE 19718  
312-733-3625

Medical Center of Delaware-Department of Pathology-S  
501 W. 14th Street  
Wilmington, DE 19899  
302-733-3625

Medlab Clinical Testing, Inc.-S  
212 Cherry Lane  
New Castle, DE 19720  
800-633-5221

Memorial Hospital-SB  
325 South Belmont Street, P.O. Box 15118  
York, PA 17403  
717-843-8623

Memorial Hospital Lab-SB  
R.D. #1  
Towanda, PA 18848  
717-265-2191

Memorial Hospital of Bedford County-SB  
Route 1  
Everett, PA 15537  
814-623-6161

Mercy Catholic Medical Center-Fitzgerald Division-S  
Lansdowne Avenue and Bailey Road  
Darby, PA 19023  
610-237-4175

Mercy Catholic Medical Center-Misericordia Division-S  
5301 Cedar Avenue  
Philadelphia, PA 19143  
215-748-9170

Mercy Haverford Hospital Laboratory-S  
2000 Old West Chester Pike  
Haverford, PA 19083  
610-645-3600

Mercy Hospital-SB  
2500 Seventh Avenue  
Altoona, PA 16602  
814-949-4495

Mercy Hospital-S  
Pride and Locust Streets  
Pittsburgh, PA 15219  
412-232-7831

Mercy Hospital-S  
746 Jefferson Avenue  
Scranton, PA 18510  
717-348-7100

Mercy Hospital Laboratory-S  
25 Church Street  
Wilkes-Barre, PA 18765  
717-826-3100

Mercy Providence Hospital-S  
1004 Arch Street  
Pittsburgh, PA 15212  
412-323-5783

Methodist Hospital Division/TJUH, Inc.-SB  
2301 South Broad Street  
Philadelphia, PA 19148  
215-952-9059

MidValley Hospital-S  
1400 Main Street  
Peckville, PA 18452  
717-489-7546

Miner's Hospital Lab of North Cambria-B  
Crawford Avenue and First Street  
Spangler, PA 15775  
814-948-7171

Monongahela Valley Hospital, Inc.-S  
Country Club Road, Route 88  
Monongahela, PA 15063  
412-258-2000

Monsour Medical Center-S  
70 Lincoln Way East  
Jeannette, PA 15644  
412-527-1511

Montgomery Hospital Laboratory-S  
Powell and Fornance Streets  
Norristown, PA 19401  
610-270-2173

Montrose General Hospital-B  
3 Grow Avenue  
Montrose, PA 18801  
717-278-3801

Moses Taylor Hospital-S  
700 Quincy Avenue  
Scranton, PA 18510  
717-963-2100

Muhlenberg Hospital Center-S  
2545 Schoenersville Road  
Bethlehem, PA 18017  
610-861-2261

Nason Hospital-B  
Nason Drive  
Roaring Spring, PA 16673  
814-224-6215

National Medical Services, Inc.-Laboratory-SB  
2300 Stratford Avenue  
Willow Grove, PA 19090  
215-657-3565

Nazareth Hospital-SB  
2601 Holme Avenue  
Philadelphia, PA 19152  
215-335-6245

Neumann Medical Center, Inc.-S  
Frankford Avenue and Palmer Street  
Philadelphia, PA 19125  
215-291-2118

North Hills Passavant Hospital-S  
9100 Babcock Boulevard  
Pittsburgh, PA 15237  
412-367-6700

North Penn Hospital-S  
100 Medical Campus Drive  
Lansdale, PA 19446  
215-368-2100

Northeastern Hospital-S  
2301 East Allegheny Avenue  
Philadelphia, PA 19134  
215-291-3671

Northwest Medical Center-Franklin-S  
1 Spruce Street  
Franklin, PA 16323  
814-437-7000

Northwest Medical Center, Oil City Campus-SB  
174 East Bissell Avenue  
Oil City, PA 16301  
814-677-1711

Ohio Valley General Hospital-S  
Heckel Road  
McKees Rocks, PA 15136  
412-777-6244

Omega Medical Laboratories, Inc.-SB  
2001 State Hill Road, Suite 100  
Wyomissing, PA 19610  
610-378-1900

PA Department of Health, Bureau of Laboratories-SB  
P.O. Box 500  
Exton, PA 19341-0500  
610-363-8500

PA State Police Lab-Bethlehem Regional Laboratory-SB  
2930 Airport Road  
Bethlehem, PA 18017-2149  
610-861-2103

PA State Police Lab-Erie-SB  
4310 Iroquois Avenue  
Erie, PA 16511  
814-899-8447

PA State Police Lab-Greensburg-SB  
PA State Police, P.O. Box P  
Greensburg, PA 15601  
412-832-3299

PA State Police Lab-Harrisburg-SB  
1800 Elmerton Avenue  
Harrisburg, PA 17110  
717-783-5548

PA State Police Lab-Lima-SB  
350 N. Middletown Road  
Media, PA 19063  
610-566-9066

PA State Police Lab-Wyoming-SB  
479 Wyoming Avenue  
Wyoming, PA 18644  
717-826-2230

Palmerton Hospital-S  
135 Lafayette Avenue  
Palmerton, PA 18071  
610-826-3141

Philadelphia Police Laboratory-SB  
Room 305 PAB, 8th & Race Streets  
Philadelphia, PA 19106  
215-592-5831

Philipsburg Area Hospital-S  
210 Lock Lomond Road  
Philipsburg, PA 16866  
814-342-7112

Phoenixville Hospital-S  
140 Nutt Road  
Phoenixville, PA 19460  
610-933-9281

Pittsburgh Criminalistics-SB  
1320 Fifth Avenue  
Pittsburgh, PA 15219  
412-391-6118

Pocono Medical Center Lab-SB  
206 East Brown Street  
East Stroudsburg, PA 18301  
717-476-3544

Polyclinic Medical Center-SB  
2601 North Third Avenue  
Harrisburg, PA 17110  
717-782-4141

Pottstown Memorial Medical Center-S  
1600 East High Street  
Pottstown, PA 19464  
215-327-7111

Pottsville Hospital and Warne Clinic-SB  
420 South Jackson Streets  
Pottsville, PA 17901  
717-622-6120

Presbyterian Medical Center of UPHS-S  
51 North 39th Street  
Philadelphia, PA 19104  
215-662-6000

Reading Hospital and Medical Center-S  
Sixth and Spruce Streets  
Reading, PA 19603  
610-378-6080

Riddle Memorial Hospital-S  
Baltimore Pike Highway 1  
Media, PA 19063  
215-566-9400

Robert Packer Hospital-S  
200 South Wilbur Avenue  
Sayre, PA 18840  
717-888-6666

Roxborough Memorial Hospital-S  
5800 Ridge Avenue  
Philadelphia, PA 19128  
215-483-9900

Sacred Heart Hospital-S  
Fourth and Chew Streets  
Allentown, PA 18102  
610-776-4727



Saint Agnes Medical Center-S  
1900 South Broad Street  
Philadelphia, PA 19145  
215-339-4100

Saint Clair Memorial Hospital-S  
1000 Bower Hill Road  
Pittsburgh, PA 15243  
412-561-4900

Saint Francis Central Hospital-S  
1200 Centre Avenue  
Pittsburgh, PA 15219  
412-562-3060

Saint Francis Medical Center-North-SB  
One Francis Way  
Mars, PA 16046  
412-772-5300

Saint Francis Hospital-S  
1000 South Mercer Street  
New Castle, PA 16101  
412-658-3511

Saint Francis Medical Center-SB  
400-45th Street  
Pittsburgh, PA 15201  
412-622-4838

Saint Joseph Hospital-S  
250 College Avenue, P.O. Box 3509  
Lancaster, PA 17604  
717-291-8022

Saint Joseph Quality Medical Lab-SB  
215 North 12th Street, Box 316  
Reading, PA 19603  
215-378-2000

Saint Joseph's Hospital-Div. of NPHS-S  
16th Street and Girard Avenue  
Philadelphia, PA 19130  
215-787-9000

Saint Lukes Hospital-S  
801 Ostrum Street  
Bethlehem, PA 18015  
610-691-4141

St. Lukes Quakertown Hospital-S  
Eleventh Street & Park Avenue, PO Box 9003  
Quakertown, PA 18951  
215-536-2400

Saint Margaret's Memorial Hospital-S  
815 Freepoint Road  
Pittsburgh, PA 15215  
412-784-4000

Saint Mary Hospital-S  
Langhorne & Newtown Roads  
Langhorne, PA 19047  
215-750-2162

St. Marys Regional Medical Center-B  
763 Johnsonburg Road  
St. Marys, PA 15857  
814-834-8519

Saint Vincent Health Center-S  
232 West 25th Street  
Erie, PA 16544  
814-452-5383

Sewickley Valley Hospital Laboratory-S  
Blackburn Road and Fitch Drive  
Sewickley, PA 15143  
412-741-6600

Shadyside Hospital - S  
5230 Centre Avenue  
Pittsburgh, PA 15232  
412-622-2315

Sharon Regional Health System-SB  
740 East State Street  
Sharon, PA 16146  
412-983-3911

Sierra Analytical Laboratories-SB  
625 East Drinker Street  
Dunmore, PA 18512  
717-341-2224

SmithKline Beecham Clinical Laboratories, Inc.-SB  
400 Egypt Road  
Norristown, PA 19403  
610-631-4200

Soldiers & Sailors Memorial Hospital-S  
Central Avenue  
Wellsboro, PA 16901  
717-724-1631

Somerset Hospital Laboratory-SB  
225 South Center Avenue  
Somerset, PA 15501  
814-443-2626

South Hills Health System-Jefferson-SB  
Coal Valley Road  
Pittsburgh, PA 15236  
412-469-5723

Southern Chester County Medical Center-S  
1015 West Baltimore Pike  
West Grove, PA 19390  
610-869-1080

Suburban General Hospital-S  
100 S. Jackson Avenue  
Bellevue, PA 15202  
412-734-6000

Suburban General Hospital-S  
2701 DeKalb Pike  
Norristown, PA 19404  
610-278-2075

Taylor Hospital-S  
175 East Chester Pike  
Ridley Park, PA 19078  
610-595-6450

Temple University Hospital-S  
3401 N. Broad Street  
Philadelphia, PA 19140  
215-221-3453

Thomas Jefferson University Hospital-S  
125 South 11th Street, 204 Pavillion  
Philadelphia, PA 19107  
215-955-6374

Titusville Area Hospital-S  
406 West Oak Street  
Titusville, PA 16354  
814-827-1851

Toxi-Con-SB  
120 Monahan Avenue, Suite 101  
Dunmore, PA 18512  
717-963-0722

Tyler Memorial Hospital-S  
RD #1, Route 6  
Tunkhannock, PA 18657  
717-836-2161

Tyrone Hospital-SB  
Clay Avenue Extension  
Tyrone, PA 16686  
814-684-1255

Unilab-SB  
18408 Oxnard Street  
Tarzana CA 91356  
818-996-7300

United Community Hospital-S  
631 North Broad Street Ext.  
Grove City, PA 16127  
412-458-5442

University Hospital-M.S. Hershey Medical Center-S  
500 University Avenue  
Hershey, PA 17033  
717-531-8353

University of Pittsburgh Medical Center/Beaver Valley-SB  
2500 Hospital Drive  
Aliquippa, PA 15001  
412-857-1238

University of Pittsburgh Medical Center-CLSI-SB  
200 Lothrop Street, CLSI Room 5929 MT  
Pittsburgh PA 15213  
412-647-7813

Warren General Hospital-SB  
212 Crescent Park West  
Warren, PA 16365  
814-723-3300

Washington Hospital-S  
155 Wilson Avenue  
Washington, PA 15301  
412-225-7000

Wayne Memorial Hospital-S  
601 Park Street  
Honesdale, PA 18431  
717-253-1300

Waynesboro Hospital-SB  
East Main Street  
Waynesboro, PA 17268  
717-765-3403

West Virginia University Hospitals-S  
Clinical Laboratories  
PO Box 8009  
Morgantown, WV 26506  
304-598-4241

Western Pennsylvania Hospital-S  
4800 Friendship Avenue  
Pittsburgh, PA 15224  
412-578-5779

Western Reserve Care System-SB  
500 Gypsy Lane  
Youngstown, OH 44504  
216-740-3794

Westmoreland Hospital-S  
532 W. Pittsburgh Street  
Greensburg, PA 15601  
412-832-4365

Wilkes-Barre General Hospital-SB  
Corner North River and Auburn Streets  
Wilkes-Barre, PA 18764  
717-829-8111

Williamsport Hospital and Medical Center-B  
777 Rural Avenue  
Williamsport, PA 17701  
717-321-2300

Windber Hospital and Wheeling Clinic-SB  
600 Somerset Avenue  
Windber, PA 15963  
814-467-6611

York Hospital-SB  
1001 South George Street  
York, PA 17405  
717-771-2696

[Pa.B. Doc. No. 97-120. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Renal Disease Advisory Committee; Public Meeting

The Renal Disease Advisory Committee, established by section 4 of the act of June 23, 1970 (P. L. 419, No. 140) (35 P. S. § 6204), will hold a public meeting on Friday, January 31, 1997.

The meeting will be held in Room 812, Health and Welfare Building, Harrisburg, PA from 10 a.m. to 3 p.m.

For additional information, contact Jane E. Renaut, Director of the Renal Disease Program, Division of Special Health Care Needs at (717) 787-9772. Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Isabell M. Cain at (717) 787-9772 [TDD: (717) 783-6514/Network TDD: 8-443-6514].

DANIEL F. HOFFMANN, FACHE,  
*Acting Secretary*

[Pa.B. Doc. No. 97-121. Filed for public inspection January 24, 1997, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The contractors referenced below have 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)), these persons and firms, or any firm, corporation or partnership in which such persons and firms have an interest, shall be awarded no contract for 3 years after the date listed.

JOHNNY J. BUTLER,  
*Secretary*

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
1. Reese's Excavating and Paving, Inc. (Fed. ER Tax I. D. No. 23-2330470)	350 East Butler Avenue (Route 202) New Britain, PA 18901	02/03/94

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
—and—	—and—	
Charles S. Reese (Fed. ER Tax I. D. No. 23-1903560)	P. O. Box 5182 New Britain, PA 18901	
2. James B. Martin, d/b/a Roof Consultant Service	1429 Worth Street York, PA 17404	02/04/94
3. Calah Construction Corp. (Fed. ER Tax I. D. No. 25-1574962)	806 Fifth Avenue Brackenridge, PA 15014	02/22/94
—and—		
Charles Sarver	107 Second Street Freeport, PA 16229	
—and—		
Michael Kusenko, Sr.	148 Claremont Drive Lower Burrell, PA 15068	
4. Kline Mechanical Contracting, Inc., and Ernest A. Kline (Fed. ER I. D. No. 25-1403962)	One Landmark North Suite 202 20399 Route 19 Evans City, PA 16033	04/06/94
5. J. Turner Construction Co., Inc. (Fed. ER Tax I. D. No. 52-1017383)	1261 Ward Street Baltimore, MD 21230	04/07/94
6. Supermason Enterprises, Inc. (Fed. ER Tax I. D. No. 23-2200622), and Toni E. Lynch	P. O. Box 533 Main Street Portland, PA 18351	06/20/94
7. Tom Lawver, d/b/a Lawver Masonry (Fed. ER Tax I. D. No. 23-1902917)	P. O. Box 325 Hanover, PA 17331	07/21/94
8. Dowell Corporation, a/k/a Dowell, Inc. (Fed. ER Tax I. D. No. 23-1887852), and John J. O'Donnell, Jr.	8080 Welsh Road Huntingdon Valley, PA 19006	08/04/94
	3150 Comport Road New Hope, PA 18938	
9. H. M. Troutman & Sons (Fed. ER Tax I. D. No. 23-2582920), and Dennis Troutman	P. O. Box 2097 Sinking Spring, PA 19608	09/28/94
10. Allied Mechanical, Inc.	87 County Line Road Harwinton, CT 06791	09/28/94
—and—		
Allied Sprinkler and Mechanical Systems, Inc., a/k/a Allied Sprinkler and Mechanical Systems	87 County Line Road Harwinton, CT 06791	
—and—		
James D. Williams, 87 County Line Road, Harwinton, CT 06791	87 County Line Road Harwinton, CT 06791	
	—and/or—	
	Allied Sprinkler P. O. Box 1489 Burlington, CT 06791	
11. John C. Fekos, d/b/a John C. Fekos Painting Co., a/k/a John C. Fekos, Painting Contractor (Fed. ER Tax I. D. No. 25-1344589)	3057 Texas Avenue P. O. Box 7953 Pittsburgh, PA 15216	12/07/94
12. Yorktowne Sound & Communications, Inc. (Fed. ER Tax I. D. No. 23-2210787)	620 Owen Road York, PA 17403	01/13/95
—and—		
Robert A. Carrigan Ann K. Carrigan	1154 Harbour Drive Apartment 201 Wilmington, NC 28401	

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
13. Greene Mechanical Corporation (Fed. ER Tax I. D. No. 25-1348869)	253 East First Street P. O. Box 266 Waynesburg, PA 15370	06/29/95
—and—		
Michael Mesich		
14. General Mechanical Contractors, Inc. (Fed. ER Tax I. D. No. 25-1243634), d/b/a General Industries	15 Arentzen Boulevard Charleroi Industrial Park Charleroi, PA 15022	08/16/95
15. George W. Sirakos, George Sirakos, and Scott Sirakos, d/b/a George Sirakos, Contractor (Fed. ER Tax I. D. No. 25-1329207)	2207 West Pike Street Houston, PA 15342	08/16/95
—and/or—		
George W. Sirakos	2207 West Pike Street Houston, PA 15342	
—and/or—		
George Sirakos	200 Ross Street Houston, PA 15342	
—and/or—		
Scott Sirakos	200 Ross Street Houston, PA 15342	
16. Parmenter Excavating (Fed. ER Tax I. D. No. 25-1698794) and Timothy Parmenter	6280 Sterretania Road Fairview, PA 16415 —and/or— 10889 Smith Road Northeast, PA 16428	08/18/95
—and—		
P. C. Partnership and Bruce Eaton	P. O. Box 368 Fairview, PA 16415 —and/or— 12251 Lay Road Edinboro, PA 16412	
17. William Bradney	95 Louise Drive Ivyland, PA 18974	08/21/95
—and—		
Thomas Andress	43 Upper Stump Road Chalfont, PA 18914	
—and—		
Robert Kerns	1203 Olms House Road Jamison, PA 18929	
18. The Garnes Group	P. O. Box 15135 Harrisburg, PA 17105	11/20/95
—and—		
Park Garnes, Sr.		
19. Facility Automation Services, Inc. (Fed. ER Tax I. D. No. 25-1618301)	231 West Pittsburgh St. Greensburg, PA 15601	11/20/95
—and—		
James A. Gabrielse	10816 Highpoint Drive Pittsburgh, PA 15235	
20. Industrial Building Refinishers, Inc.	6845 Linden Circle Macungie, PA 18062	11/20/95
—and—		
William A. Tyrka		

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
21. DiLucente Corp.	215 Bessemer Avenue East Pittsburgh, PA 15112	01/19/96
—and—		
Domenic DiLucente (Fed. ER Tax I. D. No. 25-1485346)		
22. J. M. Spears & Sons, Inc., and James M. Spears, Sr., a/k/a J. M. Spears, Sr., a/k/a Jim Spears (Fed. ER Tax I. D. No. 25-1351922)	135 Seneca Drive Butler, PA 16001	03/01/96
23. Lehigh Tile and Marble Company (Fed. ER Tax I. D. No. 23-0139045)	1425 Chew Street Allentown, PA 18102	03/01/96
24. Dixon S. Lightcap, t/a Lightcap Electric (Fed. ER Tax I. D. No. 25-1005774)	285 Philadelphia St. Indiana, PA 15701	03/05/96
25. Edward Schench, Jr., t/a Deja Vu Mechanicals	600A Creamery Road Nazareth, PA 18064	03/29/96
—or—		
Route 2, Box 147 Easton, PA 18042		
26. John C. Fekos, d/b/a John C. Fekos, Painting Contractor (Fed. ER Tax No. 25-1344589)	3057 Texas Avenue Pittsburgh, PA 15216	05/02/96
27. Yialouris Painting Co., Inc., and Paul Yialouris	P. O. Box 11556 Pittsburgh, PA 15238	05/31/96
—and/or—		
7001 Craig Drive Murrysville, PA 15668-9409		
—and—		
Paul Yialouris		
461 Dover Drive Pittsburgh, PA 15278		
—and/or—		
740 Providence Road Pittsburgh, PA 15239		
28. Spadafora Corporation and Paul Spadafora (Fed. ER Tax I. D. Nos. 25-1644399 —and— 25-1231136)	4073 Route 8 Allison Park, PA 15101	06/05/96
29. M.D.A. Mechanical Contractors, Inc., and August McRandal (Fed. ER Tax I. D. No. 25-1429715)	305 Freeport Road Pittsburgh, PA 15215	06/28/96
30. Neutron Electric, Inc. (Fed. ER Tax I. D. No. 23-2063311)	3011 Edgemont Street Philadelphia, PA 19134	06/28/96
31. Gary Roccograndi, d/b/a Roccograndi Power Kleen Co. (Fed. ER Tax I. D. No. 23-2407840)	P. O. Box 1823 Kingston, PA 18704	09/30/96
32. Richard L. Knupp, d/b/a Richard L. Knupp & Associates, a/k/a Rick Knupp Associates	R. D. 1 Stahlstown, PA 15867	10/02/96
—and/or—		
200 West Second Street Derry, PA 15627		
33. Larry E. Patterson, d/b/a L. E. Patterson Construction Co. (Fed. ER Tax I. D. No. 23-2329358)	2034 North Fifth Street Harrisburg, PA 17102-1511	11/26/96
—and/or—		
P. O. Box 5269 Harrisburg, PA 17110-0269		

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
34. Jay Reed, d/b/a Jay Reed Concrete Finishing Company (Fed. ER Tax I. D. No. 25-1247205)	R. D. 1, Box 358A Hopewell, PA 16650	01/08/97

[Pa.B. Doc. No. 97-122. Filed for public inspection January 24, 1997, 9:00 a.m.]

**Maximum Pennsylvania Workers' Compensation Payable**

Based upon the Statewide Average Weekly Wage, as determined by the Department of Labor and Industry for the fiscal year ending June 30, 1996, the maximum compensation payable under the Workers' Compensation Act, under Article 1 subsections 105.1 and 105.2, shall be \$542 per week for injuries occurring on or after January 1, 1997. For purposes of calculating the update to payments for medical treatment rendered on and after January 1, 1997, the percentage increase in Statewide Average Weekly Wage is 2.8%.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 97-123. Filed for public inspection January 24, 1997, 9:00 a.m.]

**DEPARTMENT OF STATE**

**Transfer of Custody and Management of Orphan Corporate and Business Records**

The Department of State is authorized, under 15 Pa.C.S. § 140, to provide for the transfer on a progressive and phased basis to the custody and management of the Department any or all orphan corporate and business records. These records are corporate and limited partnership filings and recordings which were formally effected in the office of the Clerk of Court of Common Pleas or the office for the recording of deeds or an equivalent row office in a home rule charter county and which are no longer effected in such offices by reason of the enactment of corporate statutes.

Under 15 Pa.C.S. § 140(b) the Department is required to publish in the *Pennsylvania Code* a notice where, as between a county and the Department, custody of all orphan corporate and business records resides. Under this requirement, notice is hereby given that as of September 1, 1996, all orphan corporate records maintained in the 67 counties of the Commonwealth of Pennsylvania has been transferred to the Department of State's Corporation Bureau. The records are available on 16mm microfilm and are accessible to the public.

*(Editor's Note: This document will be codified at 19 Pa. Code Chapter 15 (relating to custody and management of orphan corporate and business records.)*

YVETTE KANE,  
*Secretary of the Commonwealth*

[Pa.B. Doc. No. 97-124. Filed for public inspection January 24, 1997, 9:00 a.m.]

**DEPARTMENT OF TRANSPORTATION**

**Retention of Engineering Firms**

**Erie County  
Project Reference No. 08430AG2046**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately 12 inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services on S.R. 0090, Section A05, reconstruct Interstate Route 90 from T. R. 832 to T. R. 19, Erie County.

The Department will establish an order of ranking of a minimum of three firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Past construction experience (list resumes).
- b. NICET (or other) certifications.
- c. Understanding Department specifications and policies.
- d. Past performance.
- e. Workload.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employes will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	3 (2)

<i>Classification</i>		<i>No. of Inspectors</i>
Transportation Construction Inspector (TCI)	(NICET Highway Construction Level 2 or equivalent)	7 (5)*
Technical Assistant (TA)	(NICET Highway Construction Level 1 or equivalent)	1 (0)

\*At least one TCI must be a licensed nuclear gage operator.

The numbers in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the level required for the Inspection Classification.

2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science degree in Civil Engineering or a Bachelor of Science degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year 1997 will be the following rates:

<i>Payroll Classification</i>		<i>Rate Per Hour</i>	
Transportation Construction Manager 1	(TCM-1)	\$43.96 (ST)	\$40.96 (OT)
Transportation Construction Inspector Supervisor	(TCIS)	\$38.90 (ST)	\$44.88 (OT)
Transportation Construction Inspector	(TCI)	\$34.42 (ST)	\$39.28 (OT)
Technical Assistant	(TA)	\$24.60 (ST)	\$27.00 (OT)

Maximum reimbursable rate per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting. The maximum rate per hour of inspection includes all costs to have the inspector on the project site.

The firm selected may be required to attend a preconstruction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required.

Letters of interest for this project must include a letter, signed by the individuals proposed for all TCM-1 and TCIS positions, giving their approval to use their names in the letter of interest for this specific project.

Transmittal letters for the letters of interest shall be four pages or less.

The maximum number of resumes to be included with the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI	9

No resumes are required for the TA classification.

The goal for Disadvantaged Business Enterprise (DBE) participation in this agreement shall be 15% of the total contract price. Additional information concerning DBE participation in this agreement is contained in the General Requirements and Information section after the advertised projects.

The second copy of the letter of interest and required forms, (see general requirements and information section) shall be sent to: John L. Baker, District Engineer, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323.

Technical questions concerning the requirements for this project should be directed to David W. Ruhlman, P.E., District 1-0 at (814) 437-4311.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Allegheny, Beaver, Lawrence Counties  
Project Reference No. 08430AG2047**

The Department of Transportation will retain an engineering firm for an open-end contract to provide supplementary construction inspection staff under the Department's Inspector(s)-in-Charge, to perform construction inspection services on various projects in Engineering District 11-0, that is Allegheny, Beaver and Lawrence Counties. The Contract will include roadway and bridge construction projects, and material plant inspection. The contract will be for a minimum period of 30 months with a minimum cost of \$750,000.

It is anticipated that a maximum supplementary construction inspections staff of 29 inspectors will be required for this assignment.

The Department will establish an order of ranking of a minimum of three firms for the purpose of negotiating an open-end contract based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Understanding of Department's requirements, policies and specifications.
- b. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the maintenance and protection of traffic, soils, structures, concrete, asphalt paving, drainage and bridge painting.
- c. Past performance.

- d. Workload.
- e. Number of NICET certified inspectors in each payroll classification.
- f. Ability to provide CPM scheduling.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	2 (1)
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	7 (5)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	14 (9)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	6 (0)

The numbers in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science degree in Civil Engineering or a Bachelor of Science degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year 1997 will be the following rates:

<i>Payroll Classification</i>	<i>Rate Per Hour</i>	
Transportation Construction Manager 1 (TCM-1)	\$43.96 (ST)	\$40.96 (OT)
Transportation Construction Inspector Supervisor (TCIS)	\$38.90 (ST)	\$44.88 (OT)
Transportation Construction Inspector (TCI)	\$34.42 (ST)	\$39.28 (OT)

<i>Payroll Classification</i>	<i>Rate Per Hour</i>	
Technical Assistant (TA)	\$24.60 (ST)	\$27.00 (OT)

Maximum reimbursable rate per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting. The maximum rate per hour of inspection includes all costs to have the inspector on the project site.

The firm selected may be required to attend a preconstruction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; one inspector on each project certified in computer documentation and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation or construction.

Transmittal letters for the letters of interest shall be four pages or less.

The maximum number of resumes to be included with the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	3
TCIS	9
TCI	17

No resumes are required for the TA classification.

The second copy of the letter of interest and required forms, (see general requirements and information section) shall be sent to: Henry M. Nutbrown, District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017-2853.

Technical questions concerning the requirements for this project should be directed to Robert Collins, District 11-0, at (412) 429-4928.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**General Requirements and Information**

Firms interested in providing the above work and services are invited to submit two copies of a letter of interest and required forms for each Project Reference Number for which the applicant wishes to be considered.

One copy of the letter of interest and required forms must be submitted to Director, Bureau of Design, Consultant Selection Committee, Forum Place, 555 Walnut Street, 7th Floor, Harrisburg, PA 17101-1900.

The letter of interest and required forms must be received within 13 calendar days of this notice. The deadline for receipt of a letter of interest at the above address is 4:30 p.m. prevailing time of the thirteenth day.

The second copy of the letter of interest and required forms must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.



If an individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

Proposed DBE firms must be certified at the time of submission of the letter of interest. If the selected firm fails to meet the goal established, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms and other engineering firms who have not previously performed work for the Department of Transportation.

Each letter of interest must include the following:

1. The project reference number for which the applicant wishes to be considered.
2. The firm's legal name, factious name (if applicable), and the firm's Federal identification number.
3. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate the names and license number of individuals who are directing heads or employees of the firm who is responsible of the firm's engineering activities, and whose names and seal shall be stamped on all plans, specifications, plats and reports issued by the firm.
4. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project." The Standard Form 255 must be signed, dated and filled out in its entirety including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project.

If a Disadvantage Business Enterprise (DBE) goal is specified for the project the DBE must be currently certified by the Department of Transportation, and the name of the firm and the work to be performed must be indicated in Item No. 6.

If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

5. Standard Form 254, "Architect-Engineer for Related Services Questionnaire" not more than 1 year old as of the date of this advertisement, must accompany each letter of interest for the firm, each party to a joint venture and for each subconsultant the firm or joint venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor of a Company, unless an acceptable Standard Form 254 for the prime and *each* subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office of Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the letter of interest the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

6. A "Workload Projection" form for the prime and each subconsultant/subcontractor. The "Workload Projection" form should indicate the firms current and anticipated workload compared to the anticipated capacity available during the agreement projected time frame.

7. Firms with out-of-State headquarters or corporations not incorporated in Pennsylvania must include with each letter of interest a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

8. The latest audited overhead rate of the prime consultant and each subconsultant.

The assignment of the agreement/contract for the above advertisements will be made to one of the firms who submitted an acceptable letter of interest in response to this project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 97-125. Filed for public inspection January 24, 1997, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Kniseley Coal Company v. DEP; Doc. No. 95-248-R**

The Department of Environmental Protection (Department) and Kniseley Coal Company (Kniseley) have agreed to a settlement of the above matter. Kniseley Coal

Company operated an underground bituminous coal mine in McCalmont Township, Jefferson County, under Coal Mining Activity Permit No. 33841305 (No. 10 Deep Mine). On October 16, 1995 the Department issued Compliance Order No. 95-2-083U to Kniseley, citing Kniseley for its failure to close, backfill, or otherwise permanently reclaim the No. 10 Deep Mine, and ordering Kniseley to submit a plan to the Department to reclaim the No. 10 Deep Mine. Kniseley appealed Compliance Order No. 95-2-083U to the Environmental Hearing Board, which appeal was docketed at EHB Docket No. 95-248-R. On December 4, 1995 the Department issued Compliance Order No. 95-2-087U, which cited Kniseley for failing to comply with Compliance Order No. 95-2-083U.

The parties have agreed to a settlement, the major provisions of which include:

1. On or before March 1, 1997, Kniseley shall seal all boreholes, shafts and other openings to the No. 10 Deep Mine in accordance with the revised closure plan.

2. On or before April 1, 1997, Kniseley shall:

a) demolish and remove all buildings and materials from the No. 10 Deep Mine except those allowed to remain as set forth in Kniseley's revised closure plan;

b) remove all scrap, equipment and machinery from the No. 10 Deep Mine, except for those items allowed to remain as set forth in Kniseley's revised closure plan; and

c) backfill the affected surface area of the No. 10 Deep Mine to approximate original contour.

3. On or before May 30, 1997, Kniseley shall revegetate the surface areas of the No. 10 Deep Mine to the specifications set forth in its revised closure plan and 25 Pa. Code § 89.86.

4. Civil penalties of \$23,810 are assessed against Kniseley. However, if Kniseley timely complies with the above-listed requirements, the Department shall waive the collection of these civil penalties.

5. Kniseley's appeal before the Environmental Hearing Board at EHB Docket No. 95-248-R is dismissed with prejudice.

Copies of the full agreement are in the possession of:

Steven Lachman, Assistant Counsel, Department of Environmental Protection, Office of Chief Counsel, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4262;

Francis Caltagarone, Kniseley Coal Company, P. O. Box 158, Reynoldsville, PA 15851, (814) 653-2978;

and at the offices of the Environmental Hearing Board, and may be reviewed by any interested person on request during normal business hours.

Persons who are aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457. Appeals must be filed within 20 days of this publication.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 783-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Service at 1 (800) 654-5984.

The Environmental Hearing Board is empowered to approve this settlement if no objection is timely filed with the Board.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 97-126. Filed for public inspection January 24, 1997, 9:00 a.m.]

### **Power Operating Company, Inc. v. DEP; EHB Doc. Nos. 94-199-C, 96-208-C**

The Department of Environmental Protection (Department) and Power Operating Company, Inc. (Power) have agreed to a settlement, of the above matters. Power conducted surface coal mining at the Dugan mine site in Rush Township, Centre County, PA. On June 17, 1994, and on October 8, 1996, the Department issued Orders directing that Power treat or abate a postmining discharge to Moshannon Creek from the Dugan mine site. Power appealed both Orders. The parties have agreed to a settlement, the major provisions of which include:

1. By July 1, 1997, Power shall initiate construction of a passive treatment system, as approved by the Department.

2. By September 30, 1997, Power shall have completed construction of the Passive Treatment System. Upon completion of the system, all effluent discharged from the Passive Treatment System shall satisfy the effluent standards for a passively treated post-mining discharge.

3. After completion of the Passive Treatment System, the Department will release to Power \$250,000 of the total bonds posted for the Dugan mine site.

4. After 12 consecutive months of successful operation of the Passive Treatment System, such that the effluent discharged from the Passive Treatment System consistently meets the effluent standards for a passively treated post-mining discharge, Power may apply for a bond adjustment, in accordance with 52 P. S. § 1396.4 and 25 Pa. Code § 86.152 or may, in the alternative, establish a treatment trust, in the amount of \$167,726, in accordance with 52 P. S. § 1396.4, which trust will be calculated in accordance with the Department Program Guidance Manual for Bond Adjustments/Release for Post Mining Discharges (PGM No. II:04:50) and subject to the provisions in Paragraph 6 below. Upon the establishment of treatment trust in the amount of \$167,726 and assuming all of the criteria for release of bonds set forth at 25 Pa. Code §§ 86.171 and 86.172 are met, the Department shall release the remainder of the bond. The treatment trust in the amount of \$167,726 is subject to the provisions of Paragraph 6 below.

5. Power shall operate and maintain the Passive Treatment System and shall treat all water to the effluent standards applicable for a passively treated postmining discharge. Power shall take whatever steps are necessary, including modification of the Passive Treatment System or the addition of conventional treatment, to make the water discharged from the Passive Treatment System meet the effluent limits for a passively treated post-mining discharge.

6. In the event that Power finds it necessary to utilize conventional treatment to meet the applicable effluent limits, the applicable effluent limits shall be those found in 25 Pa. Code § 87.102, during the periods of time when the discharge does not meet the limits for a passively

treated post mining discharge utilizing passive treatment methods. In addition, if Power finds it necessary to utilize conventional treatment to meet the applicable effluent limits, Power may either establish a treatment trust or pursue a bond adjustment under Paragraph 4, above, provided that the treatment trust or adjusted bond includes the 50 year cost of conventional treatment.

Copies of the full agreement are in the hands of:

Marc A. Ross, Esquire, Assistant Counsel, P. O. Box 8464, 400 Market Street, Harrisburg, PA 17105-8464;

John W. Carroll, Esquire, Pepper, Hamilton & Scheetz, One Keystone Plaza, P. O. Box 1181, Harrisburg, PA 17108-1181;

and at the office of the Environmental Hearing Board and may be reviewed by any interested party on request during normal business hours.

Persons who are aggrieved by the above settlement have a right to appeal to the Environmental Hearing Board, 2nd Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457.

If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 783-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at 1 (800) 654-5984.

Appeals must be filed within 20 days of this publication.

The Environmental Hearing Board is empowered to approve this settlement if no objection is timely made.

GEORGE J. MILLER,  
*Chairperson*

[Pa.B. Doc. No. 97-127. Filed for public inspection January 24, 1997, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Request for Bids

The Health Care Cost Containment Council is soliciting bids from qualified vendors to conduct a financial and compliance audit of the books, records and documents of the Council, for the fiscal year period July 1, 1996—June 30, 1997. Interested parties are requested to contact the Council Office by writing the Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101, or by calling (717) 232-6787 for copies of the Request for Proposal. Bids are due to the Council Office no later than 5 p.m. on February 27, 1997. A preproposal conference will be held at the above address on February 5, 1997, at 10 a.m. Potential bidders are invited to submit questions in advance of the preproposal conference.

ERNEST J. SESSA,  
*Executive Director*

[Pa.B. Doc. No. 97-128. Filed for public inspection January 24, 1997, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Easton Hospital; Amendment No. 2 to the Member Hospital Prospective Payment Agreement; Filing No. 97-C

By filing no. 97-C, Capital Blue Cross submits for the Department's review and approval an Amendment No. 2 Form # F-1670(b) to the Member Hospital Prospective Payment Agreement with Easton Hospital regarding payment for implantable defibrillators. The proposed amendment has an effective date of September 1, 1996.

Copies are available for public inspection, by appointment, during normal working hours at the Insurance Department's Office in Harrisburg. This filing consists of two pages. Refer to Insurance Department File Number 9701130017001.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-129. Filed for public inspection January 24, 1997, 9:00 a.m.]

### The Meadows Psychiatric Center; Amendment No. 1 to the Member Psychiatric Hospital Prospective Payment Agreement; Filing No. 97-B

By filing no. 97-B, Capital Blue Cross submits for the Department's review and approval an Amendment No. 1 Form #F-1684 to the Member Psychiatric Hospital Prospective Payment Agreement with The Meadows Psychiatric Center. The proposed amendment has an effective date of September 1, 1996 and provides for the payment of Psychiatric Partial Hospitalization services.

Copies are available for public inspection, by appointment, during normal working hours at the Insurance Department's Office in Harrisburg. This filing consists of ten pages. Refer to Insurance Department File No. 9701130015001.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, Pa 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commission*

[Pa.B. Doc. No. 97-130. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by section 9(a) of the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. § 1008.9(a)) in connection with their company's termination of the insured's automobile policies.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Clean Tyme Assoc., Inc.; file no. 96-264-37399; State Farm Fire & Casualty; doc no. PH96-12-034; January 23, 1997, at 1 p.m.;

Appeal of Smith, William; file no. 96-223-36494; Keystone Insurance Company; doc. no. PH96-12-032; January 29, 1997, at 9 a.m.;

Appeal of McBride, Brian P.; file no. 96-267-36766; The Insurance Company of the State of Pennsylvania; doc. no. PH96-12-033; January 29, 1997, at 10 a.m.;

Appeal of Hand, Marion L.; file no. 96-193-06457; Erie Insurance Exchange; doc. no. P96-12-040; January 29, 1997, at 11 a.m.;

Appeal of Thomas, James and Rosemarie; file no. 96-183-08103; Erie Insurance Group; doc. no. P96-12-042; January 29, 1997, at 1 p.m.;

Appeal of Conallen, Michael J.; file no. 96-280-37794; USAA; doc. no. PH97-01-003; January 29, 1997, at 2 p.m.;

Appeal of Dohrmann, Edward; file no. 96-215-36854; State Farm Fire & Casualty Co.; doc. no. PH96-12-035; January 30, 1997, at 9 a.m.;

Appeal of Evans, Richard M.; file no. 96-193-06715; GEICO; doc. no. P96-12-043; January 30, 1997, at 1 p.m.;

Appeal of Fow, O. Allen; file no. 96-121-07729; Old Guard Mutual Insurance Company; doc. no. P96-12-041; January 30, 1997, at 2 p.m.;

Appeal of Smith, Gibson and Sandra; file no. 96-124-07741; Aetna Insurance Company; doc. no. P96-12-039; January 31, 1997, at 9 a.m.;

Appeal of Morrison, James and Annette; file no. 96-407-91364; Providian Auto & Home Insurance Company; doc. no. E97-01-001; January 31, 1997, at 10 a.m.;

Appeal of Whipkey, John H. and Fay; file no. 96-407-91430; Nationwide Insurance Company; doc. no. E97-01-002; January 31, 1997, 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) 787-4289.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-131. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Review Procedure Hearings under The Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with his company's termination of the insured's policy.

The hearing will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Di Tommaso, Raymond; file no. 96-215-35705; Allstate Insurance Company; doc. no. PH97-01-004; January 30, 1997, at 10 a.m.

Both 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 and other necessary evidence. The insured must bring all documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); section 8 of The Unfair Insurance Practices Act (40 P. S. § 1171.8) and the regulations set forth at 31 Pa. Code § 59.7(e) (relating to appeal procedures). Under 31 Pa. Code § 59.7(e)(5), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is given.

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4289.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-132. Filed for public inspection January 24, 1997, 9:00 a.m.]

### Saint Luke's Hospital; Amendment No. 2 to the Member Hospital Prospective Payment Agreement; Filing No. 97-A

By filing no. 97-A, Capital Blue Cross submits for the Department's review and approval an Amendment No. 2 Form # F-1667(b) to the Member Hospital Prospective

Payment Agreement with Saint Luke's Hospital. The proposed amendment has an effective date of July 1, 1996 and provides for the payment of Psychiatric Partial Hospitalization services.

Copies are available for public inspection, by appointment, during normal working hours at the Insurance Department's Office in Harrisburg. This filing consists of nine pages. Refer to Insurance Department File Number 9701130012001.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Insurance Department, Office of Rate and Policy Regulation, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, Pa 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 97-133. Filed for public inspection January 24, 1997, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. 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 February 18, 1997, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights* as described under each application.**

**A-00113659. Elite Coach, Inc.,** (1520 Walnut Street, Allentown, Lehigh County, PA 18102), a corporation of the Commonwealth of Pennsylvania—persons in group and party service, between points in the counties of Lehigh and Northampton, and from points in the said counties, to points in Pennsylvania; which is to be a transfer of part of the rights authorized Leonard Tours & Charters, Inc., under the certificate issued at A-00110519, subject to the same limitations and conditions. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, Suite 1400, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102-1890.

**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-00109436, F. 2. David E. Waligurski, Jr., t/d/b/a Lifestyle Limousine Unlimited** (2829 Sturbridge Court, Sinking Spring, Berks County, PA 19608)—

additional right—persons in group and party service, between points in the county of Berks, and from points in the said county to points in Pennsylvania and return. *Attorney:* J. Bruce Walter, P. O. Box 1146, Harrisburg, PA 17108-1146.

**A-00109436, F. 3. David E. Waligurski, Jr., t/d/b/a Lifestyle Limousine Unlimited** (2829 Sturbridge Court, Sinking Spring, Berks County, PA 19608)—additional right—persons in airport transfer service, from points in the county of Berks, to the Philadelphia International Airport in the city and county of Philadelphia and the township of Tinicum, Delaware County; the Allentown-Bethlehem-Easton Airport in the township of Hanover, Lehigh County; and the Harrisburg International Airport in the township of Lower Swatara, Dauphin County. *Attorney:* J. Bruce Walter, P. O. Box 1146, Harrisburg, PA 17108-1146.

**Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer as described under each application.***

**A-00113647. Geo. W. Weaver & Son, Inc.** (A New Corporation) (165 Lamont Street, New Cumberland, Cumberland County, PA 17070), a corporation of the Commonwealth of Pennsylvania—(1) property, excluding household goods in use, between points in Pennsylvania; (2) household goods in use, between points in the city of Harrisburg, Dauphin County, and within 15 miles by the usually traveled highways of the limits of said city; and (3) household goods in use from points in the city of Harrisburg, Dauphin County, and within 15 miles by the usually traveled highways of the limits of said city, to other points in Pennsylvania and vice versa; which is to be a transfer of all of the rights authorized under the certificates issued at A-00069107, Fs. 2, 3, and 4 to Geo. W. Weaver & Son, Inc. (old corporation), subject to the same limitations and conditions. *Attorney:* Lloyd R. Persun, 3401 North Front Street, P. O. Box 5950, Harrisburg, PA 17110-0950.

**A-00113657. Jenks, Inc., t/d/b/a Georgia P. Carroll Moving Company** (42 Ridgecrest Drive, Pittsburgh, Allegheny County, PA 15235), a corporation of the Commonwealth of Pennsylvania—(1) as a Class D carrier, household goods in use, for the Relocation Department of the Urban Redevelopment Authority of Pittsburgh, between points in the city of Pittsburgh, Allegheny County, and from points in said city to other points in Allegheny County; (2) as a Class B carrier, household goods in use, between points in the city of Pittsburgh, Allegheny County; which is to be a transfer of the rights authorized under the certificates issued at A-00108243, Folders 2 and 3, to Georgia P. Carroll, subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219-3427.

### 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 February 10, 1997.

- A-00113645 Richard Lawson Excavating, Inc.  
3467 Washington Avenue, Finleyville, PA  
15332: Jana L. Phillis, Esquire,  
Schnader, Harrison, Segal & Lewis, 8  
East Pine Street, Washington, PA 15301-  
6704
- A-00113660 Brian D. Herr, t/d/b/a Brian D. Herr Truck-  
ing  
190 Lancaster Avenue, Quarryville, PA  
17566
- A-00113650 Richard F. Knapp, Sr., t/d/b/a Circle K  
Transport  
12590 Blymire Hollow Road,  
Stewartstown, PA 17363: Nathaniel Boyd,  
23 East Princess Street, York, PA 17403
- A-00113651 Canterbury Coal Company  
R. D. 1, Box 119, Avonmore, PA  
15618: William A. Gray, 2310 Grant  
Building, Pittsburgh, PA 15219-2383
- A-00113652 Harold C. Myers, t/d/b/a ABC Courier Deliv-  
ery Service  
P. O. Box 141, 363 Pattison Street, York,  
PA 17405
- A-00113653 Christopher Thomas Grguric, t/d/b/a C. T.  
Trucking, & Excavating  
R. D. 1, Box 245, Clarksburg, Pa 15725
- A-00113654 Craig Brown  
100 West Central Avenue, Paoli, PA 19301
- A-00113655 Paul R. Maranchick, t/d/b/a Maranchick  
Brothers Transportation  
1805 Lakeside Drive, Eric, PA 16511
- A-00113656 David C. Trainer  
147 Rock Street, Lehighton, PA 18235
- A-00113661 Cynthia A. and Cal Lorenz, t/d/b/a Bear  
Valley Trucking  
R. D. 2, Box 852, Coal Township, PA  
17866
- A-00113662 Raymond L. Hartzell, t/d/b/a Ray's Mobile  
Home Moving  
Star Route 1, Box 10, Rixford, PA 16745
- A-00113663 Laurel Packaging, Inc.  
429 Industrial Park Road, Johnstown, PA  
15904
- A-00113664 Pillow Express Delivery, Inc.  
2105 North Meridan Street, Indianapolis,  
IND 46202: Joseph P. Murdock, Suite  
945, 9000 Keystone Crossing, Indianapo-  
lis, IN 46240

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 97-134. Filed for public inspection January 24, 1997, 9:00 a.m.]

## STATE SYSTEM OF HIGHER EDUCATION

### Request for Proposals

California University of Pennsylvania of the State System of Higher Education (System) is interested in obtaining proposals for the construction of our new science and technology building, Project DGS-402-50. Interested bidders can request the University's project manual from Hayes Large Architects, Logan Boulevard and Fifth Avenue, P. O. Box 1784, Altoona, PA 16603 or contact by phone at (814) 946-0451 on or after Monday,

January 27, 1997. A deposit of \$260 for one set of general construction, heating, ventilating and air conditioning construction, fire protection construction, plumbing construction and/or electrical construction plans and specifications, which amount (less \$17.50 for expense of postage and handling if documents are mailed to bidder) will be refunded to the bidder only upon submission of a bona fide bid and the return of the plans and specifications, including addenda, to the architect in reusable condition within 10 days after the date of the opening of bids; otherwise, the deposit will be forfeited. A second set of construction plans and specifications may be obtained upon refundable deposit of an additional \$260. Additional sets of plans and specifications may be purchased. Checks are to be payable to Hayes Large Architects. There will be a preproposal hearing on Friday, February 14, 1997, at 10 a.m. in Room 100 World Culture Building. Bids must arrive by 2 p.m. on Friday, February 28, 1997, in Room 117, Azorsky Administration Building. The bid opening will be Friday, February 28, 1997, at 2:30 p.m. in Room 100 World Culture Building. The System encourages responses from small firms, minority firms, women owned firms and firms which have not previously performed work for the system and will consider joint ventures that will enable these firms to participate in the system's contracts.

JAMES H. MCCORMICK,  
*Chancellor*

[Pa.B. Doc. No. 97-135. Filed for public inspection January 24, 1997, 9:00 a.m.]

## STATE TRANSPORTATION ADVISORY COMMITTEE

### Meeting Scheduled

The State Transportation Advisory Committee will hold its yearly mandated meeting on Monday, February 3, 1997. This meeting is open to the public and will begin at 10 a.m. at the following location: Executive Conference Room 9B, Forum Place, 555 Walnut Street, Harrisburg, PA 17101.

The meeting location is accessible to persons having disabilities. Persons having special needs or requiring special aides are requested to contact the State Transportation Advisory Committee Office at (717) 787-2913 in order that special disability needs may be accommodated.

H. MICHAEL LIPTAK,  
*Chairperson*

[Pa.B. Doc. No. 97-136. Filed for public inspection January 24, 1997, 9:00 a.m.]

## STATE TRANSPORTATION COMMISSION

### Meeting Scheduled

The State Transportation Commission will hold a regular scheduled business meeting on Thursday, January 30, 1997. This meeting is open to the public to attend and will begin at 10 a.m. at the following location: Depart-

ment of Transportation, Forum Place, 555 Walnut Street, Conference Room 9B, Harrisburg, PA 17101.

The meeting is open to the public. Attendees are to enter Forum Place and proceed to the 6th Floor Reception Area.

The meeting location is accessible to persons having disabilities. Any persons having special needs or requiring special aides are requested to contact the State Transportation Commission Office at (717) 787-2913 in order that special disability needs may be accommodated.

BRADLEY L. MALLORY,  
*Chairperson*

[Pa.B. Doc. No. 97-137. Filed for public inspection January 24, 1997, 9:00 a.m.]

## TURNPIKE COMMISSION

### Request for Bids

The Turnpike Commission is requesting a sealed bid for:

Window Replacement at Harrison City Maintenance Building, Westmoreland County. Mandatory Site Inspection: February 11, 1997 at 11 a.m. at Harrison City Maintenance Building, M. P. 63.2, Harrison City, Westmoreland County. Open Date: February 26, 1997 at 11 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated above. Bid proposal Forms and Conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department, (717) 939-9551, ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-138. Filed for public inspection January 24, 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 below for the following contract:

**Contract No. 96-001-RT07.** Bituminous overlay, ID-2, SRL-E between M. P. 24.94 and M. P. 35.06 on the PA Turnpike System in Butler and Allegheny Counties, PA.

*Bid Opening Date:* February 25, 1997, 11 a.m.

*Bid Surety:* 5%.

Plans, specifications and contract documents will be available and open to the public inspection at the Administration Building. Copies may be purchased upon payment of \$25 per paper copy set (do not add State tax) by check or U.S.P.S. Money Order (no cash) to the Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676; Attn: Secretary/Treasurer's Office. No refund will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Director of Purchases for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 97-139. Filed for public inspection January 24, 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



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### Commodities

**1614156** Clothing and individual equipment—125 each Police uniform jacket (coat), navy blue color. Hip length, single breasted, Gore-Tex LTD breathable waterproof lining removable thinsulate body/sleeve liner and front zipper storm closure.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1468116** Communication equipment—1 each all components to supply a complete CCTV system.

**Department:** Corrections  
**Location:** State Correctional Institution, Cambridge Springs, Crawford County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1378156** Communication equipment—1 each Winsted video production and corner console custom assembly; right angle computer graphics console; mobile editing work center; 78-3/4" space saving vertical cabinet; 70" space saving vertical rack cabinet; multimedia light oak workstation; Winsted computer graphics station.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, Cumberland and Franklin Counties, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1540386** Communication equipment—4 each Paravant 44E data collector, Part No. GS01931-1001, MS DOS 6.2 with license and related accessories to include 1 year warranty; 2 megabyte memory card No. 02699-2048; NICAD battery pack (2nd battery in addition to battery supplied with RHC-44); EASYDC universal data collection software and 2 each GRCR driver with interface cable for Criterion 400 hand-held laser surveying instrument.

**Department:** Conservation and Natural Resources  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**7313630** Computer equipment and supplies—1 each processor, UNIX, capable of running the client/server version of the Manugistics "Buying System" and software, UNIX. (The processor must come loaded with the most current version that the processor will support.)

**Department:** Liquor Control Board  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8503580** Construction and building materials—1 each box, precast concrete box culvert.

**Department:** Transportation  
**Location:** Indiana, Indiana County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1511166** Heating/air conditioning (training)—items to start up an instruction program. 1 each training system; refrigeration; heat pump; split type a/c; domestic freezer skills; consumable parts; beverage cooler; dual temperature skills; walk-in cooler skills; charging station; comprehensive tool cabinet; practical electricity/electronics work station; RR-SS Freon reclaiming unit; ESC11-11 eye protection cabinet and MSC-3624 metals storage cabinet.

**Department:** Corrections  
**Location:** Houtzdale, Clearfield County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1534116** Instruments and laboratory equipment—1 system perimeter microwave/infrared security detection system.

**Department:** Corrections  
**Location:** Greensburg, Westmoreland County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1514206** Instruments and laboratory equipment—3 each scopes, nightvision, ultra high resolution, pocketoscope.

**Department:** State Police  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1558356** Instruments and laboratory equipment—1 each Vapor analyzer; calibration kit and watertap probe.

**Department:** Environmental Protection  
**Location:** Wilkes-Barre, Luzerne County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8503610** Maintenance and repair shop equipment—2000 each shovel, B&C barn or cinder.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8503620** Metal bars, sheets and shapes—21200 pound; steel channel, C18 X 45.8, A36 steel.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1551216** Motor vehicles, trailers and cycles—1 each '97 model converted van type passenger.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1515216** Motor vehicles, trailers and cycles—1 each '97 model converted van type passenger vehicle (ADA requirements).

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1523216** Motor vehicles, trailers and cycles—1 each '97 model large size enclosed type 4x4 truck.

**Department:** General Services  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8231750** Motor vehicles, trailers and cycles—6 each latest model trailer, utility, enclosed, 7,000 lbs.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1609206** Paper and printing—20M; evidence shipping tag, with reinforced eyelet, white cloth, size 5-1/4" X 2-5/8", printing both sides, black ink, wire double cut size (single strand length), 12" attached to tags.

**Department:** State Police  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**8503600** Paper and printing—35M; Sample identifications.

**Department:** Transportation  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1631076** Promotional items—3,000 each black crewneck T-shirt, printed on front.

**Department:** Health  
**Location:** Harrisburg, Dauphin County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1640226** Pumps—2 each vertical turbine pump, 1500 GPM @ 60-65 TDH.

**Department:** Fish and Boat Commission  
**Location:** Bellefonte, Centre County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

**1618116** Service and trade equipment—2 each washer/extractor, 165 lb. capacity soft mount, with EP-Plus Microprocessor set for corrections (security package), with foundationless suspension. Unit to come with 10 pre-set formulas, fully adjustable w/20 additional formulas—furnish and set-up.

**Department:** Corrections  
**Location:** Camp Hill, Cumberland County, PA  
**Duration:** Indeterminate 1996-97  
**Contact:** Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199 or (717) 787-4705

## SERVICES

### Audio/Video—04

**1184** The contractor shall provide cellular telecommunication service to the State Correctional Institution at Greensburg. This service shall include nationwide airtime access for 4 Motorola Model MC480 and 1 Motorola model DPC550 cellular telephones. Service shall also include call waiting and 3-way calling at no additional cost to the Commonwealth.

**Department:** Corrections  
**Location:** State Correctional Institution at Greensburg, R. D. 10, Box 10, Route 119 South, Greensburg, PA 15601-8999  
**Duration:** July 1, 1997 to June 30, 2000  
**Contact:** Jack Loughry, (412) 837-4397

**SOM-112** The State Correctional Institution at Somerset will be bidding a contract for technical repair and service for various makes, models of radio equipment at the State Correctional Institution at Somerset. The service contract will include any moves, parts, and labor required. The anticipated contract will cover a 3 year period.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** 7/1/97 through 6/30/00  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**976** To provide maintenance service for all equipment and material comprising the telephone system at the State Correctional Institution, Frackville, 1111 Altamont Boulevard, Frackville, PA.

**Department:** Corrections  
**Location:** State Correctional Institution, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** July 1, 1997 to June 30, 2000  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (717) 874-4516

### Computer Related Services—08

**300763** Time and attendance services: service desired is to provide time, attendance, and payroll information for employees. The vendor shall provide a service which is capable of reading employee identification cards using card access readers, accumulating time and attendance data for payroll purposes, and to supervisors for review and approval. The information service will be written under Windows and capable of running under Windows NT, Windows 95, and on Windows for Workgroups 3. The service system must be written by the vendor. Identification badge readers will be provided for lease at 14 locations.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron and Maclay Streets, Harrisburg, PA 17105  
**Duration:** July 1, 1997 through June 30, 2000, a period of three years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**99991400 000** The selected vendor will design and program a milk accounting and related methodologies for implementation on an open system platform for use by the staff of the Pennsylvania Milk Marketing Board.

**Department:** Pennsylvania Milk Marketing Board  
**Location:** 2301 North Cameron Street, Harrisburg, PA 17110-9408  
**Duration:** 8 months  
**Contact:** Dave Weldon, (717) 787-4194

**SP-299381** Provide the Department of Public Welfare with information technology specialist staff assistance on an as needed basis for a period of thirty-six (36) months and provide a maximum of twenty-four (24) staff who will be located in the Willow Oak Building, Grounds of Harrisburg State Hospital, Harrisburg, PA.

**Department:** Public Welfare  
**Location:** Willow Oak Building, Harrisburg State Hospital, Harrisburg, PA 17105  
**Duration:** 3/01/97 to 2/29/98  
**Contact:** Thomas Kinney, (717) 772-6430

**SP-299389** Remedial maintenance for a Liebert Series 600 Multi-Module 3 Phase Uninterruptable Power System (UPS) and associated equipment located at 787 Eisenhower Boulevard, Harrisburg, PA.

**Department:** Public Welfare  
**Location:** 787 Eisenhower Boulevard, Harrisburg, PA 17111  
**Duration:** 2/01/97 to 6/30/98  
**Contact:** Raymond Marshalek, (717) 783-6322

## Construction and Construction Maintenance—09

**080941** Clinton County, Group 2-97-ST2; Lycoming County, SR 15 (B42); Lycoming County, SR 15 (M03); Northumberland County, SR 4026 (006); Snyder County, 11 (53M); Pike County, Group 4-97-MC3; Wayne County, Group 4-97-ST5; Monroe County, SR 33 (01B); Chester County, SR 113 (02L)/100(02L); Montgomery County, SR 4020 (A01); York County, SR 1014 (001); York County, SR 0516 (001 and 002); Harrisburg International Airport, HIA Pavmt. Rehab. PH2; Lackawanna County, Group 4-96-HS2; Luzerne County, Group 4-97-HS3; Pike County, Group 4-97-HS4; Susquehanna County, Group 4-97-HS5; Wayne County, Group 4-97-HS6; Wyoming County, Group 4-97-HS7; Northampton County, Group 5-96-POC5C.

**Department:** Transportation  
**Location:** Districts 2-0, 3-0, 4-0, 5-0, 6-0, 8-0 and Bureau of Aviation  
**Duration:** FY 1996-97  
**Contact:** V. C. Shah, (717) 787-5914

**08430AG2045** To provide supplementary construction inspection staff of approximately twenty (20) inspectors for construction inspection and documentation services for S. R. 0076, Section PM2, Schuylkill Expressway from I-476 to Belmont Avenue, S. R. 0076, Section PM3, Schuylkill Expressway from Belmont Avenue to the City Line and S. R. 0076, Section PM4, Schuylkill Expressway from the City Line to South Street, City of Philadelphia.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** Eighteen (18) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**Contract No. DGS 149-1, Revised Rebid** Project title: Provide Riprap and Filter Blanket, Rehabilitate Existing Boat Launching Ramp and Install New Courtesy Dock. Brief description: construction of approximately 2000 L. F. of 18 to 24 inch stone riprap with filter blanket. General construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 19, 1997 at 2:00 p.m.

**Department:** General Services  
**Location:** Susquehanna State Park, Williamsport, Lycoming County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**Contract No. DGS A 225-6** Project title: Garage Reroof. Brief description: remove and replace existing built-up roof and insulation with new rigid tapered insulation and new Elvaloy roofing membrane at garage roof. Existing B.U.R. flashing contains asbestos. Work is limited to renovations within existing building. General construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 19, 1997 at 11:00 a.m.

**Department:** General Services  
**Location:** PA State Police, Troop D Headquarters Building, Butler, Butler County, PA  
**Duration:** 90 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**Contract No. DGS A 229-8** Project title: Reroofing. Brief description: remove existing gravel from roof surface and install new single ply roof system with tapered insulation and new roof edge. General construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 19, 1997 at 2:00 p.m.

**Department:** General Services  
**Location:** PA State Police, Transportation Division, 22nd and Herr Streets, Harrisburg, Dauphin County, PA  
**Duration:** 120 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**Contract No. DGS 402-50** California University of Pennsylvania of the State System of Higher Education is interested in obtaining proposals for the construction of our new Science and Technology Building. Interested bidders can request the University's Project Manual from Hayes Large Architects, Logan Boulevard and Fifth Avenue, P. O. Box 1784, Altoona, PA 16603, or contact by phone at (814) 946-0451 on or after Monday, January 27, 1997. A non-refundable charge of \$260.00 for one set of general construction, heating, ventilating and air conditioning and/or electrical construction for plans and specifications payable to Hayes Large Architects. Contact person for this project is Hayes Large Architects. There will be a pre-proposal hearing on Friday, February 14, 1997 at 10:00 a.m. in Room 100, World Culture Building. Bids must arrive by 2:00 p.m. on Friday, February 28, 1997 in Room 117, Azorsky Administration Building. The bid opening will be Friday, February 28, 1997 at 2:30 p.m. in Room 100, World Culture Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System's contracts.

**Department:** State System of Higher Education  
**Location:** California University of PA, California, Washington County, PA 15419  
**Duration:** 2 years  
**Contact:** Vickie A. Laubach, Purchasing Agent II, (412) 938-4430

**Contract No. FDC-109-223** Provide and install approximately 150 L. F. of 15" C.P.P., 5 Type 'M' Inlets, 120 L. F. of underdrain, 600 tons of 2A modified, 6,600 S. Y. of B.C.B.C., 24,100 S. Y. of ID-3 wearing course, and 1300 tons of 2RC shoulders; scarifying, grading and compacting; milling; and landscaping. All work is located at Hills Creek State Park.

**Department:** Conservation and Natural Resources  
**Location:** Charleston Township, Tioga County, PA  
**Duration:** 90 days  
**Contact:** Construction Management Section, (717) 787-5055

**Contract No. FDC-210-236** Preparation and application of epoxy coal tar coating (approximately 680 S. F. of steel and 2,320 S. F. of concrete surfaces). All work is located at Moraine State Park.

**Department:** Conservation and Natural Resources  
**Location:** Muddy Creek Township, Butler County, PA  
**Duration:** 60 days  
**Contact:** Construction Management Section, (717) 787-5055

**SP 298705** Repair of bridges located in Haines Township and Penn Township, Centre County, Bald Eagle State Forest. Work to be completed: remove existing plank deck and timber curbs and install new 2x6 nail laminated timber deck, new timber curbs and install a vertical support on the near abutment end of stringer No. 3 on Bridge No. R-7; install a complete set of steel diaphragms in the center of the bridge on bridge No. R-8. All work to be contracted out and comply with Bureau of Facility Design and Construction specifications.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Bald Eagle State Forest, Centre County, PA  
**Duration:** March—September, 1997  
**Contact:** Amy G. Griffith, (717) 922-3344

**03070108001** This contract is for the cutting, trimming and delivery of up to 250 white oak logs to be used in the construction of two historic cabin reproductions at Somerset Historical Center and Bushy Run Battlefield. For more information contact Somerset Historical Center.

**Department:** Historical and Museum Commission  
**Location:** Somerset Historical Center, 10649 Somerset Pike, Somerset, PA 15501  
**Duration:** 3 months  
**Contact:** David Dunn, (814) 445-6077

**03070108002** This contract is for the manufacture and delivery of at least 12 square of hand split, 4 foot long hardwood roofing clapboards for Somerset Historical Center and 14 square of 8 inch by 30 inch wood shakes (shingles) for Bushy Run Battlefield for the construction of log cabins at each site. For information contact Somerset Historical Center.

**Department:** Historical and Museum Commission  
**Location:** Somerset Historical Center, 10649 Somerset Pike, Somerset, PA 15501  
**Duration:** 3 months  
**Contact:** David Dunn, (814) 445-6077

**08430AG2046** To provide construction inspection and documentation services for S. R. 0090 -A05, reconstruct I-90 from TR 832 to 19, Erie County.

**Department:** Transportation  
**Location:** Engineering District 1-0  
**Duration:** Fifteen (15) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2047** Open-end contract for construction inspection and documentation services in Allegheny, Beaver and Lawrence Counties.

**Department:** Transportation  
**Location:** Engineering District 11-0  
**Duration:** Thirty (30) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**Environmental Maintenance Services—15**

**08430AG2043** Open-end contract for various design and environmental services in Engineering District 10-0, that is, Armstrong, Butler, Clarion, Indiana and Jefferson Counties.

**Department:** Transportation  
**Location:** Engineering District 10-0  
**Duration:** Thirty (30) month (minimum)  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2044** To perform environmental studies, preliminary engineering, final design, shop drawing review and consultation during construction for S. R. 0261, Section M00, Foulk Road, and S. R. 0491, Section M00, Naamans Creek Road in Concord, Bethel, Upper and Lower Chichester Townships, Delaware County.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** Twelve (12) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**BF 383-101.1** Abandoned Mine Land Reclamation of the Ren-Lau Coal Company site. Involves an estimated 102,000 C. Y. of grading and 15 acres of seeding.

**Department:** Environmental Protection  
**Location:** North Union Township, Fayette County, PA  
**Duration:** 270 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**BF 394-101.1** Abandoned Mine Land Reclamation of the R.E.M. Coal Company, Inc. site. Involves an estimated 116,000 C. Y. of grading, 27 acres of 12 inch thick soil cover and 27 acres of seeding.

**Department:** Environmental Protection  
**Location:** Limestone Township, Clarion County, PA  
**Duration:** 365 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**BOGM 96-8** Clean out and plug one Abandoned Gas Well estimated to be 2000 feet deep.

**Department:** Environmental Protection  
**Location:** East Bethlehem Township, Washington County, PA  
**Duration:** 45 days after notice to proceed  
**Contact:** Construction Contracts Unit, (717) 783-7994

**Extermination Services—16**

**CH-255** The contractor shall provide exterminating services to all buildings at the State Correctional Institution at Camp Hill.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837-2500, Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** July 1, 1997 to June 30, 2000  
**Contact:** Delores Stephens, (717) 975-5209

**SO-113** The contractor shall provide all equipment, supplies and labor necessary for pest control at the State Correctional Institution at Somerset.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** 07/01/97 through 06/30/99  
**Contact:** Betsy Nightingale, Purchasing Agent, (814) 443-8100, ext. 313

**Financial and Insurance Consulting—17**

**97-01-100** The Pennsylvania Health Care Cost Containment Council is soliciting bids from qualified vendors to conduct a financial and compliance audit of the books, records and documents of the Council, for the fiscal year period 7/1/96—6/30/97. Interested parties are requested to contact the Council Office by writing the PA Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101, or by calling (717) 232-6787 for copies of the Request for Proposal. Bids are due to the Council Office no later than 5:00 p.m. on 2/27/97. A pre-proposal conference will be held at the above address on 2/05/97 at 10:00 a.m. Potential bidders are invited to submit questions in advance of the pre-proposal conference.

**Department:** PA Health Care Cost Containment Council  
**Location:** Suite 400, 225 Market Street, Harrisburg, PA 17101  
**Duration:** 1 year  
**Contact:** Cherie Kauffman, (717) 232-6787

**Firefighting Services—18**

**FM07809606** Design fire protection layout, program system, system check out and update headend computer. Install addressable smoke detectors, bases and heat detector with addressable modules.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 90 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**SO-110** The contractor shall furnish all labor, equipment, materials, repair parts, and replacement components and supplies necessary to maintain fire extinguishers as needed and requested by the State Correctional Institution at Somerset.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** 07/01/97 through 06/30/00  
**Contact:** Theresa Solarczyk, Purchasing Agent, (814) 443-8100, ext. 311

**Food—19**

**96-MP8** Pork primal cuts, approximately 200,000 lbs. for the next 12 months.

**Department:** Corrections  
**Location:** Bureau of Correctional Industries, Meat Processing Plant at State Correctional Institution, Camp Hill, PA 17001-8837  
**Duration:** Twelve months  
**Contact:** Linda Malinak, (717) 975-4931

**96-MP9** Beef primal cuts, approximately 500,000 lbs. for the next 12 months.

**Department:** Corrections  
**Location:** Bureau of Correctional Industries, Meat Processing Plant at State Correctional Institution, Camp Hill, PA 17001-8837  
**Duration:** Twelve months  
**Contact:** Linda Malinak, (717) 975-4931

**LBP-96-012** Dairy (cheese, butter, margarine, cottage cheese, sour cream, etc.). Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-013** Frozen seafood—quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-014** Shell eggs—quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-015** Meat and meat products. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-016** Frozen fruits, vegetables and miscellaneous frozen food items—quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-017** Bread and rolls. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-018** Poultry and poultry products—quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-019** Ice cream, sherbet and frozen yogurt. Quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**LBP-96-020** Fresh fruits and vegetables—quantities, specifications and delivery dates may be obtained from the Northeastern Veterans Center.

**Department:** Military Affairs  
**Location:** Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Joseph Libus, Purchasing Agent II, (717) 961-4318

**PDA 389** To select a commercial food distributor(s) to provide various food items, packaged in household sizes, to the Pennsylvania Department of Agriculture, but delivered to counties and county lead agencies participating in the State Food Purchase Program. For additional information contact: Barry Shutt, (717) 787-2940.

**Department:** Agriculture  
**Location:** Eight Distribution Regions (entire State)  
**Duration:** July 1, 1997 through June 30, 2001  
**Contact:** Barry Shutt or Beth Ann Hoagland, (717) 787-2940

**SO-114** Frozen egg products: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-115** Shell eggs: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time every two weeks or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-116** Flour, various—Baker's Had wheat high gluten, all purpose, whole wheat, cake blend, etc. 100 lb. and 50 lb. bags. To be bid as required—monthly deliveries. Bid proposal on file with agency prior to solicitation. Contracts shall cover the months of July 1997 through June 1998.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-117** Miscellaneous products, canned sauces and related items as required. Bid as needed. Items to consist of some of the following: waffles, pizza shells, salad dressings, tacos, taco seasoning, baking powder, baking soda, yeast, various extracts, sauces including pizza sauce. Juices, cereal, noodles, soup bases and bouillon, gelatins, edible oils and fats, condiments, and related items if not on Statewide contract. Bid proposal on file with agency prior to solicitation. Contracts will cover the months of July 1997 through 1998.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-118** Meat and meat products: contracts shall cover the months of July 1997 through July 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-119** Fish and seafood: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-120** Fresh fruits and vegetables: contracts shall be for the months of July 1997 through June 1998 with issuance of bid proposals made on a monthly (or more frequent) basis. Delivery of the product(s) specified shall be made one or two times every week or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-121** Poultry and poultry products: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-122** Margarine: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a semi-annual (or more frequent) basis. Delivery of the product(s) specified shall be made as needed and requested by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-123** Cheese products: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-124** Dairy and related products: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a semi-annual (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one or two days each week, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person. Separate solicitations shall be made for commodities classified as controlled and uncontrolled by the Pennsylvania Milk Marketing Board.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-125** Bread and related products: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposal made on a semi-annual (or more frequent) basis. Delivery of the product(s) specified shall be made as needed and requested by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-126** Bakery supplies: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposal on an annual (or more frequent) basis. Delivery of the product(s) specified shall be made as needed and requested by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-127** Miscellaneous frozen foods: contracts shall cover the months of July 1997 through June 1998 with issuance of bid proposals made on a quarterly (or more frequent) basis. Delivery of the product(s) specified shall be made approximately one time each month, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**SO-128** Dry beans—various types—baby limas, blackeyed peas, pinto beans and other related items as required not on State contract. Quarterly bids/monthly bids—monthly deliveries. Bid proposal on file within agency prior to solicitation. Contracts shall cover the months of July 1997 through June 1998.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** July 1, 1997 to June 30, 1998  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**258** Red beets for processing. U. S. No. 1 or equal. All beets to be topped, washed and delivered in self-unloading trucks. Size: 1 3/4" to 3" diameter—approximately 28 tons. Size: 2 1/2" to 4" diameter—approximately 50 tons.

**Department:** Corrections  
**Location:** Correctional Industries, State Correctional Institution Rockview, Route 26, Box A, Bellefonte, Centre County, PA 16823  
**Duration:** March 3, 1997 through April 30, 1997  
**Contact:** Cheryl Snook, Purchasing Agent II, (814) 355-4874, ext. 251

**3781** Meat contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3782** Chicken contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3786** Dairy contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3788** Bread contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3789** Miscellaneous frozen food contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3790** Frozen juice drinks (4 oz. portion) contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**3791** Yogurt contract for April, May and June, 1997. Send for bid package.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, Lackawanna County, PA 18411-9505  
**Duration:** April 1, 1997 through June 30, 1997  
**Contact:** Stanley Rygelski, Purchasing Agent, (717) 587-7291

**5116** Meat and meat products—to be delivered during the months of April, May and June, 1997.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, Dietary Storeroom, S. R. 1014, Torrance, PA 15779-0111  
**Duration:** April—June, 1997  
**Contact:** Nancy E. Byers, (412) 459-4677

**5117** Miscellaneous frozen foods—to be delivered during the months of April, May and June, 1997.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, Dietary Storeroom, S. R. 1014, Torrance, PA 15779-0111  
**Duration:** April—June, 1997  
**Contact:** Nancy E. Byers, (412) 459-4677

**5367** Portion controlled meats—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5368** Miscellaneous frozen foods—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5369** Frozen foods—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5370** Poultry—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5371** Breakfast and baked items—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5372** Fresh meats—for a three (3) month period beginning April 1, 1997—June 30, 1997. More detailed information can be obtained from the hospital.

**Department:** Public Welfare  
**Location:** Haverford State Hospital, 3500 Darby Road, Building No. 21, Haverford, Delaware County, PA 19041  
**Duration:** April 1, 1997—June 30, 1997  
**Contact:** Jackie Newson, Purchasing Agent, (610) 526-2627

**5926** Miscellaneous foods for April, May and June, 1997. 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:** April, May, and June, 1997  
**Contact:** Jack W. Heinze, Purchasing Agent, (717) 772-7435

**5927** Poultry and poultry products for April, May and June, 1997. 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:** April, May, and June 1997  
**Contact:** Jack W. Heinze, Purchasing Agent, (717) 772-7435

**5928** Meat and meat products for April, May and June, 1997. 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:** April, May, and June 1997  
**Contact:** Jack W. Heinze, Purchasing Agent, (717) 772-7435

**Inquiry No. 7416** Miscellaneous foods—for a 3 month period beginning April 1, 1997 through June 30, 1997. Delivery schedule may be obtained from the institution. Bids will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** April, May, and June 1997  
**Contact:** Pamela Brown, Purchasing Agent, (717) 275-7412

**Inquiry No. 7419** Miscellaneous meats—for a 3 month period beginning April 1, 1997 through June 30, 1997. Delivery schedule may be obtained from the institution. Bids will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** April, May, and June 1997  
**Contact:** Pamela Brown, Purchasing Agent, (717) 275-7412

**Inquiry No. 7420** Poultry—for a 3 month period beginning April 1, 1997 through June 30, 1997. Delivery schedule may be obtained from the institution. This bid will be awarded on an item for item basis.

**Department:** Public Welfare  
**Location:** Main Kitchen, Danville State Hospital, Danville, PA 17821-0700  
**Duration:** April, May, and June 1997  
**Contact:** Pamela Bauman, Purchasing Agent, (717) 275-7412

## Heating, Ventilation, Air Conditioning—22

**Project No. 133** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 621 Wayne Avenue, Indiana, Indiana County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 134** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 447 Airport Road, Johnstown, Cambria County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 135** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 565 Walters Avenue, Johnstown, Cambria County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 136** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 390 College Boulevard, Kutztown, Berks County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 137** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 438 North Queen Street, Lancaster, Lancaster County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 138** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 1017 Ridge Avenue, Latrobe, Westmoreland County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 139** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 1000 East Cumberland Street, Lebanon, Lebanon County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 140** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 1000 Bridge Street, Lehighton, Carbon County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 141** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 580 US Route 15 South, Lewisburg, Union County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 142** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 1101 Route 522N, Box 589, Lewistown, Mifflin County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 143** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 358 West Main Street, Ligonier, Westmoreland County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 144** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Army Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, P. O. Box 510, R. D. 1, Lock Haven, Clinton County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 145** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Army Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, Smythe Park, Mansfield, Tioga County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 146** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Army Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 820 Frank Avenue, New Castle, Lawrence County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 147** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within four (4) hours of receiving a call either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid proposal forms used to submit bids are available from the State Army Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, East 2nd and State Streets, Oil City, Venango County, PA  
**Duration:** 1 July 97—30 June 2000  
**Contact:** Emma Schroff, (717) 861-8518

**244914-Rebid** Contractor shall provide materials and equipment necessary to maintain and repair, on an as required basis, sanitary sewer, storm sewer and cold water main line throughout the grounds of the Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020  
**Duration:** July 1, 1997 through 30 June, 2000  
**Contact:** Sharon Maxwell, (215) 953-6406

**CAL-600.4** California University of Pennsylvania of the State System of Higher Education is interested in obtaining proposals for fiber optic and intra building wiring cabling. Interested bidders can request the University's Project Manual from Burt Hill Kosar Rittelmann Associates, 400 Morgan Center, Butler, PA 16001-5977 or contact by phone at (412) 285-4761. There is a \$95.00 (non-refundable) cost for plans and specifications. Payment should be made out to Burt Hill Kosar Rittelmann Associates. There will be a pre-proposal meeting held on Wednesday, February 5, 1997 at 10:00 a.m. in Room 205 of the University's Keystone Building. Proposals due date and opening will be Friday, February 21, 1997 at 2:00 p.m. in Room 117, University's Azorsky Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System's contracts.

**Department:** State System of Higher Education  
**Location:** California University of Pennsylvania, California, Washington County, PA 15419  
**Duration:** 195 days  
**Contact:** Vickie A. Laubach, Purchasing Agent II, (412) 938-4430

**CH-260** The contractor shall provide service for the maintenance and calibration of all combustion controls and instrumentation for proper boiler operation.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837-2500 Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Delores Stephens, (717) 975-5200

**FM 07809609** Install lighting for catwalks in Penn and Laurel Halls.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 90 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**SOM-111** The State Correctional Institution at Somerset will be bidding a contract for technical repair and service for three Carrier Centrifugal Chillers (19 X 6) located in the Central Plant at the State Correctional Institution. The anticipated contract will be for a three (3) year period and will include inspections, parts and labor to maintain the chillers.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** 7/1/97 through 6/30/00  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

## Janitorial Services—23

**FM-192** Furnish all equipment, materials and labor to perform janitorial services including empty waste baskets; clean lavatories; sweep floors; machine buff tile floors; vacuum carpets; dust furniture; wash windows inside and outside; general housecleaning twice a year; shampoo carpets; and remove snow from sidewalks as required at the Uniontown Station; R. D. 1, Box 1, Gaddis Crossroads, Lemont Furnace, PA 15456. Detailed work schedule and bid must be obtained from the Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Facility Management Division, Uniontown Station, R. D. 1, Box 1, Gaddis Crossroads, Lemont Furnace, PA 15456  
**Duration:** 04/01/97 to 06/30/00  
**Contact:** Deshawn Lewis or Joan Berkoski, (717) 783-5484

**SP 331406** Performance of janitorial services at Ricketts Glen State Park cabin area—10 cabins. Estimated 85 cleanings for each of the ten cabins (a total of 850 cleanings a year) and semi-annual cleaning (10 x 2 cleanings a year).

**Department:** Conservation and Natural Resources  
**Location:** Ricketts Glen State Park, R. R. 2, Box 130, Benton, Luzerne County, PA 17814  
**Duration:** 30 June, 2000  
**Contact:** Regional Park Office, (215) 453-5016

**SP336604** Provide janitorial services at the Elk County Assistance Office. Complete details and specifications may be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** 301 North Broad Street, Ridgway, PA 15853  
**Duration:** 07-01-97—06-30-00  
**Contact:** Lori Vessella, (717) 783-9281

## Medical Services—29

**CH-258** The contractor shall provide Nursing Services to the inmate population. LPN and RN will be utilized.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Delores Stephens, (717) 975-5200

**CH-259** The contractor shall provide services to make and repair dentures for inmates at the State Correctional Institution at Camp Hill.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Delores Stephens, (717) 975-5200

**No. 8181** Gynecological services: contractor to provide complete gynecological evaluations of all female individuals of Ebensburg Center. Each evaluation is to consist of history, breast and pelvic examination, pap smear and report of findings. Complete bid specifications can be received from the Purchasing Office of the Ebensburg Center.

**Department:** Public Welfare  
**Location:** Ebensburg Center, Route 22 West, P. O. Box 600, Ebensburg, Cambria County, PA 15931  
**Duration:** July 1, 1997 through 30 June, 2000  
**Contact:** Cora Davis, Purchasing Agent I, (814) 472-0288



**9543** Provide complete dental laboratory services for the State Correctional Institution, Muncy.

**Department:** Corrections  
**Location:** State Correctional Institution Muncy, Route 405, R. D. 3, Muncy, PA 17756  
**Duration:** 7/1/97 through 6/30/2000  
**Contact:** W. Voeckler, Purchasing Agent, (717) 546-3171

### Property Maintenance—33

**CAL-604** California University of Pennsylvania of the State System of Higher Education is interested in obtaining bids for roof replacement of Old Main. Interested bidders can request the University's Project Manual from Burt Hill Kosar Rittelmann Associates, 400 Morgan Center, Butler, PA 16001-5977 or contact by phone at (412) 285-4761. There is a \$100.00 (non-refundable) cost payable to Burt Hill Kosar Rittelmann Associates for plans and specifications. There will be a pre-bid hearing held on Wednesday, February 4, 1997 at 10:00 a.m. in Room 117, Azorsky Administration Building. Bid due date is February 20, 1997 at 2:00 p.m. Azorsky Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System's contract.

**Department:** State System of Higher Education  
**Location:** California University of Pennsylvania, California, Washington County, PA 15419  
**Duration:** 90 days  
**Contact:** Vickie A. Laubach, Purchasing Agent II, (412) 938-4430

**CAL-605** California University of Pennsylvania of the State System of Higher Education is interested in obtaining bids for interior painting of Johnson Hall. Interested bidders can request the University's Project Manual from Vickie A. Laubach, California University of Pennsylvania, 250 University Avenue, California, PA 15419 or by calling (412) 938-4430. There is no charge for the manual. There will be a pre-proposal hearing on February 6, 1997 at 10:00 a.m. Room 117, Azorsky Administration Building. Bid due date is February 19, 1997 at 2:00 p.m. Azorsky Administration Building. The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously performed work for the System and will consider joint ventures that will enable these firms to participate in the System's contract.

**Department:** State System of Higher Education  
**Location:** California University of PA, California, Washington County, PA 15419  
**Duration:** 120 days  
**Contact:** Vickie A. Laubach, Purchasing Agent II, (412) 938-4430

**CL-455** The project consists of replacing existing window units on the second and third floors on the north side of Peirce Science Center above the main entry. Pre-bid meeting on February 12 at 10 a.m. Bids due February 26 at 1:30 p.m. with bid opening on February 27 at 1:30 p.m. Bid package available from contact person. \$15 nonrefundable deposit required. Work shall be scheduled to begin in May, 1997.

**Department:** State System of Higher Education  
**Location:** Clarion University, Clarion, Clarion County, PA  
**Duration:** 60 days from notice to proceed  
**Contact:** Judy McAninch, Contract Manager, (814) 226-2240

**FM07809607** Install catwalks in loft area of Penn Hall in the upper level.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 90 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**FM07809608** Install catwalks in loft area (upper level) in Laurel Hall.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 90 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**SP 217989** Locate 1700 planting spots on 60 acres. Planting will be done in groups of 15 trees at a 15'x15' spacing. Cut the woody vegetation as far back as necessary from the planting spots to allow a cleared work space and plant one red oak seedling at each spot. Install a 5 foot tree shelter over each seedling. Spray all woody stumps and uncut woody vegetation within an 8 foot radius of the seedling with a 20% mix of Garlon 4 in Oil Herbicide, using a basal bark method of application. Contractor must purchase Garlon 4 and oil at his expense. Project to be completed by May 15, 1997.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Forest District 3, Tuscarora State Forest, Gifford Road, Mifflin and Hunt Counties  
**Duration:** Project to be completed by May 15, 1997  
**Contact:** Peter C. Johnson, (717) 536-3191

**Project No. 409-EZ** Lock Haven University of PA, of the State System of Higher Education (SSHE), is seeking bids for the surface preparation and painting of the interior gymnasium walls of Thomas Field House, Project 409-EZ. Work is to be performed between April 15 and May 12, 1997. A pre-bid meeting will be held Friday, February 7th, 1997 (12:00 p.m.) in Price Auditorium. All prospective contractors are encouraged to attend. Bids are due and will be opened publicly on Thursday, February 20th, 1997 at 11:00 a.m. For further information, or to request contract documents at a non-refundable cost of \$75 per set (payable to the design firm), bidders can contact Paulette Rider of Comprehensive Design, 3054 Enterprise Drive, State College, PA, 16801-2755, phone (814) 238-7706. Contract bonds apply. The System encourages responses from small firms, minority firms, women-owned firms, and firms which may have not previously performed work for the System, and will consider joint-ventures which will enable these firms to participate in System contracts.

**Department:** State System of Higher Education  
**Location:** Lock Haven University, Thomas Field House, Lock Haven, PA 17745  
**Duration:** 120 calendar days from date of notice to proceed  
**Contact:** Comprehensive Design: Arch/Eng., (814) 238-7706

**Service Purchase Contract No. 331620** Painting—Marsh Creek State Park. A pre-bid conference will be held on 2/4/97 at 10:30 a.m. at Marsh Creek State Park, 675 Park Road, Downingtown, PA 19335. Phone: (610) 458-5119. Bidders must visit park and make an on-site inspection of work to be done. Sealed bids will be received at Marsh Creek State Park, 675 Park Road, Downingtown, PA 19335 until 2:00 p.m. prevailing time on February 14, 1997, and then publicly opened and read. All pertinent information must be obtained from the office of the Park Manager.

**Department:** Conservation and Natural Resources  
**Location:** State Parks, Marsh Creek State Park, 675 Park Road, Downingtown, Chester County, PA 19335  
**Duration:** 30 June, 1997  
**Contact:** Park Manager's Office, (610) 458-5119

**11397TMA** The Bureau of Forestry is planning several individual contracts involving hand and/or machine planting tree seedlings on strip mine land in the following counties: Venango, Clearfield, Jefferson, Indiana, Washington, and Fayette.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, as noted above  
**Duration:** 4/1/97—6/30/97  
**Contact:** Tina M. Alban, (814) 364-5150

### Real Estate Services—35

**0800-R/W S. R. 0030** Real Estate Appraiser to complete appraisals on various types of properties identified on plans related to the reconstruction or improvement of SR 0030 in York County. The appraisals will be subject to an extensive review process. Persons submitting bids must be on the Department of Transportation prequalified list of Fee Appraisers and have the proper certification i.e. Residential/General, etc. for the various appraisals to be completed. Properties to be appraised are located in Manchester Township, West Manchester Township and York City.

**Department:** Transportation  
**Location:** R/W District 8-0, Appraisals to be delivered to: Presnell Associates, Inc., 2555 Kingston Road, York Executive Center, Suite 270, York, PA 17402

**Duration:** First appraisals to be completed and submitted within 30—60 days  
**Contact:** Thomas Redding-Presnell Associates, Inc., (717) 840-1604

### Sanitation—36

**CH-256** The contractor shall provide trash removal services to the State Correctional Institution at Camp Hill. Vendor to supply all necessary containers.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837

**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Delores Stephens, (717) 975-5200

**CH-257** The contractor shall provide services to clean and vacuum clogged sewer and sanitary sewer lines with camera capabilities. Vendor must be able to respond within 2 hours from placement of call.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Delores Stephens, (717) 975-5200

**CRE-0194** Sanitation Services (Garbage Removal Services) for institution. Bi-weekly pickups for one (1) each thirty (30) cubic yard compactor dumpster (Tuesday and Friday are days anticipated), and bi-weekly pickups for two (2) each six (6) cubic yard dumpsters (to be provided by vendor). Compactor is institutional owned. Dumpsters to be air tight and have lids. Bid price will be per pickup/per day for each dumpster and unit compactor. Turnaround time for unit compactor shall be three hours (pickup 9:00 a.m.—return 12:00 noon). Contractor must also have accommodations to thaw dumpsters in the event of freeze-up due to inclement weather conditions. Pickup time for compactor/dumpsters shall be 9:00 a.m. on days specified. Bid requirements are on file within agency's purchasing department.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16699-0001  
**Duration:** July 1, 1997 to 30 June, 1999 (2 years)  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**FM 07809605** Refurbish equipment in primary sewage settling tank at the sewage plant of White Haven Center.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 90 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**977** Removal of trash and garbage for the State Correctional Institution-Frackville, 1111 Altamont Boulevard, Frackville, PA 17931, consisting of 30 cubic yard institution owned container and 6 cubic yard container provided by vendor.

**Department:** Corrections  
**Location:** State Correctional Institution, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (717) 874-4516

**978** Removal of kitchen waste (including liquids) from the State Correctional Institution-Frackville, 1111 Altamont Boulevard, Frackville, PA with the vendor supplying a 25 cubic yard sludge container on site.

**Department:** Corrections  
**Location:** State Correctional Institution, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** July 1, 1997 to 30 June, 2000  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (717) 874-4516

**2-0-00330** The Pennsylvania Department of Transportation Maintenance District 0220 Clearfield County will be renting one sewer cleaner to perform pipe flushing at various locations within Clearfield County.

**Department:** Transportation  
**Location:** Clearfield County 0220  
**Duration:** May 1, 1997 to October 31, 1997  
**Contact:** Grover C. Beightol, (814) 765-0492

### Security Services—37

**19,772** The contractor shall provide a video monitoring system to observe the inner perimeter fence at the State Correctional Institution at Dallas. A site visit is required.

**Department:** Corrections  
**Location:** State Correctional Institution at Dallas, Dallas, PA 18612  
**Duration:** April 1 to December 31, 1997  
**Contact:** Robert Faneck, Business Manager, (717) 675-1101

**FM07809603** Install sensor doors in Penn Hall at White Haven Center.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 30 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**FM07809604** Install sensor doors in Pine Hall at White Haven Center.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 30 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**FM07809610** Install sensor doors in Hemlock Hall at White Haven Center.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 30 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**FM07809611** Install sensor doors in Hickory Hall at White Haven Center.

**Department:** Public Welfare  
**Location:** White Haven Center, R. R. 2, Box 2195, White Haven, PA 18661  
**Duration:** 30 calendar days  
**Contact:** Sandra A. Repak, Purchasing Agent, (717) 443-4232

**M37811** To provide a request for proposal for taut wire detection system at the State Correctional Institution at Pittsburgh. Interested vendors can call James Spagnoletti at (412) 761-1955, ext. 260.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P. O. Box 99901, Pittsburgh, PA 15233  
**Duration:** March 3, 1997 to 30 June, 1998  
**Contact:** Ronald Dudek, Purchasing Agent, (412) 761-1955

**SP336603** Provide security guard services for the Beaver County Assistance Office. Complete details and specifications may be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** 171 Virginia Avenue, P. O. Box 349, Rochester, PA 15074  
**Duration:** 07-01-97—06-30-98  
**Contact:** Lori Vessella, (717) 783-9281

### Vehicle, Heavy Equipment and Powered Machinery Services—38

**No. 96-23** "Rear Discharge/Snow Blowing Conveying Device." The objective of this project is to design, build, test and evaluate a machine with a rotary plow that will discharge to the rear into a dump truck bed. The resultant machine will be used for snow removal on highways, bridges and urban streets. Additional information and a request for proposals (RFP) may be obtained by faxing a request for RFP No. 96-23 to: Tina Chubb at (717) 783-7971.

**Department:** Transportation  
**Location:** Bureau of Office Services, Forum Place, 8th Floor, 555 Walnut Street, Harrisburg, PA 17101-1900  
**Duration:** 15 months  
**Contact:** Tina Chubb, (717) 787-7001

### Miscellaneous—39

**No. 96-25** "PennDOT Organizational Quality Assessment." The objective of this project is to develop and provide an organizational assessment process to evaluate itself for the Malcolm Baldrige National Quality Award. Work will include a pilot assessment and training for PennDOT assessors in use of the assessment process. Additional information and a request for proposals (RFP) may be obtained by faxing a request for RFP No. 96-25 to: Tina Chubb at (717) 783-7001.

**Department:** Transportation  
**Location:** Bureau of Office Services, Forum Place, 8th Floor, 555 Walnut Street, Harrisburg, PA 17101-1900  
**Duration:** 24 months  
**Contact:** Tina Chubb, (717) 787-7001

**E-25-500** 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:** Division of Forest Fire Protection, Counties of Cumberland and Dauphin  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Forrest E. Kissinger, (717) 787-2925

**E-25-501** 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 1, Counties of Adams, York, and Cumberland  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Kenneth D. Swartz, (717) 352-2211

**E-25-503** 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 3, Counties of Perry, Juniata, Huntingdon, and Cumberland  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** James A. Foose, (717) 536-3191

**E-25-506** 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 6, Counties of Blair, Cambria and Indiana  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** E. Gary Scott, (814) 472-1862

**E-25-508** 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 8, Counties of Butler, Clarion, Jefferson, Armstrong and Mercer  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Gary J. Grecco, (814) 226-1901

**E-25-514** 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 14, Counties of Warren, Forest, Erie, Venango and Crawford  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Donald Wary, (814) 723-0262

**E-25-516** 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 16, Counties of Bradford and Tioga  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** David J. Gregg, (717) 724-2868

**E-25-517** 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 17, Counties of Berks, Bucks, Lancaster, Chester and Montgomery  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Earl A. Higgins, (610) 469-6217

**E-25-520** 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 20, Counties of Northumberland, Montour, Columbia, Luzerne and Sullivan  
**Duration:** July 1, 1997 to June 30, 1999  
**Contact:** Joseph A. Fiedor, (717) 387-4255

**SP 217990** Provide installation of an electric deer fence on the Tuscarora State Forest. Bid specifications available at District Office.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, Forest District 3, Tuscarora State Forest, Steltzer Road, Juniata County, PA  
**Duration:** Project to be completed by June 6, 1997  
**Contact:** Peter C. Johnson, (717) 536-3191

**SP 270325** Catering services for receptions/breaks (coffee, tea, juice, donuts, Danish) and luncheons.

**Department:** Education  
**Location:** Harristown Building No. 2, 333 Market Street and Forum Building, Commonwealth Avenue, Harrisburg, PA 17126-0333  
**Duration:** One year  
**Contact:** Vince Tokarsky, (717) 783-9792

**96-6127-237** Contractor to provide access to on-line real estate information from the County Assessor's Office and the Recorder of Deeds Office in the following counties in Pennsylvania: Bucks, Chester, Delaware, Montgomery, and Philadelphia. The information shall include, but not be limited to, the property address, current owner, owner's address and telephone number.

**Department:** Office of Inspector General  
**Location:** Philadelphia and Harrisburg  
**Duration:** 4/1/97 through 6/30/99  
**Contact:** Michael P. Hayes, (717) 783-7697

**96-6126-238** Contractor shall provide access to name, address, and telephone number information. Access to the vendor data base will be via dial-up from personal computers. The comprehensive, up-to-date address information shall include, but not be limited to, the name, current and former address, change of address, if available, and telephone number.

**Department:** Office of Inspector General  
**Location:** Commonwealth of Pennsylvania—Statewide  
**Duration:** 4/1/97 through 6/30/99  
**Contact:** Michael P. Hayes, (717) 783-7697

**012-9005-02** The PA Station Commission, through the PennSERVE Office, announces the availability of funds for AmeriCorps\*State programs for fiscal year 1997-98. Application guidelines can be obtained by calling the PennSERVE Office at (717) 772-5035. Eligible applicants are: non-profits; institutions of higher education; a State agency; a subdivision of the State including: cities, counties, school districts, municipalities; an Indian Tribe; a partnership or consortia of any of the aforementioned. A Letter of Intent is required and due to the PennSERVE Office—4 p.m. on February 14, 1997. Program application with original and 10 unbound copies is due to the PennSERVE Office by 4:00 p.m. EST, March 10, 1997. Pre-application conferences will be offered throughout the State. Call the PennSERVE Office for a schedule: (717) 772-5035.

**Department:** Labor and Industry  
**Location:** PennSERVE, 1304 Labor and Industry Building, Harrisburg, Dauphin County, PA 17120  
**Duration:** One year  
**Contact:** Harry Krot/Margaret F. Madigan, (717) 772-5035

[Pa.B. Doc. No. 97-140. Filed for public inspection January 24, 1997, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> 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*

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 271—273, 275, 277, 279, 281, 283, 285 AND 287]

#### Sewage Sludge; Municipal Waste; and Residual Waste

The Environmental Quality Board (Board) by this order adopts amendments to the Department of Environmental Protection's (Department's) municipal waste regulations in Chapters 271—273, 275, 277, 279, 281 and 283 to implement section 104(18) of the Solid Waste Management Act (SWMA) (35 P.S. § 6018.104(18)). The Board also is adopting amendments to the Department's residual waste regulations in Chapter 287 (relating to residual waste management—general provisions) to improve and clarify the existing regulations.

This order was adopted by the Board at its meeting of October 15, 1996.

##### A. *Effective Dates*

The amendments to the municipal waste regulations will go into effect January 25, 1997, with the following exceptions:

(1) The deletion of §§ 275.101—275.107, 275.301 and 275.401 will go into effect May 27, 1997. The deletion of the surface land disposal requirement, §§ 275.501—275.531 and the sewage sludge distribution program requirements, §§ 275.601—275.614, will go into effect January 25, 1997. The remainder of Chapter 275, as amended by this rulemaking, will remain in effect for the limited purposes of regulating the operation and enforcement of individual solid waste permits issued under Chapter 275.

(2) The deletion of § 271.232 will go into effect May 27, 1997.

(3) The addition of Chapter 271, Subchapter J (relating to beneficial use of sewage sludge by land application) will go into effect May 27, 1997, with the exception of §§ 271.902(e) and (f) and 271.903 (relating to permits and direct enforceability; and operation under existing permits and beneficial use orders), which will go into effect January 25, 1997.

The amendments to the residual waste regulations, Chapter 287, will go into effect January 25, 1997.

##### B. *Contact Persons*

For further information contact William F. Pounds, Chief, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P.O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-7381, Stephen Socash, Chief, Permitting Section, Bureau of Land Recycling and Waste Management, P.O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 783-7381, or Kristen M. Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, 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 document is available electronically through the Department's Web site (<http://www.dep.state.pa.us>).

##### C. *Statutory Authority*

The final rulemaking is being made under the authority of the following:

The SWMA (35 P.S. §§ 6018.101—6018.1003), which in section 105(a) (35 P.S. § 6018.105(a)) grants the Board the power and duty to adopt the rules and regulations of the Department to carry out the provisions of the SWMA; and which in section 104(18), as amended by the act of July 11, 1989 (P.L. 331, No. 55) (Act 55), authorizes general permits for the processing and beneficial use of municipal waste.

Sections 5(b), 304 and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b), 691.304 and 691.402), which in section 5(b) grants the Department the authority to formulate, adopt, promulgate and repeal the rules and regulations as are necessary to implement the provisions of the act; which in section 304 grants the Department the power to adopt, prescribe and enforce the rules and regulations as may be deemed necessary for the protection of the purity of the waters of this Commonwealth, or parts thereof, and to purify those now polluted, and to assure the proper and practical operation and maintenance of treatment works approved by the Department; and which in section 402 grants the Department the authority to require, by rule or regulation, that activities be conducted under a permit or other conditions established by the Department whenever the Department finds that the activity creates a danger of pollution of the waters of this Commonwealth or that regulation is necessary to avoid pollution.

The Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904), which in section 302 (53 P.S. § 4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and to carry out the provisions of the act.

The Pennsylvania Used Oil Recycling Act (58 P.S. §§ 471—480), which in section 10 (58 P.S. § 480) grants the Department the authority to institute civil actions under regulations issued under the act.

Section 1917-A of The Administrative Code of 1929 (71 P.S. § 510-17), which authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the Department; and section 1920-A (71 P.S. § 510-20), which grants the Board the power and duty to formulate, adopt and promulgate rules and regulations.

##### D. *Background and Summary*

###### *Municipal Waste Regulations*

For 27 years, the Commonwealth has allowed sewage sludge to be land applied in one manner or another. Until 1988, the Department regulated the land application of sewage sludge under individual permits for individual sites. In 1988, § 271.232 (relating to beneficial use) was promulgated. Under that section, the Department may issue an order to a person or municipality allowing the beneficial use of sewage sludge. This process enables a person or municipality that demonstrates that its sewage

sludge meets a certain quality to land apply it at sites not specified in the beneficial use order. The process is more time and cost efficient than the issuance of individual permits under Chapter 275, but no longer sufficient in light of the 1989 amendment to the SWMA. That year, the SWMA was amended by Act 55, which amended section 104(18) of the SWMA to require that the Department establish waste regulations to effectuate the beneficial use of municipal and residual waste, including regulations for the issuance of general permits for any category of beneficial use or processing of municipal or residual waste on a regional or Statewide basis.

After Act 55 was passed, the Department began examining alternatives to meet this duty. On July 20, 1993, the Pennsylvania Septage Management Association submitted a petition to the Board requesting that a specific rule-making be required of the Department in order to streamline the permitting process for land application permits. The Department responded that it agreed in concept to the petitioner's request, but that a better approach existed than that suggested by the petitioner. The Board agreed with the Department and, at its January 18, 1994, meeting, directed the Department to draft proposed regulations addressing this issue. The Department presented the proposed regulations to the Board on July 19, 1994, at which time the Board approved them. The proposed regulations were published in the *Pennsylvania Bulletin* on October 1, 1994. This rulemaking package contains the final regulations and regulatory amendments.

Proposed Chapter 271, Subchapter I (relating to beneficial use) and Subchapter J implement section 104(18) of the SWMA. Subchapter I authorizes the issuance of general permits for the processing or beneficial use, or both, of municipal waste. It does not, however, authorize the issuance of general permits for the processing or beneficial use of infectious or chemotherapeutic waste. Additionally, it does not authorize general permits for the beneficial use of sewage sludge by land application; these are authorized in Subchapter J.

Subchapter J authorizes individual and general permits for the land application of sewage sludge. Its structure and overall content have been revised to mirror more closely the format and requirements in the EPA Part 503 regulations, whereas the proposed regulations were modeled on the residual waste general permit format. The Federal regulations developed risk based numbers that address sewage sludge quality and cumulative metal loading rates for land applications. The definitions, pollutant limits, management practices, pathogen and vector attraction reduction requirements, monitoring requirements, and recordkeeping requirements in the final regulations are similar, and in some cases identical, to the Part 503 requirements. Instances in which Subchapter J is more stringent than Part 503 are explained in this section of the Preamble. The fee for application for coverage under a Land Application of Sewage Sludge permit will be \$500.

#### *Residual Waste Regulations*

The Board is revising Chapter 287 of the residual waste regulations, which were promulgated in 1992, to address a few relatively minor issues relating to the general permits program, to clarify obligations for permit-by-rule facilities, to add new categories of activities to the permit-by-rule section and to streamline the procedures for allowing the beneficial use of coal ash. Based on the Department's experience in implementing the programs

affected by these changes since 1992, the regulations will improve the overall effectiveness of these programs.

The changes associated with the general permits program will provide consistency in the implementation of general permits between the municipal waste and residual waste programs. In addition, the regulations allow mixtures of residual and municipal wastes to be managed under one general permit. The regulations no longer include a "me too" process for persons to request consideration of an application during the public comment period of the original application. Instead, persons may apply for approval to operate under a general permit after the permit is issued. The "me too" process was removed because it caused conflicts between applicants with regard to their timeliness for review and approval.

The permit-by-rule section was amended to include container processing and empty drum reconditioning facilities. In addition, the Board clarified its regulatory position on storage impoundments that are associated with processing facilities, on mechanical processing facilities and on transfer facilities that collect used oil. For storage impoundments that are associated with processing facilities, the regulations represent a clarification with regard to the implementation of water quality monitoring plans and the application of the storage requirements of Chapter 299 (relating to storage and transportation of residual waste). Storage impoundments associated with permits-by-rule are on the same transition schedule for compliance with the regulations as all other storage impoundments. The final-form regulations provide written notification for these impoundments with regard to the submission of water quality monitoring plans. Under the residual waste regulations that became effective on July 4, 1992, all operators of storage impoundments must implement a water quality monitoring plan by no later than July 4, 2002.

The regulations have been extensively revised to simplify and streamline the process for allowing the use of coal ash for beneficial purposes at coal mining activity sites and at abandoned coal and abandoned noncoal surface mine sites. The regulations eliminate many of the design standards and replace them with performance standards. The review of a beneficial use request will be considered as part of the review of a reclamation plan. In addition, a generator of coal ash will have the opportunity to seek certification from the Department for multiple beneficial uses of the ash.

#### *Advisory Committees*

This regulatory package has been developed with input from several of the Department's advisory committees.

For the municipal waste portions of the package, the Department worked closely with the biosolids subcommittee of the Solid Waste Advisory Committee (SWAC), as well as the full SWAC. The Department also worked with the Agricultural Advisory Board, the Pennsylvania Water Environment Association and the Pennsylvania Septage Management Association. Each of these groups received drafts of the regulations, provided written or oral comments, or both, to the Department, and met with the Department either at a plenary meeting, through a subcommittee, or in combined meetings, to discuss the regulations.

The Department worked closely with the SWAC on the residual waste portions of this package. Additionally, the coal ash regulations were discussed with the Mining and Reclamation Advisory Board (MRAB). The MRAB recommended these regulations proceed to final rulemaking at its meeting on May 29, 1996.

The Department considered all comments received from these organizations and incorporated many of them into these final regulations. At its July 11, 1996 meeting, SWAC recommended that this final rulemaking be submitted to the Board.

*Sewage sludge final-form regulations more stringent than Federal standards*

The Federal Environmental Protection Agency (EPA) promulgated Standards for the Use or Disposal of Sewage Sludge (Part 503) at 58 FR 9387 (February 19, 1993). Part 503 is codified at 40 CFR Part 503. The Federal rule applies to land application, surface disposal and incineration of sewage sludge. Subchapter J applies only to land application of sewage sludge.

Part 503 allows a generator of sewage sludge to obtain a permit to land apply sewage sludge through one of several avenues, and does not require a land applier of residential septage to obtain a permit. See 40 CFR 503.3. Subchapter J of these final-form regulations requires that persons generating sewage sludge to be land applied, and land appliers of residential septage, operate under an individual or general Land Application of Sewage Sludge permit issued by the Department. See § 271.902. Alternatively, persons may operate under individual permits issued under Chapter 275 (relating to land application of sewage sludge) for a limited period of time. The SWMA requires a permit prior to processing or disposing of municipal waste. The SWMA directs the Department to develop regulations to implement a program for the beneficial use of municipal waste, including general permits. This includes general permits for the land application of sewage sludge, including residential septage.

Part 503 allows a person to sell or give away sewage sludge in bags or other containers regardless of the quality of the sewage sludge, as long as it meets the EPA's minimum quality criteria for land application. See 40 CFR 503.11(j) and 503.13(a)(1). The EPA assumed that a homeowner would calculate and keep track of the lifetime metal loading rate and follow restrictions on the bag or other container for home garden use. Some problems, such as odors, have occurred with the bagging of this variable quality sewage sludge; therefore the EPA is considering changes to this portion of the regulations. Subchapter J is more stringent in that it only authorizes exceptional quality (EQ) sewage sludge to be distributed in this manner. See § 271.911(b)(3) (relating to special requirements). The EQ sewage sludge is fertilizer-like. It can be marketed or used without restrictions. Requiring this sewage sludge to be EQ diminishes the potential for adverse effects upon human health and the environment.

Part 503 describes an EQ sewage sludge that is exempt from general requirements and management practices if it meets certain pollutant concentration requirements, pathogen reduction standards and vector attraction reduction standards. See 40 CFR 503.10(b)(1). Subchapter J adds additional requirements. First, the sewage sludge must, prior to use, continuously meet the pollutant concentrations identified in Part 503 as well as a concentration limit for PCBs added in the regulations. See § 271.911(b)(1). Second, the sewage sludge must be nonliquid. *Id.* The municipal waste regulations already contain a definition of "liquid waste," which will be used to determine if sewage sludge is nonliquid. Third, the sewage sludge must be nonrecognizable as human waste. *Id.* Additionally, the sewage sludge must be applied at the agronomic application rate. See § 271.911(b)(2).

There are several explanations for these differences. EPA assumed in the risk assessment for Part 503 that

EQ sewage sludge will not vary in quality and is a valuable product which is sold and for which over-application will not occur. The EPA concluded that no site or other restrictions are necessary. The Department's experience demonstrates that these assumptions are not always true.

Liquid sewage sludge has the potential to be much more variable than a nonliquid sludge, particularly with respect to pathogen and vector attraction reduction. Limiting the EQ sewage sludge to nonliquid products will reduce the potential for adverse effects to human health, which are caused by using sewage sludge that may not continuously meet the required pathogen and vector reduction standards. In addition, contrary to the EPA assumptions, liquid sewage sludge is not fertilizer-like and due to its variability is not always marketed. Because of the low nitrogen and high water content, it may be necessary to bring 40 times more liquid sludge to a site to get the same amount of nutrients supplied by one load of liquid commercial fertilizer. This intense traffic and the management practices associated with land applying the huge volumes of liquid require the more intensive management techniques that are necessary for non-EQ sewage sludges.

The requirement that the EQ sewage sludge be nonrecognizable as human waste is necessary to prevent adverse aesthetic impacts. There are no site restrictions required for the land application of EQ sewage sludge, but experience has shown that offensive odors can evoke with some nonliquid sludges meeting the EQ standards. By treating the waste as nonrecognizable, the EQ sewage sludge can be marketed and safely used as a fertilizer.

The requirement that the EQ sewage sludge be applied at the agronomic rate is necessary to prevent the over-application of nutrients and to prevent the land application operations from becoming a disposal facility, especially if the sludge is not purchased by the farmer. The EQ sewage sludge contains nitrogen that could cause surface and groundwater pollution problems if over applied. The final-form regulations allow the agronomic rate requirement to be altered for land reclamation activities.

Subchapter J adds the requirement for land application of all qualities of sewage sludge that they must not be applied at a rate greater than the agronomic rate, unless approved by the Department for land reclamation activities. See § 271.911(b)(2) and § 271.915(f) (relating to management practices). Part 503 has no such requirement. As explained above, this requirement prevents over application of nutrients and prevents a land application site from becoming a disposal facility.

Part 503, 503.12, contains general requirements for land application of sewage sludge. These apply to all land application activities except those involving the EQ sewage sludge. The counterpart to this section is found in § 271.913 (relating to general requirements), which contains several additional requirements not found in the Federal regulations.

The first of these is § 271.913(d), which requires that a reclamation activity be permitted or otherwise approved by the Department in order for a person to land apply sewage sludge to a reclamation site.

The second is found in § 271.913(e), which requires that a person operating under a Land Application of Sewage Sludge permit issued under Subchapter J obtain written consent of the owner of the land upon which the sewage sludge will be land applied prior to land applying it. This is a common sense requirement that derives from

existing regulations requiring landowner consent for municipal waste processing or disposal activities.

The third is found in § 271.913(f), which requires that a person provide the current occupant of the land upon which sewage sludge application will occur with a user instruction sheet at least 7 days prior to land applying sewage sludge for the first time. This also is a common sense requirement which will help educate the occupant as to the nature of the land application activity. It is also consistent with the requirement in Part 503, 503.12(h), that the person applying sewage sludge give the owner or lease holder notice and necessary information to comply with Part 503. Certain land application practices, for instance, could require the occupant to post signs restricting access to the site.

The fourth is found in § 271.913(g), which requires that a person who prepares sewage sludge, or a land applier of residential septage, give appropriate notice to the adjacent landowners, the county conservation district and the Department prior to the first application of sewage sludge at a particular location. Notice may be performed by personal delivery or first class mail and, for adjacent landowners, by posting at the site.

The adjacent landowner requirement was added, in part, to address concerns expressed by members of the general public who live near land application sites. Notification will familiarize adjacent landowners with any access restrictions that may apply to the operation and to provide them with information on whom they should contact if questions arise or problems occur at the site. This is the only "public notice" provided prior to the land application of sewage sludge.

County conservation district notification will benefit the Commonwealth because the districts are expected to play an increasingly important role in working with the Department to implement the land application program. It is anticipated that the districts will assist permittees in locating acceptable sites, and that all sites that receive sewage sludge will be covered by a soil conservation plan that the districts usually prepare. It is also projected that the districts will assist the Department in increasing public acceptance of the program at a local level.

Notification to the Department is necessary in order for the regional office to maintain a database of site users. This database is to provide future land appliers with information on who previously used the site so they can determine the cumulative pollutant loading that has occurred.

The fifth is found in § 271.913(h), which requires the person who prepares the first sewage sludge that is applied at a particular location, or the first septage hauler, to obtain a background soil chemical analysis for pH and for the constituents listed in the tables in § 271.914(b)(relating to pollutant limits), unless the sewage sludge is EQ. This analysis provides the landowner or farmer, or both, with baseline information at the site, in the event that questions on the site operation occur in the future. No other soil analyses are required and it is anticipated that many sites will have this type of information available because annual soil analyses are required under the current regulations.

The final difference in this section is found in § 271.913(m), which adds "equitable owner" to the list of persons (legal owner or lease holder) to whom the person who applies sewage sludge must give necessary information to comply with Subchapter J. This was added in order to make the requirement comprehensive.

Part 503.13 addresses pollutant limits. It contains four tables which are central to determining the quality of sewage sludge, the uses of sewage sludge and the amounts of sewage sludge that may be land applied. The counterpart to this section is § 271.914. This section is no more stringent than the Federal regulation except as follows:

Section 271.914 requires that the cumulative pollutant loading information (that is, the cumulative levels of pollutants applied to the land over time) be tracked for all sewage sludge except the EQ sewage sludge, whereas Part 503 exempts sewage sludge that falls below the Table 3 levels regardless of whether the EQ pathogen reduction requirements and vector attraction reduction requirements are met. The EPA assumed that it would take 100 years for the cumulative pollutant loading rates to be reached at a site if the sewage sludge pollutant concentrations were below the levels in Table 3. The Department's calculations indicated that the number of years is 20, not including sewage sludge that may already have been applied to a site under the current land application program. To prevent the overloading of farmland with metals, this simple recordkeeping requirement is necessary.

Additionally, § 271.914 reflects the Pennsylvania requirement that sewage sludge sold or given away in a bag or other container must be EQ sewage sludge, that is, it must not exceed the pollutant concentrations of Table 3. Accordingly, Table 4 of the EPA's Part 503 is unnecessary and has been eliminated from this rulemaking.

Finally, Table 1 in § 271.914(b) states a ceiling concentration level (the level above which no sewage sludge can be land applied) for PCBs, and Table 3 states a pollutant concentration level (the level not to be exceeded for EQ sewage sludge) for PCBs. The PCBs are not restricted in Part 503. The 8.6 mg/kg level established for Table 1 and the 4 mg/kg level established for Table 3 are based on risk assessment analyses. In the near future, the EPA is expected to publish similar PCB pollutant concentrations.

Part 503, 503.14, contains management practices for land application of non-EQ sewage sludge. The counterpart to this section is found in § 271.915, which contains several requirements not found in the Federal regulations.

To begin with, § 271.915(a) prohibits sewage sludge from being land applied if it is likely to adversely affect a Federal or Pennsylvania endangered species or its listed critical habitat. The Federal regulation only concerns the Federal protections. This was added to protect Pennsylvania's threatened and endangered species and their habitat.

Section 271.915(c) contains the following isolation distances not contained in the Federal regulation:

Section 271.915(c) prohibits sewage sludge from being applied within 100 feet of a perennial stream, an exceptional value wetland, or the edge of a sinkhole. This distance is necessary to prevent direct runoff of sewage sludge into surface waters of this Commonwealth. This distance is taken from recommendations in the Department's Manure Management Manual to prevent physical runoff of waste into surface water. This distance is especially important considering the final-form regulations allow land application to occur on slopes up to 25% for agricultural activities and 35% for land reclamation activities.

Section 271.915(c) prohibits sewage sludge from being applied within 300 feet of a water source (such as,



drinking water well), or within 300 feet of an occupied dwelling unless landowner consent is obtained. The distance from the water source is necessary to protect drinking water supplies. No hydrogeologic or soil information is required in the final-form regulations, so the setback provides a buffer or mixing zone in the event that excessive drainage, fractures or other features that exist at the site may provide a direct conduit to groundwater. The 300 foot distance from occupied dwellings is necessary to prevent noise, fugitive dust, excessive traffic and odors from affecting the surrounding community. The Part 503 implementing guidance indicates that buffer zones should be established based on the conditions at the particular site. Since these regulations do not require site-specific permits, these minimum distances, which have been successfully used for the past 8 years, will provide the necessary protection.

At the request of the Department's Agricultural Advisory Board, § 271.915(c) also contains language protecting a land application operation from future changes in distances to occupied dwellings and water sources that occur after adjacent landowner notification is given.

Section 271.915(c) also prohibits sewage sludge from being land applied within 11 inches of the seasonal high water table. Soils with less than 11 inches between ground level and the seasonal high water table are classified as hydraulic or wetland soils, and the management practices would need to be intensified significantly for them. This distance was also recommended by the Agricultural Advisory Board.

Section 271.915(d), (e) and (g) contain slope, pH and nitrogen restrictions not mentioned in the Federal regulations. The regulation includes maximum slopes of 25% for agricultural utilization and 35% for land reclamation unless otherwise approved by the Department. It is necessary to limit slopes to prevent the physical runoff of sewage sludge into surface water. The soil pH is required to be at least 6.0, unless otherwise approved by the Department. The pH is necessary to make sure that the crop to be grown can meet the expected yield that is used in the annual nitrogen application rate calculations. The regulation indicates that if the volume of manure at the farm is adequate to supply crop needs, then sewage sludge should not be applied. This is necessary to prevent the over application of nutrients and to be in compliance with other nutrient management activities at the site.

Section 271.915(h) contains requirements for sampling and analyses procedures and for calculating the agronomic rate, the cumulative pollutant loading rate and the annual whole sludge application rate. These were added to clarify the procedures.

Section 271.915(j) requires that persons land applying sewage sludge satisfactorily complete a training course. This was written to add an extra element of quality assurance. Since a site specific permit is not required, this training is necessary to help all persons understand the regulations. It is anticipated that this will significantly reduce the number of violations and compliance actions taken by the Department, which may result in more local acceptance of the program. This concept was recommended by the Department's Solid Waste Advisory Committee.

Section 271.915(k) requires the person land applying sewage sludge to display the permit number on the vehicle used in the operation. This will allow the Department and the public to identify rapidly the sewage sludge generator or residential septage land applier, and will

allow people questioning the operation to check the permit without involving the Department.

Finally, § 271.915(l) requires that nonorganic objects be removed prior to spreading residential septage. Part 503 merely includes "screening" in the definition of sewage sludge, but does not directly require removal of non-organic materials from residential septage. The requirement in § 271.915 responds to public complaints and concerns about foreign objects being left on the land after septage land application. These objects may blow off the site and cause a hazard to children and wildlife.

Section 271.919 (relating to reporting) contains reporting requirements. Subchapter J is less stringent than the Federal rule in that reports need only be submitted if requested, but it includes a requirement not found in the Federal rule, that a person shall notify the Department of when and where it is land applying sewage sludge if so requested by the Department. This requirement was added to buttress the Department's monitoring capabilities.

Section 271.920 (relating to inspection) has no counterpart in the Federal rule. It is also added to buttress the Department's monitoring capabilities. It provides that Department representatives shall have access to areas in which activities covered by the Land Application of Sewage Sludge permit are occurring, and shall have the right to take samples. This requirement derives from section 608 of the SWMA.

Section 271.933 (relating to pathogens) describes the various options for reducing pathogens in sewage sludge before it is land applied. This section differs only slightly from the Federal regulation by requiring residential septage to be stabilized before land application, whereas the Federal regulation allows raw, unstabilized septage to be applied. This will help ensure prevention of odors, pathogens and vector problems associated with the disposal of raw human waste.

Section 285.225 (relating to transportation of residential septage) requires that all septage haulers register with the Department and include an identification number on the transporting vehicle. This was a recommendation of the Pennsylvania Septage Management Association to reduce illegal disposal which is significantly undercutting haulers operating in compliance with the regulations. The registration and identification number will assist the Department with compliance monitoring activities and will increase accountability of the haulers.

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

##### *Municipal Waste Regulations*

Notice of proposed rulemaking was published at 24 Pa.B. 4975 (October 1, 1994). The proposal set forth a 90-day public comment period which was extended because of the Legislative sine die period and concluded on January 23, 1995.

During the public comment period, the Department held three public informational meetings (Pittsburgh, King of Prussia, Harrisburg) and six public informational workshops (Monroeville, Meadville, Williamsport, Wilkes-Barre, Conshohocken and Harrisburg). The Board held three public hearings (Pittsburgh, King of Prussia, Harrisburg).

The public meetings were well attended, averaging about 30 people at each. The workshops, which were held in the evenings, were well attended in Pittsburgh, Williamsport and Harrisburg, with poor attendance in the

other three regions. The workshops were held in an effort to gain more input from the public, but the attendees were primarily sewage sludge haulers, consultants and municipal authorities.

The Board and Department received written comments from 174 individuals or groups, and 29 individuals presented testimony at the public hearings. The issue of most interest was the proposed changes to allow for the land application of sewage sludge under a general permit.

The Board and the Department considered the comments received at the public hearings, meetings and workshops and the written comments in formulating the final amendments to these regulations. The Department has completed an intensive review of the comments, and has prepared a comment and response document that addresses each comment on the proposed regulations.

The following is a summary of major comments received and changes which have been made to the proposed rulemaking as a result. The summary is listed in the same order as the proposed regulations found at 24 Pa.B. 4975.

1. *Definitions—Transfer facility—§ 271.1 (relating to definitions)*

The Board received several comments about the revisions to the definition of “transfer facility.”

The Board revised the definition of “transfer facility” to be identical to that in the SWMA and in the residual waste regulations. In so doing, the Board eliminated the proposed language that specified that a facility at which municipal waste is stored on a parked municipal waste transportation or collection vehicle for less than 24 hours was not a transfer facility. Too many variables exist to codify this exception, but the intent of the proposed language will be carried over into the implementation of the regulations. Generally, when waste is stored for less than 24 hours on a parked transportation or collection vehicle, the facility will not be deemed to be a transfer facility. For instance, the Department does not intend to treat a motel parking lot at which one waste truck parks overnight as a transfer facility. Similarly, a vehicle used by a septage hauler parked at his place of business overnight may not require a transfer facility permit. However, there are exceptions. One example is an area at which numerous vehicles storing municipal waste park continuously, each for less than 24 hours. This may well be considered a transfer facility.

2. *Permit-By-Rule—§ 271.103 (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements)*

a. *Septage treatment facilities*

The Board received comments suggesting clarification of the discharge requirements.

The Board revised this permit-by-rule, subsection (e), slightly to clarify that the facility must have a permit issued by the Department under The Clean Streams Law for the facility's wastewater treatment process or a permit issued by the Department's waste management program, or the discharge must be connected to a public sewer.

b. *Mechanical processing facility*

The Board received several comments about the weight limitations as they would apply to the processing of sewage sludge.

The Board revised the regulation, subsection (g), to specify the materials for which this permit-by-rule is

available. They are uncontaminated rock, stone, gravel, brick, block and concrete from construction activities.

c. *Yard Waste Composting Permit-By-Rule*

The Board received various comments on the incorporation of the Department's guidelines for yard waste composting into the proposed permit-by-rule for yard waste composting.

The specific requirements of the guidelines that were included in the proposed language have been eliminated and replaced in § 271.103(h) with a cross reference to the Department's guidelines in order to be less prescriptive. In addition, a size limit of 5 acres has been placed on activities that may qualify for this permit-by-rule because operation of a larger facility creates the potential for impact on surrounding areas. The National Compost Council indicates that areas greater than 5 acres require more intensive management practices. These larger sites are better managed under an individual or general permit.

d. *Bagged sewage sludge, horticultural and turf grass production; and distribution programs*

The Board received various comments on these proposed permit-by-rule provisions.

These regulations, proposed § 271.103(h)—(j), have been eliminated because the activities are covered in the revised Subchapter J.

3. *Minimum Penalties—§ 271.413 (relating to assessment of penalties—minimum penalties)*

The Board received conflicting comments about civil penalties. Some reflected that the Department should be strict about enforcing its penalty provisions; others indicated that mandatory civil penalties were excessive in some instances.

The mandatory civil penalties specifically relating to the land application of sewage sludge, proposed in § 271.413(e), (f) and (j), have been modified into discretionary civil penalties in order to allow flexibility for the Department to prioritize enforcement actions based on the human health and environmental impacts of land application activities in the context of activities and facilities regulated under the water quality management regulatory program. The civil penalty proposed in subsection (g), for failure to submit a sewage sludge biennial report, has been eliminated because the report requirement in § 271.901 (relating to purpose and applicability) has been eliminated.

4. *Mixing Municipal and Residual Wastes—§§ 271.811(e) and 287.601 (relating to authorization for general permit; and scope)*

The Board received comments asking for clarification of the proposed regulations concerning the mixing of municipal and residual wastes under general permits.

In the municipal waste regulations, the Board has amended § 271.811(e) authorizing the beneficial use of mixtures of municipal and residual wastes, and has deleted the provisions concerning on-farm composting of mixtures of certain materials with food processing waste or agricultural waste. The new subsection covers these mixtures. Corresponding changes have been made to the residual waste regulations in § 287.601.

5. *Land Application of Sewage Sludge—Subchapter J—§§ 271.901—271.934*

a. *Adopt the Federal regulations verbatim*

The Pennsylvania Water Environment Association and their members, along with several sewage treatment facilities, commented that they would like to see the Part 503 regulations adopted with no additional standards.

The final-form regulations closely mirror Part 503 regulations. The Board has included the Federal sewage sludge quality requirements for metals and pathogen and vector attraction reduction as part of the final-form regulations. The final-form regulations for the most part have adopted the Federal definitions.

While the final-form regulations mirror the technical requirements of the Part 503 regulations, the Board has determined that certain management practices are necessary to address compelling social and aesthetic concerns that were not considered in the risk assessment used to develop Part 503. These practices are common sense practices that should apply to all land applications of sewage sludge.

In addition, the final-form regulations delete the permit application sections of Chapter 275, because sewage sludge land application permits will now be issued under Chapter 271, Subchapter J which authorizes individual and general Land Application of Sewage Sludge permits to be issued by the Department. Sewage treatment facilities and septage haulers can obtain an individual permit, or apply for coverage under the general permit under Subchapter J, when the permit is completed by the Department and notification of availability of its issuance is published in the *Pennsylvania Bulletin*. Due to the fact that the general permit is initiated and issued by the Department, the application requirements are no longer identified in the regulations but will be identified in the general permit, which will be made available for public comment in draft form soon after Subchapter J becomes effective.

Except for §§ 271.902(e) and (f), and 271.903, which become effective immediately, Subchapter J will become effective May 27, 1997. In the interim, Chapter 275 will remain available for issuance of individual permits. When Subchapter J becomes effective, new applicants will apply for coverage under a Land Application of Sewage Sludge permit. Operators with Chapter 275 permits or beneficial use orders will be required to transition into the new permit system over time, in § 271.903.

A person operating under a Land Application of Sewage Sludge permit may, of course, operate under more stringent requirements (such as, more stringent setback distances from features such as water supplies and occupied dwellings) than required under the permit if the person so chooses. This would include a person not yet covered under a permit, as well as a person currently operating under an individual permit who wishes to maintain certain practices.

#### b. *Uniform implementation of the regulations*

Several commentators expressed concern about uniform implementation of the regulations.

The Board and Department have addressed this concern in the final-form regulations. The general permit will be developed by the Department's Central Office and be available Statewide. Central Office staff will train regional staff on the substance and implementation of the regulations.

#### c. *Site-specific requirements and permits*

A number of commentators expressed concern that if the Department issued general permits without site specific requirements, there would be no control over how

sewage sludge was applied. Many commentators expressed concern that sewage sludge should not be applied to the land, and that the existing regulations were not protective of the environment. Some commented that if sewage sludge were applied, individual permits should be required for all sites.

The final-form regulations continue to endorse the general permit concept for land application of those sewage sludges that meet the quality standards established under the Part 503 regulations. The risk assessments conducted by the EPA considered 14 potential pathways. The maximum concentration for each metal is based on the most limiting pathway. The Department feels that if sewage sludge quality is carefully monitored, as required under the final-form regulations, the land application of these high quality materials can be safely addressed through a general permit.

The draft general permit will be developed by the Department and published in the *Pennsylvania Bulletin* with an extended public comment period. The Department will then, after consideration of all timely comments, publish notice of the issuance and availability of the Land Application of Sewage Sludge general permit in the *Pennsylvania Bulletin*.

Once a general permit is issued for high quality sewage sludges, generators wishing to operate under the permit will have to file a notice of intent (application), which may provide an additional opportunity to comment. The Department has issued beneficial use approvals, which were not site specific, since 1988. While the process of approving beneficial use applications has proven burdensome, the program has been successful. The SWMA was amended in 1989 to provide for the issuance of general permits for beneficial use of municipal and residual waste. This rulemaking package has provided the first opportunity for the Department to include regulations for a general permitting process for municipal waste. The final-form regulations also provide for individual permits for land application which will be particularly useful in high quality watersheds.

#### d. *Provide incentive to improve sewage sludge quality*

While many commentators agreed that the proposed regulations provided significant regulatory relief, concern was expressed that the proposed regulations did not provide an incentive for treatment plants to improve sewage sludge quality.

In the October 1, 1994, proposed rulemaking, this EQ sewage sludge was limited to bagged sewage sludge and sewage sludge used for horticultural and turfgrass production. The final-form regulations allow for the land application or distribution of this EQ sewage sludge under a Land Application of Sewage Sludge permit without site restrictions or significant management practices. This will provide a needed incentive to improve sewage sludge quality. EQ sewage sludge, in addition to meeting the Federal pathogen and vector attraction reduction requirements and the pollutant limits, will have to be nonrecognizable and nonliquid. In addition, for agricultural use the EQ sewage sludge will have to be applied at the agronomic rate.

In addition, in the final-form regulations the management practices and isolation distances will apply to the land application of sewage sludge that is not considered EQ. See §§ 271.913 and 271.915. The final-form regulations differ from the proposed regulations in that the isolation distances in the final-form regulations only

apply when non-EQ sewage sludge is applied to agricultural land, forests or land reclamation sites. See § 271.915.

e. *Transition scheme—§ 271.903*

The Board received several comments requesting a 5-year transition period for holders of beneficial use approvals instead of the 2 years proposed.

The Board has revised this regulation to reflect a 5-year transition period and has expanded it to cover individual and general Land Application of Sewage Sludge permits, and to add a 5-year expiration date for permits that do not contain an expiration date.

f. *EQ sewage sludge—§ 271.911(a) and (c)*

Several commentators suggested that the Department should not consider high quality sewage sludge to be a waste, but should consider it to be a fertilizer or soil amendment. They expressed concern that the general permit concept, even with limited operational requirements, was burdensome for high quality sludges.

The Board believes that EQ sewage sludge should be treated as a fertilizer or soil amendment. While the final-form regulations fall short of actually “de-wasting” these materials, they allow for the development of a general permit for the EQ sewage sludge. This is a change from the proposed regulations, which authorized the Department to exclude a sewage sludge from being regulated as a waste if it met certain requirements. Under the final-form regulations, the EQ sewage sludge is sewage sludge that meets the metal concentration and pathogen reduction requirements of a Class A sewage sludge under Part 503 and are nonliquid and nonrecognizable as human waste. This differs from the proposed regulations in several ways, including the requirements to be nonliquid and nonrecognizable. See justification, under the heading: “Sewage sludge final-form regulations more stringent than Federal standards,” in this Preamble. These materials, when applied at an agronomic rate, will not be required to meet the additional requirements set forth for other general permits. In essence, these materials are similar to fertilizer both chemically and physically and, provided they meet the regulatory pollutant requirements, need not be further restricted.

g. *Reduce requirements further for EQ sewage sludge*

Some commentators recommended that reporting, recordkeeping and source reduction requirements were unnecessary for high quality sludges.

The final-form regulations have significantly reduced the reporting requirements and are, for the most part, consistent with the reporting requirements under Part 503. However, the Board continues to stress the need for generators to look at ways to improve sewage sludge quality. A sewage sludge quality enhancement plan, formerly labelled “source reduction strategy” in proposed regulation, is required in the final-form regulations for any generator of sewage sludge that is land applied.

h. *Landowner notification requirements—§ 271.913*

Several commentators expressed concerns about the landowner and adjacent landowner notification requirements in the proposed regulations. Many commentators felt that the notification requirements were burdensome, while others felt that the comment period was not long enough to provide for meaningful public comments. Some felt that the general permit process left them out of the loop on having any input on the permitting process.

The final-form regulations have attempted to address these concerns. In developing the general permit for land application, the Department will publish the notice of availability of the draft and final general permit in the *Pennsylvania Bulletin*, and over the Department's World Wide Web site. The Department will make every effort to obtain as much input on the permit as possible. The meaningful input on general permits will occur during that time period. There may be additional opportunity to comment when a person submits a notice of intent to operate under the general permit.

The final-form regulations have expanded the adjacent landowner notification, county conservation district notification, and Department notification to 30 days, from 7 days, prior to land application. The notice shall provide a brief description of the operations, any additional site restrictions, the name of the person or company land applying the sewage sludge, and the permit number. In addition, 7 days prior to operation, the generator must provide the occupant of the land with a user instruction sheet that describes acceptable uses and limitations of the general permit.

In an effort to address additional concerns on notification, the final-form regulations provide for assistance from the county conservation districts as part of an overall process to provide additional information and a general knowledge of what is involved in sludge utilization to the landowner, adjacent landowners and the community in general on the value and potential concerns that are addressed as part of an overall land application program.

i. *Background soil analysis—§ 271.913(h)*

The Board received several comments on the background soil analysis requirement, some requesting more stringency and some requesting more leniency.

The Board has revised the soil analysis requirement in § 271.913(h) so that an analysis is only required to be performed prior to the first land application at a particular location, and not at all for land application of EQ sewage sludge. In the proposed regulations, the soil analysis was also required when half of the lifetime metal loading limit established in the guidelines was met, or every 5 years for residential septage.

j. *Pollutant limits—§ 271.914*

The Department received a number of comments that the pollutant limits should be consistent with those in Part 503.

The pollutant limits previously found in the Department's guidelines are now in the final-form regulations and differ somewhat with the proposed limits. For example, the limit for cadmium for the EQ sewage sludge was 25 mg/kg in the guidelines referenced in the proposed regulations. It is 39 mg/kg in the final-form regulations, consistent with Part 503. The limits for chromium found in the guidelines do not appear in the final-form regulations because the EPA deleted them from Part 503. See 60 FR 54764 (1995). Similarly, the final-form regulations reflect increases in the limits for selenium and molybdenum effected by Federal rulemakings. *Id.* and 59 FR 9095 (1994). The limits in the final-form regulations are further explained under the heading: “Sewage sludge final-form regulations more stringent than Federal standards,” of this Preamble.

Additionally, the final-form regulations incorporate by reference any new or revised pollutant concentration or loading rate published in the *Federal Register* as a

modification to Part 503. If the Department is not satisfied with a future EPA amendment, the Department may present a rulemaking to the Board to justify the Department's dissatisfaction in order to avoid having to adopt the amendment.

k. *Isolation distances—§ 271.915*

The Board received various comments on the isolation distances in the proposed regulations. As a result, several of the isolation distances have been revised.

The distance from an intermittent stream in the proposed regulations was 100 feet; in the final-form regulations it is 33 feet to be consistent with Part 503. See § 271.915(c)(1).

The proposed regulations set a distance to the seasonal high water table of 12 inches without incorporation and 20 inches with incorporation. The final-form regulations set a distance in both cases of 11 inches. See § 271.915(c)(7). Soils with less than 11 inches between ground level and the seasonal high water table are classified as hydraulic or wetland soils, and the management practices would need to be intensified significantly for them. This distance was also recommended by the Agricultural Advisory Board.

Similarly, the proposed regulations set a distance to the regional groundwater table of 4 feet, whereas the final-form regulations set the distance at 3.3 feet to be consistent with Part 503. EPA's risk-based assumptions used a 3.3 foot (1 meter) setback. See § 271.915(c)(7).

l. *Nonorganic objects in sewage sludge (including septage)—§ 271.915(l)*

The Pennsylvania Septage Management Association expressed concern on the requirement to remove nonorganic objects from septage prior to application.

The Board finds that this requirement is important. The final-form regulations retain the requirement to remove nonorganic objects from septage prior to land application. The regulations do not require a specific method for removal of these materials and, as a result, provides maximum flexibility to the hauler. The aesthetic impact of removing the materials will go a long way toward the eventual public acceptance of the land application of these materials.

m. *Frequency of monitoring sewage sludge quality—§ 271.917 (relating to frequency of monitoring)*

The Board received several comments on the frequency of monitoring of sewage sludge quality. One comment requested that the Board allow less frequent monitoring, upon request, after 2 years of monitoring, consistent with Part 503.

The frequency of monitoring sewage sludge quality remains the same in the final-form regulations except that two Federal requirements have been added: for some qualities of residential septage, each container of residential septage applied to the land shall be monitored; and for some qualities of sewage sludge, monitoring frequency may be reduced, with Department approval, after 2 years of monitoring.

n. *Recordkeeping requirements—§ 271.918 (relating to recordkeeping)*

The Board received comments requesting that the records and recordkeeping requirements remain consistent with the Federal Part 503 regulations, to prevent dual records and recordkeeping efforts. There were also comments requesting that recordkeeping be revised to

provide that the date and time of sewage sludge application at each site must be recorded.

The recordkeeping and reporting requirements in the final-form regulations differ from those in the proposed regulations. The final-form regulations largely track the Part 503 requirements, retaining recordkeeping requirements and adding the requirement to record dates and times of application of non-EQ sewage sludge. Records shall be produced to the Department upon request.

In addition, the biennial report that was required of sewage sludge generators in proposed § 271.901 (relating to Biennial report—generator of sewage sludge other than residential septage) has been eliminated in order to avoid duplication of information that will be requested in other reports.

o. *Guidelines*

Several commentators expressed concern about using the Interim guidelines to define sewage sludge quality. Others were confused on how the guidelines were changed to provide methods for calculating nitrogen loading.

The final-form regulations eliminate the reliance placed upon guidelines for permits issued under Subchapter J in the proposed regulations. The sewage sludge quality tables and the cumulative loading rates of Part 503, found in the guidelines, are now contained in the regulations. The final-form regulations also include the requirements for pathogen reduction from Part 503. The nitrogen loading calculations will be based on the Federal guidelines that accompany the Part 503 regulations. The Department will only develop additional guidelines, if necessary, to clarify or interpret the final-form regulations. The final rulemaking references EPA's guidance for calculating agronomic loading rates.

The interim guidelines will remain in effect, however, for the benefit of persons operating under Chapter 275 individual land application permits.

6. *Grants—§ 272.315 (relating to limits on Department's authority to award grants)*

The Board received a comment requesting that grant authorization under this section be extended to items that directly relate to tasks applied for in the original grant application.

The Board has revised § 272.315 to indicate that grants may only be awarded for items which are included in a grant application or which are proposed to be used for the same limited purpose as an item included in a grant application. This change was needed to eliminate confusion which has existed in the past.

7. *Daily and intermediate cover at landfills—§§ 273.232 and 273.233 (relating to daily cover; and intermediate cover and slopes)*

The Board received a number of comments concerning the proposal to require daily cover to be incapable of sustaining burning. The commentators expressed concern that the language was not stringent enough to serve its intended purpose.

The Board has revised the landfill daily cover requirement of § 273.232 to require daily cover to be capable of controlling fires. This language tracks the Federal language of 40 CFR 258.21. The Department will work with the Pennsylvania Fire Services Institute and industry representatives to develop criteria for evaluating performance standards for determining which materials meet this standard.

The Board made a corresponding revision to the intermediate cover requirements found in § 273.233.

The Board also corrected subsection (c) of the daily cover requirements by inserting the word "loam," which had accidentally been left out of the design standards.

#### 8. *Individual Sewage Sludge Land Application Permits—Chapter 275*

The Board received a wide range of comments on the proposed revisions to Chapter 275. Some addressed specific revisions, such as hauler requirements and training requirements, and others addressed more general concerns, especially requesting exemptions from requirements for EQ sewage sludge.

The proposed regulations envisioned a program in which general permits would be available for high quality sewage sludge under Subchapter J, and individual permits would be available for lower quality sewage sludge under Chapter 275. The final-form regulations provide for individual and general permits under Subchapter J. Therefore, there is no need to retain Chapter 275 other than to provide a permitting mechanism until Subchapter J becomes effective, and to enforce existing Chapter 275 permits until they expire. Consequently, most of the changes that were proposed to be made to Chapter 275 are no longer necessary or appropriate and are eliminated in the final rulemaking. The remaining changes address the breadth of permitting options and make several other clarifications.

Two provisions in Subchapter J will expressly apply to permits that have been or will be issued under Chapter 275: the requirement to obtain training before land applying sewage sludge, § 271.915(j), and the requirement to display the permit number on the vehicle land applying sewage sludge, § 271.915(k).

The permit application sections are deleted effective May 27, 1997, because permits will no longer be available under this chapter after that date. See §§ 275.101—275.107, 275.301 and 275.401.

The requirements for training, displaying permit numbers, and various types of notification in proposed § 275.201 have been deleted and restated in Subchapter J. Proposed § 275.209, which also set forth the training requirements, has been eliminated.

The sections of Chapter 275 concerning surface land disposal, §§ 275.501—275.531, are deleted, effective upon publication of this rulemaking in the *Pennsylvania Bulletin*. Corresponding changes have been made in § 271.1 by revising the proposed definition of "land application" to eliminate reference to "surface land disposal" and by deleting the definition of "land disposal."

#### 9. *Transportation of Residential Septage—§ 285.225*

The Board received several comments on this section, suggesting that the requirements for sewage sludge transporters to register with the Department should be deleted.

The final-form regulations have changed. They require that septage haulers—as opposed to all sewage sludge haulers—register with the Department and include an identification number on the transporting vehicle, as explained under the heading: "Sewage sludge final-form regulations more stringent than Federal standards," in this Preamble. The change was made in order to help the Department identify residential septage haulers who may be land applying septage without a permit and to increase accountability of land appliers. The requirement

was eliminated for haulers of sewage sludge other than residential septage because information about them is already more accessible to the Department through the treatment plants and others who prepare sewage sludge for land application.

In addition to major changes made in response to public comments, other changes included in the final-form regulations are summarized as follows.

#### 1. *Definitions—§ 271.1 (relating to definitions)*

##### a. *Horticultural and turf grass production*

The definition of "horticultural and turf grass production," which was added in the proposed regulations to address a category of activity addressed by the general permit provisions for the land application of sewage sludge, has been deleted on final because of changes in the land application provisions which cover this activity.

##### b. *Intermittent stream*

A definition of "intermittent stream" has been added because the isolation distances in § 271.915 of the final-form regulations address both perennial and intermittent streams. The definition is identical to that found in the Department's mining regulations and residual waste regulations.

##### c. *Land application*

The proposed definition of "land application" has been revised to eliminate the reference to "surface land disposal."

##### d. *Land disposal*

The definition of "land disposal" has been deleted in accordance with the deletion of §§ 275.501—275.531 concerning surface land disposal of sewage sludge.

##### e. *Permit*

The definition of "permit" has reverted to its original form.

##### f. *Seasonal high water table*

The definition of "seasonal high water table" has been deleted and replaced with a more concise definition based on the current method used to delineate seasonal high water tables by the Natural Resources Conservation Service.

##### g. *Sewage sludge*

The definition of "sewage sludge" has been amended to include materials derived from sewage sludge. An example of a material derived from sewage sludge would be composted sewage sludge. This consolidates the two separate concepts of preparing sewage sludge and deriving sewage sludge contained in Part 503.

#### 2. *Special Definitions—§§ 271.907 and 271.932 (relating to special definitions; and pathogens)*

Subchapter J contains a number of definitions specific to the land application of sewage sludge. They track the Part 503 definitions, with several exceptions:

##### a. *Agricultural land*

Agricultural land is land on which silvicultural crops or horticultural crops, in addition to crops identified in Part 503, are grown. Adding these crops expands the lands upon which additional precautions are taken in land applying sewage sludge, and is consistent with Part 503.

##### b. *Bag or other container*

A definition of "bag or other container" has been added because the phrase is used frequently in Subchapter J

with regard to EQ sewage sludge that is exempt from certain requirements if old, given away or otherwise distributed, in a bag or other container for land application.

*c. Land application of sewage sludge general permit, and land application of sewage sludge permit*

Permits issued under Subchapter J will be permits for the beneficial use of sewage sludge by land application. They may be general or individual permits.

*d. Cover crop*

A definition of "cover crop" has been added because the term is used in the definition of "agronomic rate."

*e. Domestic sewage, feed crops, fiber crops, food crops, industrial wastewater, pollutant, pollutant limit, public contact site, runoff, treat or treatment of sewage sludge, treatment works*

These EPA definitions were added because they are used in Subchapter J and did not exist in current or proposed regulations.

*f. Frozen ground*

A definition of "frozen ground" was added at the request of the Department's Agricultural Advisory Board. The term is used in the management practices section of Subchapter J.

*g. Municipality, person*

These definitions differ from the definitions in § 271.1. They are added in order to coordinate permits issued under Subchapter J with NPDES permit requirements.

*h. Pasture*

This definition was carried over from the State Conservation Commission's proposed nutrient management regulations.

*i. Range land*

This definition was added at the request of the Agricultural Advisory Board because the term is used in Subchapter J.

*j. Wetlands*

A definition of "wetlands" is added which is identical to that in § 105.1 (relating to definitions) in order to clarify the term as it is used in Subchapter J.

*3. Beneficial Use—Subchapter I, §§ 271.811—271.842*

A number of revisions have been made to Subchapter I, relating to beneficial use of municipal waste other than sewage sludge, to clarify the process.

*a. Bonding and insurance*

The Board has clarified the bonding and insurance exemptions applicable to general permits, in § 271.811(d) (relating to application for general permit), specifying activities and facilities for which bonding and insurance may not be waived. Under the proposed regulations, bonding and insurance were required in all cases, unless an applicant could demonstrate that there was a low likelihood that waste being handled could be contaminated with hazardous waste and that the quantity of waste stored at the processing or beneficial use facility may present a threat of harm to the public or the environment. Rather than asking applicants to determine in advance of filing an application whether a bond is required, the Board has included specific criteria in the final-form regulations that will indicate when a bond should be required and how the amount of the bond should be determined. Bonding and public liability insur-

ance will be required for composting facilities, construction/demolition waste processing facilities, and facilities that process municipal waste to produce refuse derived fuel. Also, bonding and insurance requirements must be met if the waste managed is potentially harmful or if large quantities of waste are stored.

*b. Permit renewal fee*

The Board has added a fee for permit renewal, in § 271.816(d) (relating to permit renewal), which was overlooked in the proposed rulemaking. The fee is \$300.

*c. Waiver and modification*

The Board has clarified § 271.822 (relating to waiver and modification of requirements) by specifying which portions of Article IX may not be waived or modified.

*4. Beneficial Use of Sewage Sludge—Subchapter J, §§ 271.901—271.934*

*a. Permits—§ 271.902 (relating to permits and direct enforceability)*

Section 271.902 has been written to clarify the type of permit that is available for the type of activity. In particular, for a sewage sludge land application project that will be carried out in an exceptional value watershed, an individual land application of sewage sludge permit will be required, because the water quality regulations prohibit land application of sewage sludge general permits from being issued for use in these areas. Other projects may be carried out under land application of sewage sludge general permits.

*b. Sampling and analysis—§ 271.906 (relating to sampling and analysis)*

Methods for sampling and analyzing sewage sludge quality are expanded in the final-form regulations by cross referencing seven publications adopted by the EPA and by incorporating by reference any later amendments published in the *Federal Register*. Other methods may be approved by the Department. This system replaces the proposed regulation which cross referenced the Department's Guidelines.

*c. General requirements and management practices—§§ 271.913 and 271.915*

Some of the changes in this area are discussed in this Preamble under the heading: "Summary of Comments and Responses on the Proposed Rulemaking." Others are as follows:

The final-form regulations add a series of responsibilities concerning sharing of information. See § 271.913(i)—(m). This comes directly from Part 503 and is an important component in helping determine whether and how much sewage sludge may be applied at a site.

The management practices now require, consistent with Part 503, that endangered species be considered before a site is selected for land application. See § 271.915(a).

Both the proposed and final-form regulations restrict land application within 100 feet of a sinkhole, but the final-form regulations clarify that this distance is measured from the edge of the sink hole. See § 271.915(c)(2).

Both the proposed and final-form regulations restrict land application within 300 feet of an occupied residence, unless waived, but the final-form regulations allow land application activities to continue closer than that if the residence came into existence after the land applier gave adjacent landowner notification under § 271.913(g). See § 271.915(c)(3). This clause was added at the request of the Agricultural Advisory Board in order to prevent later

improvements to nearby properties to interfere with preexisting land application activities.

The proposed regulations required a farm conservation plan and a nutrient management plan to be implemented at a farm on which sewage sludge was to be land applied for agricultural utilization purposes. The final-form regulations require that sewage sludge (including EQ sewage sludge) being land applied for agricultural utilization not be applied at a rate greater than the agronomic rate in order to avoid over-application of nutrients. See § 271.915(f). The final-form regulations do not require a nutrient management plan. They require a management plan if sewage sludge is to be land applied at a farm at which nitrogen from manure already meets the nutrient needs of the farm for realistic expected crop yields. See § 271.915(g). The management plan would indicate other uses for the manure.

#### 5. Other changes

Minor revisions were made in §§ 271.102, 271.123, 271.801, 271.812—271.815, 271.821, 271.831—271.833, 271.841, 271.842 and 285.201 for clarification purposes. Most of the revisions were to a section number, a title or a section number cross reference.

#### *Residual Waste Regulations*

The following is a summary of major comments received and changes which have been made to the proposed rulemaking in response to the comments received.

#### 1. Permit-by-rule—§ 287.102 (relating to permit-by-rule)

##### a. Surface impoundments associated with wastewater treatment facilities

The proposed regulations included a transition scheme for bringing storage impoundments associated with captive facilities and wastewater treatment facilities into compliance with Chapter 299. In order for a person who operates a facility to make a decision whether to close or continue to operate an impoundment in accordance with the 1992 regulations, it is necessary to determine whether the impoundment is associated with any groundwater degradation. To make this determination, water quality monitoring must be implemented.

Two commentators indicated that imposition of a 6-month deadline for submission of water quality monitoring plans for all residual waste storage impoundments is unwarranted and would subject the facilities to unnecessary financial and other associated burdens.

The 6-month deadline in the proposed regulations only applied to impoundments associated with wastewater treatment facilities and captive facilities operating under a permit-by-rule, since compliance issues relating to the processing facility were at risk. As originally adopted in 1992, § 287.112 (relating to storage impoundments and storage facilities) of the residual waste regulations states that “within 6 months after receiving written notification from the Department, an operator of a residual waste storage impoundment that has not submitted a water quality monitoring plan under § 287.111 shall submit the plan to the Department.” The 6-month period provided for in these final-form regulations serves as the Department’s written notification for a category of storage impoundments.

The implementation schedule for the water quality monitoring plans was also raised as an issue. The proposed regulations required that all plans be implemented within 6 months of the Department’s approval of

the plan. This language is consistent with § 287.112 of the 1992 regulations which state that “the operator of a residual waste storage impoundment shall implement a water quality monitoring plan that meets the requirements of this article within 6 months after the Department approves the plan.” Due to the large number of storage impoundments that exist, the 1992 regulations allow for a 10-year period to complete notification, review and implementation of water quality monitoring plans for all storage impoundments, including those associated with a permit-by-rule. The final-form regulations allow for an extension of time for implementation of water quality monitoring plans, beyond the 6 months, as long as implementation takes place no later than July 4, 2002. This language is consistent with § 287.112 of the 1992 regulations. The Department will prioritize review of monitoring plans based on the risks to human health and the environment and will schedule the implementation of the plans through July 4, 2002. This change on final rulemaking is consistent with another commentator’s recommendation to extend the implementation schedules in order to allow for implementation in phases.

One commentator indicated that storage impoundments which are part of permit-by-rule processing facilities are already regulated under The Clean Streams Law and should not be subject to the operational requirements of § 299.144 (relating to operating requirements) of the residual waste regulations.

Under the 1992 rulemaking, Chapter 101 (relating to special water pollution regulations), implementing The Clean Streams Law, was amended to exclude residual waste facilities and the regulation of these facilities was relocated to the residual waste regulations, including Chapter 299. The purpose of the change was to keep all regulations governing residual waste facilities in one location of The Administrative Code of 1929.

##### b. Incinerators

The proposed regulations did not include any changes to the scope of this permit-by-rule. A commentator, however, commented that the scope should be expanded to allow a generator with multiple facilities to aggregate wastes to be burned at an incinerator.

The final-form regulations include language that is in place for captive processing facilities and allows the burning of wastes at the generation site if the incinerator processes waste that is generated solely by the operator and processing occurs at the same production facility where some or all of the waste is generated.

##### c. Mechanical processing facilities

The proposed regulations prohibit facilities that separate waste oil and water from qualifying for permit-by-rule. The Board proposed this change based on the Department’s experience with these operations and is attempting to prevent the improper and inadvertent acceptance of hazardous waste at these facilities. Two commentators suggested that rather than eliminating these operations from being eligible for permit-by-rule, the Department should ensure that generators of wastes properly classify their waste streams. The Board continues to maintain that a general or individual permit is the best management option for these facilities, and the final-form regulations include the prohibition.

#### 2. General permits—§ 287.601—287.651

The proposed regulations deleted the “me too” process, § 287.644 (relating to waiver of registration or determination of applicability requirements), from the general



permits program. The "me too" process was originally intended for use by a person who has a similar operation as another person who has applied for a general permit. In that situation, the person with the similar operation could apply to be covered under the other person's general permit if he notified the Department during the public comment period of the proposed general permit. Although it was expected to streamline the general permit process, experience with the "me too" process has shown that the time period for issuance of a general permit for the original applicant has actually been lengthened. One commentator suggested that the Department examine whether changes exist that could be instituted to make the "me too" process more efficient. The Board has concluded that the registration and determination of applicability processes are more efficient, since the "me too" process generally results in one company's incomplete application holding up another company's complete application. Therefore, the final-form regulations have eliminated the "me too" process.

In § 287.621(d)(relating to application for general permit), the Board proposed criteria for determining when bonding and public liability insurance requirements must be met under the general permit program. Under the proposed regulations, bonding and insurance were required in all cases, unless an applicant could demonstrate that there was a low likelihood that waste being handled could be contaminated with hazardous waste and that the quantity of waste stored at the processing or beneficial use facility may present a threat of harm to the public or the environment. Two commentators indicated that this language was a problem because applicants will be faced with trying to determine whether a bond is required prior to filing an application. It was recommended that the Board include specific criteria in the final-form regulations that will indicate when a bond should be required and how the amount of the bond should be determined.

It has always been the practice of the Department to encourage preapplication meetings with all potential applicants to discuss all aspects of an application process, including bonding and insurance matters. By including criteria in the regulations, the Board is attempting to give notice of the types of circumstances that will require bonding and insurance in all cases. The final-form regulations contain revised criteria. Bonding and public liability insurance will be required for waste tire operations, waste oil operations and contaminated soil operations. Also, bonding and insurance requirements must be met if the waste managed is potentially harmful or if large quantities of waste are stored.

In § 287.621(b), the Board proposed a discretionary waiver of the requirement to meet waste quality limitations on the use of residual wastes that contain contaminants identified as secondary maximum contaminant levels. Under the 1992 regulations, the waste was required to meet the waste quality requirements of § 288.623(a) (relating to minimum requirements for acceptable waste) if the waste was being beneficially used directly on the land.

One commentator supported the addition of a waiver of the requirements related to the secondary maximum contaminant levels. The final-form regulations continue to include the proposed waiver language.

### 3. *Beneficial use of coal ash—§§ 287.661—287.665*

The Board proposed a few regulatory changes to §§ 287.663 and 287.664 (relating to coal ash surface coal mining sites; requests for approval; and coal ash at

surface coal mining sites; operational requirements). Under § 287.663, the Board proposed an alternative mechanism for characterizing groundwater quality instead of monitoring for the data. Proposed changes to § 287.664 included adding a criterion for the final cover after placement of coal ash has taken place at a surface mining site and allowing for existing discharges to be used as monitoring points for evaluating groundwater degradation.

Commentators suggested specific changes to design requirements for the beneficial use of coal ash. Changes recommended include more flexibility on groundwater monitoring and more flexibility with regard to placement of ash materials and compaction.

In response to these comments and based on an overall review of the beneficial uses of coal ash at surface mine and abandoned mine sites, the final-form regulations for §§ 287.663 and 287.664 have been rewritten and include significant changes. The regulations applicable to the Bureau of Mining and Reclamation and the Bureau of Abandoned Mine Reclamation have been incorporated for such things as groundwater monitoring and reclamation plan requirements. References to residual waste regulations for groundwater monitoring have been deleted. The regulations commit the Department to develop a technical guidance document to facilitate review of beneficial uses of coal ash at coal mining activities and at abandoned mine sites. Also, the Department is committed to the development of certification guidelines to allow generators of coal ash to certify that the coal ash meets chemical and physical characteristics that are appropriate for various beneficial uses.

Overall, the changes to the coal ash provisions will allow greater flexibility for an applicant to propose designs that are appropriate for a particular site and will encourage more coal ash utilization. The final-form regulations place an emphasis on performance standards and tie the performance directly into reclamation plans under the mining and abandoned mine programs. By encouraging more beneficial uses of coal ash at already disturbed areas, the need for the development of more coal ash landfills will be reduced.

In addition to changes made in response to public comments, other major changes included in the final-form regulations are summarized as follows.

#### 1. *Permit-by-rule—§ 287.102 (relating to permit-by-rule)*

##### a. *Transfer facilities that collect used oil*

The final-form regulations no longer include other sites as eligible for operating under this permit-by-rule. Controversy over the meaning of the phrase "other sites" has caused this change in the regulations. The permit-by-rule is intended to apply to a very narrow class of used oil facilities. Primarily, this permit-by-rule was intended to cover facilities that collect used oil from members of the public that perform individual automobile maintenance. New language was added to this permit-by-rule to allow a captive processing facility that collects used oil generated only by the operator to serve as a collection point for employees of the facility operator who perform oil changes on their own automobiles. Used oil transfer facilities that do not fit within the description of this permit-by-rule section may apply for a general permit or individual permit.

##### b. *Mechanical processing facilities*

The final-form regulations include permit-by-rule coverage for a very narrow class of waste tire processing

operations. A permit-by-rule is available for the processing of existing tire piles that takes place for the sole purpose of remediation. No additional tires may be brought to the site for processing and the processed tires must be promptly removed for offsite reuse or disposal. Other tire processing operations must obtain either an individual or general permit.

*c. Container processing and drum reconditioning facilities*

Two new categories of processing were added to the permit-by-rule section. Facilities that process, by cleaning and rinsing, empty containers or empty drums for reuse are now eligible for permits by rule.

*2. General Permits*

On final rulemaking, § 287.611 (relating to authorization for general permit) was changed to allow for mixtures of municipal and residual waste to be managed under general permits. Depending on which article is most appropriate for the management of a facility that handles a mixture of municipal and residual waste, the general permit process under Article VIII or Article IX may apply.

A permit renewal process that was included in the proposed rulemaking, § 287.626, is contained in the final-form regulations.

In addition to the changes identified in this Preamble, minor revisions were made in this final rulemaking to the following sections: 287.1, 287.51, 287.102, 287.601, 287.611, 287.621, 287.622, 287.625, 287.626, 287.632, 287.642, 287.644, 287.651, 287.652 and 287.662—287.665.

*F. Benefits and Costs*

*Benefits*

The benefits are best described as a streamlining, or improvement, of the current land application requirements, resulting in a more rapid response by the Department and decreased costs to the operator. There are approximately 3,000 municipal wastewater treatment plants located in this Commonwealth. It is anticipated that over half of these facilities will opt to land apply under the new system.

The final-form regulations will eliminate sewage sludge generators' need for expensive application preparation costs associated with a site specific application for those activities which will now be covered under a general permit. Generators will benefit from reduced costs for preparation of a general permit application and the Department will benefit from reduced staff time required for reviewing site specific applications.

Those treatment plants that generate EQ sewage sludge which is similar to fertilizer may land apply under the regulations without site management practices.

*Compliance Costs*

The final-form regulations will benefit those persons that generate sewage sludge and use land application as the method of managing the material. The permitting processes will be streamlined and will result in a rapid response to applicants by the Department, and decreased costs to operators.

The current cost for preparation and implementation of an individual land application permit is \$10,000 per site. This combined with a \$1,200 permit application fee requires all applicants to spend about \$11,200 per application. The final-form regulations allow applicants to apply for coverage under a general permit which will be

prepared by the Department. The cost to apply for coverage to participate under such a general permit, or to apply for an individual Land Application of Sewage Sludge permit, is \$500 and the permit term is 5 years.

Additional savings result from savings in consulting expenses and other administrative costs associated with the individual permit process. These changes could result in savings of over \$ 30 million over the next 5 years. An additional \$ 2.5 million will be saved as the result of deleting the requirements for annual soil sampling and posting of collateral bonds for land application sites.

The largest potential savings will result from an expected dramatic increase in land application of sewage sludge. While disposal costs vary, it is generally less expensive to land apply sewage sludge than it is to landfill the material. Although, currently landfill costs are low due to an excess of landfill capacity, this could change and drive the cost of sludge disposed to double the current rate per ton. Land application could save the regulated community nearly \$ 400 million in landfilling and other disposal costs over the next 5 years.

The regulations require any holder of a general or individual land application permit to have staff attend a training session conducted by the Department. This requirement could cost the regulated community \$200,000 over the next 5 years.

There is also a cost associated with the requirement for background soil analysis for sites prior to being used for the first time. These two costs combined should not exceed a half million dollars over the next 5 years. The long-term benefits of the training may ultimately save the regulated community costs associated with additional consulting fees or fines associated with enforcement activities.

The only cost of any measurable effect will be the requirement that all nonorganic objects be strained from residential septage prior to application. This is expected to cost the regulated community approximately \$20 per 1,000 gallons of septage pumped.

*Compliance Assistance Plan*

The Department will sponsor a training program for all persons that land apply sewage sludge and residential septage. In addition, the Department will continue its efforts to establish a continuing education process for the regulated community and the general public on the benefits of land application of sewage sludge.

The Department will work with the Pennsylvania Water Environment Association and the Pennsylvania Septage Management Association to develop solution programs and land application.

The Department is also looking at the potential of expanding the use of Act 101 funds to develop additional programs geared toward education on the land application programs. These include additional fact sheets, videos, press releases and radio public service announcements in areas where sewage sludge is applied.

The Department will also work with its regional roundtables in an effort to reach those individuals on whom land application has the greatest impact.

*Paperwork Requirements*

The final-form regulations will result in a reduction in paperwork because, for land application activities under Chapter 271, Subchapter J, records will only be submitted to the Department upon request, site specific information will not be required, annual soil analyses reports will

not be required, and application documentation will be significantly less than under the existing system.

*G. Pollution Prevention*

The new permitting provisions for land application of sewage sludge encourage the development of clean sewage sludges because sewage sludge of a certain quality may be land applied with fewer restrictions than other sewage sludge, less oversight by the Department, and less impact on the environment.

Additionally, the final-form regulations require a generator of non-EQ sewage sludge, whose sewage sludge is intended to be land applied, to prepare a Sewage Sludge Quality Enhancement Plan that requires the generator to examine the physical, chemical and biological characteristics of the sewage sludge, the impact of industrial discharges into the treatment plant on the sludge quality, a description of pretreatment measures taken by the plant, and a description of options to improve the sludge quality. This plan shall be updated every 5 years or as necessary. If the generator demonstrates that it has improved its sewage sludge quality to meet the requirements of § 271.911(b)(1) for EQ sewage sludge, the Department may waive or modify the requirement to continue preparing the report. This effort should result in cleaner sludges being land applied.

*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 it was intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 9, 1994, the Department submitted a copy of the notice of proposed rulemaking, published at 24 Pa.B. 4975, to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing 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 on November 4, 1996. IRRC met on November 7, 1996, and disapproved the amendments in accordance with section 5(c) of the Regulatory Review Act. The Department resubmitted the final-form regulations without changes to the House and Senate Committees on November 15, 1996. The Committees took no action, and the final-form regulations were deemed approved.

*J. Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and 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 24 Pa.B. 4975.

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

*K. Order*

(a) The regulations of the Department, 25 Pa. Code Chapters 271—273, 275, 277, 279, 281, 283, 285 and 287, are amended by:

(i) amending §§ 271.1, 271.101, 271.102, 271.123, 271.413, 271.601, 271.611, 272.252, 272.315, 272.353, 273.202, 273.232, 273.233, 275.201, 275.202, 277.202, 279.201, 279.202, 279.217, 281.202, 283.1, 283.202, 283.222, 285.123, 285.201, 285.212, 287.1, 287.51, 287.102, 287.413, 287.601, 287.611, 287.621—287.623, 287.625, 287.631, 287.632, 287.641—287.643, 287.651, 287.652 and 287.662—287.665;

(ii) adding §§ 271.103, 271.801, 271.811, 271.812, 271.821—271.826, 271.831, 271.832, 271.841—271.843, 271.851, 271.852, 271.901—271.907, 271.911—271.921, 271.931—271.933 and Chapter 271, Appendix A, 285.225 and 287.626; and

(iii) deleting §§ 271.232, 275.1, 275.101—275.107, 275.301, 275.401, 275.501—275.503, 275.511—275.517, 275.521—275.528, 275.531, 275.601—275.603, 275.611—275.614, 281.2 and 287.644,

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 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 as set forth in Section A of the Preamble.

JAMES M. SEIF,  
*Chairperson*

*(Editor's Note: For the text of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5766 (November 23, 1996).)*

**Fiscal Note:** Fiscal Note 7-282 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**

**ARTICLE VIII. MUNICIPAL WASTE**

**CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS**

**Subchapter A. GENERAL**

**§ 271.1. Definitions.**

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

\* \* \* \* \*

*Beneficial use*—Use or reuse of residual waste or residual material derived from residual waste for com-

mercial, industrial or governmental purposes, where the use does not harm or threaten public health, safety, welfare or the environment, or the use or reuse of processed municipal waste for any purpose, where the use does not harm or threaten public health, safety, welfare or the environment.

\* \* \* \* \*

*Construction material*—The engineered use of municipal waste as a substitute for a raw material or a commercial product in a construction activity, if the waste has the same engineering characteristics as the raw material or commercial product for which it is substituting. The term includes the use of municipal waste as a road bed material, for pipe bedding and in similar operations. The term does not include valley fills, the use of municipal waste to fill open pits from coal or other fills or the use of municipal waste solely to level an area or bring the area to grade when a construction activity is not completed promptly after the placement of the solid waste.

\* \* \* \* \*

*General permit*—Except as provided in Subchapter J (relating to beneficial use of sewage sludge by land application), a regional or Statewide permit issued by the Department for a specified category of beneficial use or processing of solid waste, the terms and conditions of which allow an original applicant, a registrant and a person or municipality that obtains a determination of applicability, to operate under the permit if the terms and conditions of the permit and certain requirements of this article are met.

*Generator*—A person or municipality that produces or creates a municipal waste.

\* \* \* \* \*

*Intermittent stream*—A body of water flowing in a channel or bed composed primarily of substrates associated with flowing water which, during periods of the year, is below the local water table and obtains its flow from both surface runoff and groundwater discharges.

*Land application*—Agricultural utilization or land reclamation of solid waste. The term does not include the disposal of solid waste in a landfill or disposal impoundment.

\* \* \* \* \*

*NPDES*—National Pollutant Discharge Elimination System.

\* \* \* \* \*

*PCB containing waste*—Solid waste containing PCBs in the following concentrations:

- (i) More than 4 parts per million, but less than 50 parts per million.

\* \* \* \* \*

*Perennial stream*—A body of water flowing in a channel or bed composed of substrates associated with flowing waters and capable, in the absence of pollution or other manmade disturbances, of supporting a benthic macroinvertebrate community which is composed of two or more recognizable taxonomic groups of organisms which are large enough to be seen by the unaided eye and can be retained by United States Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system.

*Permit*—A permit issued by the Department to operate a municipal waste disposal or processing facility, or to beneficially use municipal waste. The term includes a general permit, permit by rule, permit modification, permit reissuance and permit renewal.

\* \* \* \* \*

*Permit-by-rule*—A permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with § 271.102 or § 271.103 (relating to permit-by-rule for infectious or chemotherapeutic waste processing facilities; qualifying facilities; general requirements; and permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements).

\* \* \* \* \*

*Related party*—A person or municipality engaged in solid waste management that has a financial relationship to a permit applicant or operator. The term includes a partner, associate, officer, parent corporation, subsidiary corporation, contractor, subcontractor, agent or principal shareholder of another person or municipality, or a person or municipality that owns land on which another person or municipality operates a municipal waste processing or disposal facility.

\* \* \* \* \*

*Residential septage*—Liquid or solid material removed from a septic tank, cesspool or similar treatment works that receives only waste or wastewater from humans or household operations. The term includes processed residential septage from a residential septage treatment facility. The term does not include liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

\* \* \* \* \*

*Seasonal high water table*—The minimum depth from the soil surface at which redoximorphic features are present in the soil.

*Sewage sludge*—Liquid or solid sludges and other residues from a municipal sewage collection and treatment system; and liquid or solid sludges and other residues from septic and holding tank pumpings from commercial, institutional or residential establishments. The term includes materials derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system, or grit, screenings and nonorganic objects from septic and holding tank pumpings.

\* \* \* \* \*

*Soil additive or soil substitute*—Municipal waste which is beneficially used at specified loading or application rates, to replace soil that was previously available at the site, to enhance soil properties or to enhance plant growth. The term does not include structural fills, construction material, valley fills or the use of municipal waste to fill open pits from coal or noncoal mining or the disposal of coal ash.

\* \* \* \* \*

*Storage*—The containment of any waste on a temporary basis in such a manner as not to constitute disposal of

the waste. It shall be presumed that the containment of waste in excess of 1 year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

\* \* \* \* \*

*Transfer facility*—A facility which receives and processes or temporarily stores municipal or residual waste at a location other than the generation site, and which facilitates the transportation or transfer of municipal or residual waste to a processing or disposal facility. The term includes a facility that uses a method or technology to convert part or all of the waste materials for offsite reuse. The term does not include a collecting or processing center that is only for source-separated recyclable materials, including clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper and plastics.

\* \* \* \* \*

*Waste*—A material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source separated recyclable materials, material approved by the Department for beneficial use under a beneficial use order issued by the Department prior to May 27, 1997, or material which is beneficially used in accordance with a general permit issued under Subchapter I (relating to beneficial use) or Subchapter J if a term or condition of the general permit excludes the material from being regulated as a waste.

\* \* \* \* \*

**Subchapter B. GENERAL REQUIREMENTS FOR PERMITS REQUIREMENT**

**§ 271.101. Permit requirement.**

(a) Except as provided in subsection (b), a person or municipality may not own or operate a municipal waste disposal or processing facility unless the person or municipality has first applied for and obtained a permit for the facility from the Department under the requirements of this article.

(b) A person or municipality is not required to obtain a permit:

(1) For the use or application of agricultural waste in normal farming operations, unless the proposed use or application of the waste may cause pollution to air, water or other natural resources of this Commonwealth.

(2) For a source separation and collection program for recycling municipal waste, or for dropoff points, or collection or processing centers for source separated recyclable materials.

(3) For the use as clean fill of the following materials if they are separate from other waste:

(i) Uncontaminated soil, rock, stone, gravel, unused brick and block and concrete.

(ii) Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

(c) Subsection (b) does not relieve a person or municipality of the requirements of an applicable environmental protection act or an applicable regulation promulgated under it.

**§ 271.102. Permit-by-rule for infectious or chemotherapeutic waste processing facilities; qualifying facilities; general requirements.**

\* \* \* \* \*

**§ 271.103. Permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements.**

(a) *Purpose.* Facilities and activities described in this section shall be deemed to have a municipal waste permit by rule if the following general requirements are met:

(1) The facility or activity complies with Chapter 285 (relating to storage, collection and transportation of municipal waste).

(2) The facility or activity has the other necessary permits under the applicable environmental protection acts, and is operating under the acts and the regulations promulgated thereunder, and the terms and conditions of permits.

(3) A copy of a Preparedness, Prevention and Contingency (PPC) Plan that is consistent with the Department's guidelines for the development and implementation of environmental emergency response plans is retained onsite and available to the Department upon request.

(4) Daily records of the weight or volume of waste that is processed, the method and location of processing or disposal facilities for wastes from the facility and waste handling problems or emergencies are retained onsite and available to the Department upon request.

(b) *Financial assurances.* Subchapter D (relating to financial assurances requirements) is not applicable to facilities which are deemed to have a permit under this section.

(c) *Inappropriate activity.* The Department may require a person or municipality deemed to have a permit-by-rule to apply for, and obtain, an individual or general permit, or take other appropriate action, when the person or municipality is not in compliance with the conditions of the permit-by-rule or is conducting an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

(d) *Captive processing facility.* A facility that processes municipal waste that is generated solely by the operator, onsite or offsite, shall be deemed to have a municipal waste processing permit under this article if, in addition to subsections (a)—(c), the following conditions are met:

(1) Waste resulting from the processing is managed under the act and the regulations promulgated thereunder.

(2) The processing does not have an adverse effect on public health, safety, welfare or the environment.

(3) The processing occurs at the production facility at which some or all of the waste is generated.

(4) The operator performs the analyses required by § 271.611 (relating to chemical analysis of waste), unless the analyses are waived or modified by the Department in writing, and maintains results of these analyses at the facility for 5 years. The results shall be submitted to the Department upon request.

(e) *Septage treatment facility.* A processing facility, other than a transfer or composting facility, that treats residential septage, either exclusively or mixed with

nonresidential septage, shall be deemed to have a municipal waste processing permit under this article if, in addition to subsections (a)—(c), the facility complies with the following:

(1) The operator performs the analyses required by § 271.611, unless the analyses are waived or modified by the Department in writing, and maintains results of these analyses at the facility for 5 years. The results shall be submitted to the Department upon request.

(2) The processing is included as part of a wastewater treatment process permitted by the Department under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), or as part of a permit issued under the act, or the discharge resulting from the processing activity is connected to a public sewer in compliance with the local sewer authority's requirements, and one of the following applies:

(i) The facility discharges into waters of this Commonwealth under a Part II NPDES permit or a water quality management permit and is in compliance with the permit.

(ii) The facility discharges into a permitted wastewater treatment plant and is in compliance with the permit.

(3) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

(f) *Incinerator.* A municipal waste incinerator located at the generation site shall be deemed to have a municipal waste permit under this article if, in addition to the requirements of subsections (a)—(c), the facility meets one of the following:

(1) The facility is not required to obtain a permit under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the regulations promulgated thereunder.

(2) The facility has a capacity of less than 500 pounds or 227 kilograms per hour and is permitted under the Air Pollution Control Act.

(g) *Mechanical processing facility.* A facility for the processing of uncontaminated rock, stone, gravel, brick, block and concrete from construction/demolition activities, individually or in combination, by mechanical or manual sizing or by mechanical or manual separation for prompt reuse shall be deemed to have a municipal waste processing permit-by-rule if it meets the requirements of subsections (a)—(c) and submits a written notice to the Department that includes the name, address and telephone number of the facility, the individual responsible for operating the facility and a brief description of the waste and the facility. The facility shall be onsite or process less than 50 tons or 45 metric tons per day, and may not operate in violation of any State, county or municipal waste management plan.

(h) *Yard waste composting facility.* A person or municipality that operates a yard waste composting facility that is less than 5 acres, other than an individual backyard composting facility, shall be deemed to have a municipal waste processing permit-by-rule if the person or municipality meets the requirements of subsections (a)—(c), and the facility is operated in accordance with the Department's guidelines on yard waste composting.

#### GENERAL APPLICATION REQUIREMENTS

##### § 271.123. Right of entry.

(a) An application shall contain a description of the documents upon which the applicant bases the legal right

to enter and operate a municipal waste processing or disposal facility within the proposed permit area. The application shall also state whether that right is the subject of pending litigation.

(b) The application shall provide one of the following for lands within the permit area:

(1) A copy of the written consent to the applicant by the current landowner to operate a municipal waste processing or disposal facility.

(2) A copy of the document of conveyance that expressly grants or reserves the applicant the right to operate a municipal waste processing or disposal facility and an abstract of title relating the documents to the current landowner.

(c) An application shall include, upon a form prepared and furnished by the Department, the irrevocable written consent of the landowner to the Commonwealth and its authorized agents to enter the proposed permit area. The consent shall be applicable prior to the initiation of operations, for the duration of operations at the facility, and for 10 years after final closure for the purpose of inspection and monitoring, maintenance or abatement measures deemed necessary by the Department to carry out the purposes of the act and the environmental protection acts.

(d) The forms required by subsection (c) shall be deemed to be recordable documents. Prior to the initiation of operations under the permit, the forms shall be recorded by the applicant at the office of the recorder of deeds in the county in which the proposed permit area is situated. This subsection does not apply to agricultural utilization permits under Chapter 275 (relating to land application of sewage sludge) nor to permits issued under Subchapter J (relating to general permits—beneficial use of sewage sludge by land application).

#### Subchapter C. PERMIT REVIEW PROCEDURES AND STANDARDS

##### OTHER PERMITTING PROVISIONS

##### § 271.232. (Reserved).

#### Subchapter E. CIVIL PENALTIES AND ENFORCEMENT

##### CIVIL PENALTIES

##### § 271.413. Assessment of penalties—minimum penalties.

(a) This section sets forth minimum civil penalties for certain violations of the act and regulations thereunder. The Department will assess a civil penalty under § 271.412 (relating to assessment of penalties—general) only if a civil penalty calculated under § 271.412 is greater in amount than the civil penalty calculated under this section.

(b) If a person or municipality operates a permitted municipal waste landfill on an area for which the person or municipality was not permitted to operate the facility, or in excess of final permitted elevations, the Department will assess a minimum civil penalty of \$5,000 per half acre, or portion thereof. Intermediate acreages will be assessed at the next highest half acre.

(c) If a person or municipality operates a construction/demolition waste landfill on an area for which the person or municipality was not permitted to operate the facility, or in excess of final permitted elevations, the Department will assess a minimum civil penalty of \$500 per half acre,

or a portion thereof. Intermediate acreages will be assessed at the next highest half acre.

(d) If a person or municipality applies sewage sludge to an area for which the person or municipality was not permitted to apply the sludge, the Department will assess a minimum civil penalty of \$1,000 per acre.

(e) If a person or municipality applies sewage sludge under a permit, and the sewage sludge does not meet the physical, chemical or biological quality specified in the permit, the Department may assess a minimum civil penalty of \$1,000 per occurrence.

(f) If a person or municipality transporting residential septage fails to submit the notice to the Department required by § 285.225 (relating to transportation of residential septage), the Department may assess a minimum civil penalty of \$500 for the first offense and a minimum civil penalty of \$1,000 for each subsequent offense.

(g) If a person or municipality fails to provide notification on a timely basis of an incident for which a reporting requirement exists in the act, regulations thereunder, the terms or conditions of a permit or order of the Department, the Department will assess a minimum civil penalty of \$1,000.

(h) If a person or municipality refuses, hinders, obstructs, delays or threatens an agent or employe of the Department in the course of performance of a duty under the act, including, but not limited to, entry and inspection under any circumstances, the Department will assess a minimum civil penalty of \$2,000.

(i) If a person or municipality is applying sewage sludge and has not complied with the training requirements in § 271.915(j) (relating to management practices), the Department may assess a minimum civil penalty of \$1,000.

**Subchapter G. RESIDUAL WASTE; SPECIAL HANDLING WASTE; BENEFICIAL USE OF MUNICIPAL WASTE**

**GENERAL PROVISIONS**

**§ 271.601. Scope.**

(a) This subchapter applies to municipal waste processing or disposal facilities that apply to receive residual waste for processing or disposal. Section 271.611 (relating to chemical analysis of waste) also applies to an application for a general permit for the beneficial use or processing of municipal waste under Subchapter I (relating to beneficial use). This subchapter does not apply to:

(1) Transfer facilities except as otherwise required in writing by the Department.

(2) The disposal at permitted municipal waste landfills of residual waste from a person or municipality that generates a total quantity of 2,200 pounds or less of residual waste per generating location in each month, if the application demonstrates to the Department's satisfaction that the waste is not hazardous.

(3) The disposal at permitted municipal waste landfills of an individual type of residual waste from a person or municipality that generates a total of 2,200 pounds or less of that type of residual waste per generating location in each month, if approved by the Department in writing.

(b) The requirements of this subchapter are in addition to the application and operating requirements in this article.

(c) The Department may require analyses under this subchapter for special handling waste other than sewage

sludge, infectious waste, chemotherapeutic waste and ash residue from a resource recovery facility.

**ADDITIONAL APPLICATION REQUIREMENTS**

**§ 271.611. Chemical analysis of waste.**

(a) *Application form.*

(1) Except as provided in subsection (f), an application for the processing or disposal of residual waste or special handling waste, an application for a general permit for the beneficial use or processing of municipal waste under Subchapter I (relating to beneficial use), or an application or registration under § 271.831 (relating to contents of general permits) for inclusion in a general permit issued under Subchapter I, shall contain the following information for each waste on a form provided by the Department:

(i) The name and location of the generator of the waste.

(ii) A detailed analysis that fully characterizes the physical properties and chemical composition of the waste. This analysis shall include available information from material safety data sheets or similar sources that may help characterize the physical properties and chemical composition of the waste.

(iii) An evaluation of the ability of the waste and the constituents in the waste to leach into the environment.

(iv) A determination of whether the waste is hazardous under Chapter 261, Subchapters A—D.

(2) More than one type of waste from a single generator may be included on a single application, if the information required by this section is separately included for each type of waste.

(3) The analysis required by this subsection shall include a waste sampling plan, including quality assurance and quality control procedures. The plan shall ensure an accurate and representative sampling of the waste.

(4) The Department may, in writing, waive or modify the evaluation required by this subsection for waste to be disposed at lined disposal facilities if the following conditions are met:

(i) The applicant has submitted a description of the process by which the waste was generated, a physical description of the waste and a certification that the waste is not hazardous.

(ii) The waste has the same characteristics as municipal waste that does not contain hazardous waste.

(iii) The applicant has demonstrated to the Department's satisfaction that additional analysis is not necessary to determine that waste can be disposed of at the facility without adversely affecting the effectiveness of the liner or leachate treatment systems.

(b) *Waste generation.* Except as provided in subsection (e), an application for the processing or disposal of residual waste or special handling waste shall also include a description of the waste generation process, including a description of the raw materials used in the process, the primary chemical reactions which occur during the process, the sequence of events which occur during the process, the points of waste generation in the process and the manner in which each of the wastes is managed subsequent to its generation. A schematic drawing of the process shall be included.

(c) *Methodologies.* The analytical methodologies used to meet the requirements of subsection (a) shall be those in

the most recent edition of the EPA's "Test Methods for Evaluating Solid Waste" (SW-846), "Methods for Chemical Analysis of Water and Wastes" (EPA 600/4-79-020), "Standard Methods for Examination of Water and Wastewater," prepared and published jointly by the American Public Health Association, American Waterworks Association, and Water Pollution Control Federation or a comparable method subsequently approved by the EPA or the Department.

(d) *Quality control.* The person taking the samples and the laboratory performing the analysis required by subsection (a) shall employ the quality assurance/quality control procedures described in the EPA's "Handbook for Analytical Quality Control in Water and Wastewater Laboratories" (EPA 600/4-79-019) or "Test Methods for Evaluating Solid Waste" (SW-846). The laboratory's quality control procedures, as well as the documentation of the use of those procedures, shall be included in the application unless waived by the Department.

(e) *Generator information.* An applicant may submit information received from a person or municipality under § 287.54 (relating to chemical analysis of waste) to meet the corresponding requirements of this section.

(f) *Waiver.* The Department may, in writing, waive the requirements of this section for special handling waste, waive or modify the requirements of this section for general permits issued under Subchapter I, and waive or modify the chemical analysis requirements under § 271.103 (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements).

### Subchapter I. BENEIFICAL USE

#### SCOPE

Sec.

271.801. Scope

#### GENERAL PERMIT FOR PROCESSING OR BENEIFICAL USE, OR BOTH, OF MUNICIPAL WASTE AUTHORIZATION AND LIMITATIONS

271.811. Authorization for general permit.

271.812. Nature of a general permit.

#### ISSUANCE OF GENERAL PERMITS

271.812. Application for general permit.

271.822. Completeness review.

271.823. Public notice and review period.

271.824. Approval or denial of an application.

271.825. Department initiated general permits.

271.826. Permit renewal.

#### CONTENT OF GENERAL PERMITS AND WAIVERS

271.831. Contents of general permits.

271.832. Waiver and modification of requirements.

#### REGISTRATION AND DETERMINATION OF APPLICABILITY

271.841. Inclusion in a general permit.

271.842. Determination of applicability.

271.843. Registration.

#### COMPLIANCE

271.851. Investigations and corrective action.

271.852. Compliance with permit conditions, regulations and laws.

#### SCOPE

### § 271.801. Scope.

(a) This subchapter sets forth requirements for general permits for the processing and beneficial use of municipal waste, except as follows:

(1) This subchapter does not set forth requirements for general permits for the processing or beneficial use of infectious or chemotherapeutic waste.

(2) This subchapter does not set forth requirements for general permits for the beneficial use of sewage sludge by land application. A general permit for the beneficial use of sewage sludge will be issued only under Subchapter J (relating to beneficial use of sewage sludge by land application).

(b) An operation that is approved under this subchapter does not require an individual processing or disposal permit under this article. The requirements of Chapter 271, Subchapters A—G, and Chapters 273, 277, 279, 281, 283 and 285 are applicable to the extent required in § 271.832 (relating to waiver and modification of requirements).

#### GENERAL PERMIT FOR PROCESSING OR BENEIFICAL USE, OR BOTH, OF MUNICIPAL WASTE AUTHORIZATION AND LIMITATIONS

### § 271.811. Authorization for general permit.

(a) Under §§ 271.812 and 271.821—271.825, the Department may issue general permits on a regional or Statewide basis for a category of processing when processing is necessary to prepare the waste for beneficial use, or for a category of beneficial use, or both, of municipal waste, if the following are met:

(1) The wastes included in the category are generated by the same or substantially similar operations and have the same or substantially similar physical properties and chemical characteristics.

(2) The wastes included in the category are proposed for the same or substantially similar beneficial use or processing operations.

(3) The activities in the category can be adequately regulated utilizing standardized conditions without harming or presenting a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. The Department will not issue a general permit if the use of the waste as an ingredient in an industrial process or as a substitute for a commercial product presents a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(b) The Department may issue a general permit upon its own motion under § 271.825 (relating to Department initiated general permits) or upon an application from a person or municipality under §§ 271.821—271.824.

(c) The Department may modify, suspend, revoke, issue or reissue a general permit or coverage under a general permit under this subchapter as it deems necessary to prevent harm or the threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(d) The Department may modify, suspend, revoke, issue or reissue a general permit or coverage under a general permit under this subchapter as it deems necessary to prevent violation of or interference with the laws or solid waste management plans of any state, county or municipality.

(e) The Department may issue a general permit for processing combinations of municipal and residual wastes when processing is necessary to prepare a waste for beneficial use, or for beneficial use of combinations of municipal and residual wastes, or both, under this article or Article IX (relating to residual waste management), whichever the Department determines is appropriate. The Department will determine which article is appropriate based on factors including whether the facility is captive or noncaptive, and the proportions of municipal and residual wastes.



(f) The requirements in this subchapter that apply to municipal waste also apply to residual waste when residual waste is mixed with municipal waste.

(g) The Department will not issue a general permit under this subchapter for the following:

(1) A municipal waste landfill, the use of municipal waste to fill open pits from coal or noncoal mining, or the use of municipal waste solely to level an area or bring the area to grade unless construction activity is completed on the area promptly after placement of the waste.

(2) A facility or activity which should be covered under the individual permitting process required in this article because of its size and potential to affect the environment adversely or because of its relationship to municipal waste management plans.

(3) The processing or beneficial use of infectious or chemotherapeutic waste.

(4) The beneficial use of sewage sludge by land application.

**§ 271.812. Nature of a general permit.**

(a) When the Department issues a general permit for a specified category of beneficial use or processing of municipal waste on either a regional or Statewide basis, persons or municipalities may beneficially use or process municipal waste in accordance with the terms and conditions of the general permit and this subchapter without filing an individual application for, and first obtaining, an individual permit, if the persons or municipalities comply with this section and this subchapter.

(b) The use of an applicable general permit for the beneficial use or processing of municipal waste satisfies the permit requirements in § 271.101(a) (relating to permit requirement) if the following are met:

(1) The beneficial use or processing activities are conducted in accordance with the terms and conditions of the applicable general permit.

(2) The person or municipality conducting the beneficial use or processing activities is the permittee identified in the general permit or is otherwise authorized to operate under the applicable general permit in accordance with § 271.841 (relating to inclusion in a general permit).

(c) Notwithstanding subsections (a) and (b), the Department may require a person or municipality operating under a general permit to apply for, and obtain, an individual permit when the person or municipality is not in compliance with the conditions of the general permit or is conducting an activity that harms or presents a threat of harm to the health, safety or welfare of the people or the environment of this Commonwealth.

**ISSUANCE OF GENERAL PERMITS**

**§ 271.821. Application for general permit.**

(a) A person or municipality may apply to the Department for the issuance of a general permit for a category of beneficial use of municipal waste or for a category of processing of municipal waste when processing is necessary to prepare the waste for beneficial use.

(b) An application for the issuance of a general permit shall be submitted on a form prepared by the Department and shall contain the following:

(1) A description of the municipal waste to be covered by the general permit, including the physical and chemical characteristics of the waste. The chemical description shall contain an analysis meeting the requirements of

§ 271.611 (relating to chemical analysis of waste) for a sufficient number of samples of the waste to represent accurately the range of physical properties and chemical characteristics of the municipal waste.

(2) A description of the proposed type of beneficial use or processing activity to be covered by the general permit.

(3) For beneficial use general permits, proposed concentration limits for contaminants in the waste which is to be beneficially used, and a rationale for those limits.

(4) For general permits that involve beneficial use of a processed or unprocessed waste, a detailed demonstration of the efficacy of the waste for the proposed beneficial use, which shall include:

(i) If the waste is to be used as a substitute for a commercial product, a demonstration that the waste is capable of performing the desired functions of the commercial product, and that the waste meets or exceeds applicable ASTM, Department of Transportation or other applicable National, State, local or industry standards or specifications for the material for which the waste is being substituted.

(ii) If the waste is to be used as a raw material for a product with commercial value, a demonstration that the waste will contribute significant properties or materials to the end product, and that the waste meets or exceeds applicable ASTM, Department of Transportation or other applicable National, State, local or industry standards or specifications for the material for which the waste is being substituted.

(iii) If the waste is to be used in general roadway application or highway construction, a demonstration that approval has been granted by the Department of Transportation Product Evaluation Board, if applicable, for the use of the waste for the intended application.

(iv) If the waste is to be used as a construction material, soil substitute, soil additive or antiskid material, or is to be otherwise placed directly onto the land, an evaluation of the potential for adverse public health and environmental impacts from the proposed use of the municipal waste. The evaluation shall identify the particular constituents of the waste which present the potential for adverse public health and environmental impacts, and the potential pathways of human exposure to those constituents, including exposure through groundwater, surface water, air and the food chain. This requirement does not apply to general permits for the land application of sewage sludge. The Department may waive or modify this requirement in writing.

(v) If the waste is to be used without reclamation as a construction material, soil additive, soil substitute or antiskid material or is to be otherwise placed directly onto the land, a demonstration that the leaching analysis of the municipal waste to be beneficially used is no greater than 25 times the primary maximum contaminant level (MCL) for metals and other cations and the primary MCL for contaminants other than metals and cations.

(c) An application for the issuance of a general permit under this subchapter shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$1,000.

(d) The Department may not waive bonding and insurance requirements in Subchapter D (relating to financial assurances requirements) for composting facilities, construction/demolition waste processing facilities, facilities that process municipal waste to produce refuse

derived fuel and for other general permit activities if the waste managed is potentially harmful or large quantities of waste are stored.

(e) An applicant for a general permit shall provide written notice to each municipality in which the applicant intends to operate under a general permit, if a location is known. Proof of this notice, including a copy of the notice and a certified or registered mail returned receipt, shall be submitted to the Department.

**§ 271.822. Completeness review.**

(a) After receipt of an application for the issuance of a general permit, or an application for a determination of applicability under § 271.842 (relating to determination of applicability), the Department will determine whether the application is administratively complete. For purposes of this subchapter, an application is administratively complete if it contains the necessary analyses, fees, documents and information, regardless of whether the analyses, fees, documents and information would be sufficient for the issuance of the permit, or the determination of applicability.

(b) If the application is not administratively complete, the Department will, within 30 days of receipt of the application, return it to the applicant, along with a written statement of the specific analyses, fees, documents or other information that is required to make the application administratively complete.

(c) The Department will deny the incomplete application if the applicant fails to provide the analyses, fees, documents or information within 90 days of receipt of the notice in subsection (b).

**§ 271.823. Public notice and review period.**

(a) The Department will publish notice of receipt of an application for a general permit in the *Pennsylvania Bulletin* when the Department determines that the application is administratively complete.

(b) The notice will include:

(1) A brief description of the category of waste and the category of beneficial use or processing of municipal waste which is identified in the application.

(2) The Department address and telephone number at which interested persons or municipalities may obtain further information and review a copy of the application for the general permit.

(3) A brief description of the procedures for public comment on the general permit application in accordance with this subchapter.

(4) A statement that interested persons or municipalities may submit comments to the Department within 60 days of the publication of the notice, and may recommend conditions upon, revisions to, approval or disapproval of the general permit application.

(c) The Department may hold a public meeting or public hearing on the application for a general permit.

(d) The Department will approve or deny an application for a general permit within 6 months from the last day of the comment period established in subsection (b)(4). Failure by the Department to comply with this timetable will not result in grounds for issuance of a general permit.

(e) Upon issuance of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the general permit.

**§ 271.824. Approval or denial of an application.**

The Department will not issue a general permit for a category of beneficial use or processing of municipal waste unless the applicant has affirmatively demonstrated the following:

(1) The application for the general permit is accurate and complete and the requirements of §§ 271.811, 271.812, 271.821—271.826, 271.831, 271.832, 271.841—271.843, 271.851 and 271.852 have been complied with.

(2) The proposed beneficial use or processing activities will be conducted in a manner that will not harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth through exposure to constituents of the waste during or after the proposed beneficial use or processing activities. Use of the waste as an ingredient in an industrial process or as a substitute for a commercial product may not present a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(3) For beneficial use general permits, the physical character and chemical composition of the municipal waste which is proposed to be covered by the general permit contributes to the proposed beneficial use, and the physical character and chemical composition of the municipal waste does not interfere with the proposed beneficial use.

**§ 271.825. Department initiated general permits.**

(a) The Department may issue or modify a general permit for a category of beneficial use or processing of municipal waste upon its own motion in accordance with this section.

(b) At least 60 days prior to the issuance or modification of a general permit under this section, the Department will publish a notice in the *Pennsylvania Bulletin* of intent to issue or modify a general permit under this section.

(c) The notice required by subsection (b) will include the following:

(1) A clear and specific description of the category of waste and the category of beneficial use or processing of municipal waste eligible for coverage under the proposed general permit or affected by the modification.

(2) The standards in § 271.811(a) (relating to authorization for general permit), and a brief description of the reasons for the Department's determination that the category of beneficial use or processing is eligible for coverage under a general permit in accordance with these standards.

(3) A brief description of the terms and conditions of the proposed general permit or modification.

(4) A brief description of the procedures for public comment on the general permit or modification in accordance with this subchapter.

(5) The Department address and telephone number at which interested persons or municipalities may obtain further information and review a copy of the proposed general permit or modification.

(6) A statement that interested persons or municipalities may submit comments to the Department within 60 days of the publication of the notice and may recommend conditions upon, revisions to and approval or disapproval of the proposed general permit or modification.

(d) The Department may hold a public meeting or public hearing on the proposed general permit or proposed modification.

(e) Upon issuance or modification of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the new or modified general permit.

**§ 271.826. Permit renewal.**

(a) A person or municipality that plans to process or beneficially use municipal waste after the expiration of the term in the general permit shall file a complete application for permit renewal on forms provided by the Department at least 180 days before the expiration date of the permit. A permit renewal shall authorize persons or municipalities that have applied for renewal within the time period provided in this subsection to operate under the renewal permit.

(b) A person or municipality that does not file an application for permit renewal within the time period in subsection (a) shall be required either to register or obtain a determination of applicability, whichever is applicable, under a renewed general permit.

(c) A general permit renewal shall be for a period of time not to exceed the length of the term of the original permit.

(d) An application for permit renewal shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$300.

**CONTENT OF GENERAL PERMITS AND WAIVERS**

**§ 271.831. Contents of general permits.**

(a) A general permit issued by the Department will include, at a minimum:

(1) A clear and specific description of the category of waste and the category of beneficial use or processing of municipal waste eligible for coverage under the general permit.

(2) The standards in § 271.811(a) (relating to authorization for general permit), and a brief description of the reasons for the Department's determination that the category of beneficial use or processing is eligible for coverage under a general permit in accordance with these standards.

(3) A specification of registration or determination of applicability requirements established in accordance with § 271.841 (relating to inclusion in a general permit) and the fee imposed on registrants or applicants for coverage under the general permit.

(4) A set of terms and conditions governing the beneficial use or processing of municipal waste covered by the general permit as are necessary to assure compliance with the act, this article and the environmental protection acts, including provisions for the protection of groundwater. At a minimum, the conditions shall include:

(i) The limits on the physical and chemical properties of waste that may be beneficially used or processed. The permit shall also include a requirement that persons or municipalities that conduct activities authorized by the general permit shall immediately notify the Department, on forms provided by the Department, of a change in the physical properties or chemical characteristics of the municipal waste, including leachability, or of a change in the information required by § 271.841(f).

(ii) A requirement that persons or municipalities that conduct activities authorized by the general permit shall

allow authorized representatives of the Commonwealth, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to have access to areas in which the activities covered by the general permit will be, are being or have been conducted to ensure compliance with the act, regulations promulgated thereunder and a permit, license or order issued by the Department under the act.

(iii) A requirement that the activities authorized by the general permit will not harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. At a minimum, for beneficial use of municipal waste, the use of the waste as an ingredient in an industrial process or as a substitute for a commercial product may not present a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(iv) An effective date and a fixed permit term, which may not exceed 10 years from the effective date. If the Department renews a general permit, the term may not exceed the term of the original permit.

(v) A requirement that a person or municipality operating under the permit shall immediately notify the Department within the time stated in the permit and if no time is stated no later than 45 days, in writing, of any changes in the following:

(A) The company's name, address, owners, operators and responsible officials.

(B) Land ownership of land at the permitted facility.

(C) The physical and chemical characteristics of the municipal waste.

(D) The generators of the municipal waste.

(E) The status of any permit issued to the permittee or any agent of the permittee engaged in activities under the permit by the Department or Federal government under the environmental protection acts.

(vi) A requirement that the activities conducted under the authorization of a general permit shall be conducted in accordance with the permittee's application. Except to the extent that a general permit states otherwise, the permittee shall operate as described within the permit application.

(5) A requirement that a person or municipality that registers for coverage under a general permit or applies to the Department for a determination of applicability under a general permit shall submit a copy of the registration or application to each municipality in which processing activities or the primary beneficial use activities will be located, prior to initiating operations. If additional locations are identified during the term of the permit that were not known at the time of a registration or application, including an application by the original applicant, written notice shall be provided to the municipalities.

(b) A general permit may include a requirement that persons or municipalities who conduct activities authorized by the general permit shall submit periodic reports, analyses of waste and other information to ensure that the quality of the waste to be beneficially used or processed does not change.

**§ 271.832. Waiver and modification of requirements.**

(a) An operation that is approved under this subchapter is subject to this article.

(b) For an operation that is approved under this subchapter, the Department may waive or modify any application and operating requirements in this article, except the Department may not waive or modify Subchapter A, §§ 271.124, 271.125 and 271.129, Subchapter D in accordance with § 271.811(d), Subchapter E or Subchapter H.

#### **REGISTRATION AND DETERMINATION OF APPLICABILITY**

##### **§ 271.841. Inclusion in a general permit.**

(a) A person or municipality is authorized to operate under a general permit if one of the following occurs:

(1) The applicable general permit requires persons or municipalities to register with the Department prior to operating under the general permit, and the person or municipality has registered in accordance with the terms of the general permit.

(2) The applicable general permit requires persons or municipalities to apply for and obtain a determination of applicability from the Department prior to operating under the general permit, and the Department has made this determination.

(b) Except as provided in subsections (c) and (d), as a condition of each general permit, the Department will require persons or municipalities who intend to operate under the general permit to register with the Department within a specified time period prior to conducting the activity authorized by the general permit.

(c) For beneficial use general permits where the municipal waste is to be used as a construction material, antiskid material or otherwise placed directly onto the land, as a condition of the general permit, the Department will require persons or municipalities who intend to operate under the general permit to apply for and obtain a determination of applicability from the Department prior to conducting the activity authorized by the general permit. The Department may require persons or municipalities who intend to operate under a general permit for land application either to apply for and obtain a determination of applicability or register with the Department.

(d) The Department may impose the determination of applicability condition described in subsection (c) on general permits for beneficial use or processing activities other than those described in that subsection if the Department determines that the condition is necessary to prevent harm or a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(e) Registration or application requirements and time limits, if any, shall be set forth in the general permit governing each category of beneficial use or processing of municipal waste.

(f) At a minimum, the registration or application shall include:

(1) The name and address of the person or municipality conducting the activity covered by the general permit.

(2) A description of each waste which will be beneficially used or processed in accordance with the general permit.

(3) A description of the proposed method of processing or beneficial use of waste.

(4) If a general permit requires a registrant or applicant to chemically analyze each waste to be processed or

beneficially used, an analysis that is in accordance with § 271.611 (relating to chemical analysis of waste).

(5) For beneficial use general permits for which an evaluation was submitted under § 271.821(b)(4)(iv) (relating to application for general permit), a supplemental evaluation that meets the requirements of that section if the waste contains constituents at levels not reviewed as part of the general permit, or if the proposed beneficial use would be at a type of location not reviewed as part of the general permit.

(6) The name or number of the general permit being utilized for the activity.

(7) A demonstration that the activities which the person or municipality intends to conduct are authorized by the general permit.

(8) A signed and notarized statement by the person or municipality conducting the activity authorized by the general permit, on a form prepared by the Department, which states that the person or municipality agrees to accept the conditions imposed by the general permit for beneficial use or processing of municipal waste under the general permit.

(g) A person or municipality that registers for coverage under a general permit, or applies to the Department for a determination of applicability of a general permit, shall submit a copy of the registration or application to the host municipality and the host county at the same time that the person or municipality files the registration or application with the Department. The host municipality and host county shall be determined by the location of the person's or municipality's primary or first beneficial use or processing operation under the general permit.

##### **§ 271.842. Determination of applicability.**

(a) This section sets forth standards and procedures that are applicable to general permits which require persons or municipalities to apply for and obtain a determination of applicability from the Department prior to conducting the activity authorized by the general permit. The requirements in this section are in addition to the applicable requirements of § 271.841 (relating to inclusion in a general permit).

(b) An application for a determination of applicability under this subchapter shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$500.

(c) The Department will provide notice in the *Pennsylvania Bulletin* of each application for a determination of applicability for a general permit which the Department has determined to be administratively complete. For applications for determinations of applicability for a general permit for construction materials, the notice will indicate that interested persons or municipalities may submit comments to the Department within 60 days recommending revisions to and approval or disapproval of the application, unless the 60-day notice requirement is waived by the Department. The Department may hold a public meeting or public hearing on an application for determination of applicability for a general permit for construction materials.

(d) The Department will make a determination that a general permit is or is not applicable to an activity for which an application for determination of applicability is filed under § 271.841 within 60 days from the publication of the notice under subsection (c) or for construction materials when a 60-day comment period is provided, within 120 days after publication of the notice under

subsection (c). The time period does not include periods beginning with the date that the Department in writing has requested the applicant to make substantive corrections or changes to the application and ending with the date that the applicant submits corrections or changes to the Department's satisfaction. Failure by the Department to comply with this timetable will not be construed or understood to constitute grounds for a determination that the general permit applies to the proposed activity.

(e) The Department will determine that the general permit does not apply to the proposed beneficial use or processing activity and will deny coverage under the general permit if the applicant fails to demonstrate to the Department's satisfaction that the proposed activity is consistent with the terms and conditions of the general permit, and does not have the potential to harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(f) The Department will provide written notice of its determination that a general permit is or is not applicable to an activity for which a determination of applicability is required to the host municipality and the appropriate county, county planning agency and county health department, if one exists, for the applicant's proposed primary or first beneficial use or processing operation under the general permit and will publish notice of its decision in the *Pennsylvania Bulletin*.

(g) The Department may amend, suspend or revoke coverage under a general permit if a person or municipality authorized to conduct solid waste activities under a general permit is not in compliance with the permit conditions or for one or more of the reasons in subsection (e).

**§ 271.843. Registration.**

(a) This section sets forth standards and procedures that are applicable to general permits which require persons or municipalities to register with the Department prior to operating under the general permit. The requirements of this section are in addition to the applicable requirements of § 271.841 (relating to inclusion in a general permit).

(b) A registration to operate under a general permit under this subchapter shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$250.

(c) The Department will provide notice in the *Pennsylvania Bulletin* of each registration for coverage under a general permit.

(d) Persons or municipalities may operate under a general permit upon registering with the Department under § 271.841 and the terms of the general permit.

(e) The Department may amend, suspend or revoke coverage under a general permit if the waste or activity is not covered by the terms and conditions of the general permit.

(f) A person or municipality operating under a registration has the burden of proving, by clear and convincing evidence, that the waste and activity are consistent with the general permit.

**COMPLIANCE**

**§ 271.851. Investigations and corrective action.**

(a) Upon notification by a person or municipality beneficially using or processing municipal waste under a general permit that there has been a change in the physical properties or chemical characteristics of the

municipal waste being beneficially used or processed, including leachability, the Department will conduct an investigation and order necessary corrective action. Notice to the Department under this section does not, by itself, suspend continued beneficial use or processing after a change has occurred.

(b) Upon receipt of a signed, written complaint of a person whose health, safety or welfare may be adversely affected by a physical or chemical change in the properties of the municipal waste to be beneficially used or processed under a general permit, including leachability, the Department will determine the validity of the complaint and take appropriate action.

**§ 271.852. Compliance with permit conditions, regulations and laws.**

A person or municipality that beneficially uses or processes municipal waste under a general permit shall comply with the terms and conditions of the general permit, with this article and with the environmental protection acts to the same extent as if the activity were covered by an individual permit.

**Subchapter J. BENEFICIAL USE OF SEWAGE SLUDGE BY LAND APPLICATION**

**GENERAL**

- Sec.
- 271.901. Purpose and applicability.
- 271.902. Permits and direct enforceability.
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- 271.904. Additional or more stringent requirements.
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**OPERATING REQUIREMENTS**

- 271.911. Special requirements.
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**PATHOGENS AND VECTOR ATTRACTION REDUCTION**

- 271.931. Special definitions.
- 271.932. Pathogens.
- 271.933. Vector attraction reduction.

**GENERAL**

**§ 271.901. Purpose and applicability.**

(a) *Purpose.*

(1) This subchapter establishes standards for general and individual land application of sewage sludge permits for the beneficial use of sewage sludge by land application. The standards consist of general requirements, pollutant limits, management practices and operational standards. This subchapter also includes pathogen and alternative vector attraction reduction requirements.

(2) In addition, the standards in this subchapter include reporting requirements and the frequency of monitoring and recordkeeping requirements when sewage sludge is applied to the land for beneficial use.

(b) *Applicability.*

(1) This subchapter applies to a person who prepares sewage sludge that will be sold or given away in a bag or other container or that will be land applied, and to a person who applies sewage sludge to the land.

(2) This subchapter applies to sewage sludge applied to the land.

**§ 271.902. Permits and direct enforceability.**

(a) *Permits.* The requirements in this subchapter may be implemented through an individual land application of sewage sludge permit or a land application of sewage sludge general permit. An individual land application of sewage sludge permit will be issued to, and a land application of sewage sludge general permit will provide coverage for, persons who prepare sewage sludge or persons who land apply residential septage, or both. For a land application of sewage sludge permit to be issued to or provide coverage for a person who prepares sewage sludge other than residential septage, that person shall have one or more of the following:

(1) A permit for operation of the facility issued by the Department under the procedures and requirements of Chapter 91, 92 or 271 (relating to general provisions; National Pollutant Discharge Elimination System; and municipal waste management—general provisions), as applicable.

(2) A permit for operation of the facility issued or modified by the state in which the facility is located or by the EPA, from which the Department may determine that the sewage sludge to be land applied will meet the standards in 40 CFR Part 503 (relating to standards for the use or disposal of sewage sludge).

(b) *Direct enforceability.* A person may not land apply sewage sludge through any practice for which requirements are established in this subchapter except in accordance with these requirements.

(c) Persons seeking to land apply sewage sludge shall obtain a land application of sewage sludge permit under the procedures and requirements in Chapters 91 and 92, as applicable, and this subchapter.

(d) A land application of sewage sludge permit requires compliance with Chapters 91 and 92, as applicable, this subchapter, and the terms and conditions of the permit.

(e) The Department is authorized to issue a land application of sewage sludge general permit if the permit meets the applicable requirements in §§ 92.81—92.83 (relating to NPDES permits), as modified by subsection (f). The Department may issue a land application of sewage sludge general permit for an activity related to the land application of sewage sludge which may result in a discharge of pollutants to waters of this Commonwealth. The site specific review and approval requirements of §§ 92.81—92.83 are not applicable to general permits issued under this subchapter.

(f) The restrictions contained in §§ 92.81(a)(8) and 92.83(b)(8) are not applicable to the land application of sewage sludge to the extent the restrictions would prohibit general permit coverage in watersheds designated as “high quality waters” under Chapter 93 (relating to water quality standards).

(g) A person may not apply sewage sludge in a way that will cause surface or groundwater pollution, cause or allow the attraction, harborage or breeding of vectors, cause or allow emissions of any malodorous air contaminants under § 123.31(b) (relating to limitations), adversely affect private or public water supplies, or cause any public nuisance.

(h) Applications for individual land application of sewage sludge permits issued under this subchapter, or for coverage under land application of sewage sludge general

permits issued under this subchapter, shall be accompanied by a nonrefundable fee of \$500 made payable to the “Commonwealth of Pennsylvania.”

**§ 271.903. Operation under existing permits and beneficial use orders.**

(a) A person that possesses an existing individual permit or beneficial use order for the land application of sewage sludge, or a sewage sludge distribution program permit, issued by the Department shall either:

(1) Cease operations.

(2) Continue operations under the permit or beneficial use order until it expires or until the person obtains coverage under a land application of sewage sludge permit.

(b) When the Department makes an affirmative decision under subsection (a)(2), the terms and conditions of the land application of sewage sludge permit will supersede the terms and conditions of the existing permit or beneficial use order.

(c) Existing beneficial use orders issued by the Department under former § 271.232 (Reserved) expire on January 25, 2002.

(d) Existing permits identified in subsection (a), which do not contain an express expiration date, will be deemed to expire on January 25, 2002.

(e) The interim guidelines for the use of sewage sludge for agricultural utilization or land reclamation will remain in effect for the limited purposes of providing guidance for persons operating under, and for the enforcement of, individual solid waste permits issued prior to May 27, 1997, under Chapter 275 (relating to land application of sewage sludge) and beneficial use orders issued prior to May 27, 1997, under § 271.232 (Reserved).

**§ 271.904. Additional or more stringent requirements.**

On a case-by-case basis, the Department may impose requirements in addition to or more stringent than the requirements in this subchapter when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.

**§ 271.905. Requirement for a person who prepares sewage sludge.**

A person who prepares sewage sludge shall ensure that the applicable requirements in this subchapter are met when the sewage sludge is applied to the land.

**§ 271.906. Sampling and analysis.**

(a) *Sampling.* Representative samples of sewage sludge that is applied to the land shall be collected and analyzed.

(b) *Methods.* Methods in the materials listed in this subsection, or in any later amendments published in the *Federal Register*, are incorporated by reference and shall be used to analyze samples of sewage sludge. Other methods may be approved by the Department.

(1) *Enteric viruses.* ASTM Designation: D 4994-89, “Standard Practice for Recovery of Viruses from Wastewater Sludges,” 1992 Annual Book of ASTM Standards: Section 11—Water and Environmental Technology, ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187.

(2) *Fecal coliform.* Part 9221 E. or Part 9222 D., “Standard Methods for the Examination of Water and Wastewater,” 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW., Washington, DC 20005.

(3) *Helminth Ova*. Yanko, W. A. "Occurrence of Pathogens in Distribution and Marketing Municipal Sludges," EPA 600/1-87-014, 1987. National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (PB 88-154273/AS).

(4) *Inorganic pollutants*. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987). Second Edition and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (PB-87-120-291). Third Edition and Revision I are available from Superintendent of Documents, Government Printing Office, 941 North Capitol Street, NE., Washington, DC 20002 (Document Number 955-001-00000-1).

(5) *Salmonella SP. Bacteria*. Part 9260 D., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW., Washington, DC 20005; or Kenner, B. A. and H. P. Clark, "Detection and Enumeration of *Salmonella* and *Pseudomonas Aeruginosa*," Journal of the Water Pollution Control Federation, Vol. 46, No. 9, September 1974, pp. 2163- 2171. Water Environment Federation, 601 Wythe Street, Alexandria, Virginia 22314.

(6) *Specific oxygen uptake rate*. Part 2710 B., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW., Washington, DC 20005.

(7) *Total, fixed and volatile solids*. Part 2540 G., "Standard Methods for the Examination of Water and Wastewater," 18th Edition, 1992, American Public Health Association, 1015 15th Street, NW., Washington, DC 20005.

#### § 271.907. Special definitions.

The following words and terms have the following meanings and apply only to this subchapter; other definitions may be found in § 271.1 (relating to definitions):

*Agricultural land*—Land on which a food crop, a feed crop, a fiber crop, a silvicultural crop or a horticultural crop is grown. The term includes range land and land used as pasture.

*Agronomic rate*—The annual whole sludge application rate (dry weight basis) designed to do the following:

(1) Provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, silvicultural crop, cover crop, horticultural crop or vegetation grown on the land.

(2) Minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

*Annual whole sludge application rate*—The maximum amount of sewage sludge (dry weight basis) that can be applied to a unit area of land during a 365-day period.

*Apply sewage sludge or sewage sludge applied to the land or land apply*—Land application of sewage sludge.

*Bag or other container*—Either an open or closed receptacle. The term includes, but is not limited to, a bag, bucket, box, container, vehicle or trailer, with a load capacity of 1.1 tons (or 1.0 metric ton) or less.

*Cover crop*—A small grain crop, such as oats, wheat or barley, not grown for harvest.

*Cumulative pollutant loading rate*—The maximum amount of a pollutant that can be applied to an area of land.

*Domestic sewage*—Waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

*Dry weight basis*—Calculated on the basis of having been dried at 221°F (or 105°C) until reaching a constant mass (that is, essentially 100% solids content).

*Feed crops*—Crops produced primarily for consumption by animals.

*Fiber crops*—Crops such as flax and cotton.

*Food crops*—Crops consumed by humans. The term includes, but is not limited to, fruits, vegetables and tobacco.

*Forest*—A tract of land thick with trees and underbrush.

*Frozen ground*—Ground frozen to a depth of at least 2 inches for a period of 72-consecutive hours.

*Industrial wastewater*—Wastewater generated in a commercial or industrial process.

*Land application*—The spraying or spreading of sewage sludge onto the land surface for beneficial use; the injection of sewage sludge below the land surface for beneficial use; or the incorporation of sewage sludge into the soil for beneficial use so that the sewage sludge can either condition the soil or fertilize crops for vegetation grown in the soil.

*Land application of sewage sludge general permit*—A regionwide or Statewide land application of sewage sludge permit that is issued by the Department under the procedures and requirements in Chapters 91 and 92 (relating to general provisions; and National Pollutant Discharge Elimination System) and this subchapter, as applicable, for a clearly described category of activities which may involve a discharge to surface or groundwaters, when the activities are substantially similar in nature and do not have the potential to cause significant adverse environmental impact.

*Land application of sewage sludge permit*—A permit that is issued for an activity related to the land application of sewage sludge which may result in a discharge of pollutants to waters of this Commonwealth.

*Municipality*—A city, town, borough, county, township or an authority created by any of the foregoing under State law, including an intermunicipal agency of two or more of the foregoing entities.

*Pasture*—Land on which animals feed directly on feed crops such as legumes, grasses, grain stubble or stover.

*Person*—An individual, corporation, partnership, association, municipality, political subdivision or an instrumentality of State, Federal or local government, or an agent or employe thereof; or any other legal entity.

*Person who prepares sewage sludge*—Either the person who generates sewage sludge during the treatment or processing of domestic sewage in a treatment works or the person who derives a material from sewage sludge. The term includes a composting facility that composts sewage sludge.

*Pollutant*—An organic substance, an inorganic substance, a combination of organic substances, a pathogenic organism or another substance identified by the Department that, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the Department cause death, disease, behavioral

abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

*Pollutant limit*—A numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (for example, milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (for example, pounds per acre or kilograms per hectare); or the volume of a material that can be applied to a unit area of land (for example, gallons per acre or liters per hectare).

*Public contact site*—Land with a high potential for contact by the public. The term includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms and golf courses.

*Range land*—Open land with indigenous vegetation.

*Reclamation site*—Drastically disturbed land that is reclaimed using sewage sludge. The term includes, but is not limited to, active and abandoned coal and noncoal surface mines and construction sites.

*Residential septage*—Liquid or solid material removed from a septic tank, cesspool or similar treatment works that receives only waste or wastewater from humans or household operations. The term includes processed residential septage from a residential septage treatment facility. The term does not include liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III Marine Sanitation Device or similar treatment works, that receives either commercial wastewater or industrial wastewater, and does not include grease removed from grease traps at a restaurant.

*Runoff*—Rainwater, leachate or other liquid that drains overland on any part of a land surface and runs off of the land surface.

*Treat or treatment of sewage sludge*—The preparation of sewage sludge for land application. The term includes, but is not limited to, thickening, stabilization and dewatering of sewage sludge. The term does not include storage of sewage sludge.

*Treatment works*—Either a Federally owned, publicly owned or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

*Wetlands*—Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions including swamps, marshes, bogs and similar areas.

## OPERATING REQUIREMENTS

### § 271.911. Special requirements.

(a) *Application*. This section applies to sewage sludge that meets the criteria in subsection (b).

(b) *Exceptional quality sewage sludge*.

(1) The general requirements in § 271.913 (relating to general requirements) and the management practices in § 271.915 (relating to management practices), do not apply when sewage sludge is applied to the land if, prior to use, the sewage sludge continuously meets the pollutant concentrations in § 271.914(b)(3) (relating to pollutant limits), the Class A pathogen requirements in § 271.932(a) (relating to pathogens) and one of the vector

attraction reduction requirements in § 271.933(b)(1)—(8) (relating to vector attraction reduction), and is nonliquid and nonrecognizable as human waste.

(2) Sewage sludge that meets the requirements of paragraph (1) or (3) may not be applied at a rate that is greater than the agronomic rate, unless a greater application rate is approved by the Department for land reclamation activities. For land reclamation, sewage sludge shall be incorporated within 24 hours after application.

(3) Sewage sludge sold, given away or otherwise distributed, in a bag or other container for application to the land shall continuously meet the pollutant concentrations in § 271.914(b)(3), the Class A pathogen requirements in § 271.932(a) and one of the vector attraction reduction requirements in § 271.933(b)(1)—(8), and shall be nonliquid and nonrecognizable as human waste.

(c) *Label or information sheet*. Either a label shall be affixed to the bag or other container in which sewage sludge is sold, given away or otherwise distributed, for application to the land, or an information sheet shall be provided to the person who receives sewage sludge sold, given away or otherwise distributed, in a bag or other container for application to the land. The label or information sheet shall contain the following information:

(1) The name and address of the person who prepared the sewage sludge that is sold, given away or otherwise distributed, in a bag or other container for application to the land.

(2) A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet.

(3) A description of the restrictions or limitations and the nutrient value of the sewage sludge.

(d) *Application by Department*. The Department may apply any or all of the general requirements in § 271.913 and the management practices in § 271.915 to the sewage sludge in subsection (b)(1) on a case-by-case basis after determining that some or all of the general requirements or management practices in those sections are needed to protect public health and the environment from any reasonably anticipated adverse effect that may occur from any pollutant in the sewage sludge.

### § 271.912. Assistance of county conservation district.

The Department may enter into an agreement with a county conservation district with the approval of the State Conservation Commission to authorize the county conservation district to:

(1) Provide site evaluation and permit application review of land application of sewage sludge permits.

(2) Provide information and written materials to the general public, the regulated community and the agricultural community concerning the land application of sewage sludge.

(3) Conduct education sessions with interested parties on the land application of sewage sludge.

(4) Conduct inspections of permitted land application facilities and those areas where sewage sludge is applied under land application of sewage sludge permits.

(5) Take samples of sewage sludge delivered to land application sites.



**§ 271.913. General requirements.**

(a) A person may not apply sewage sludge to the land except in accordance with this subchapter.

(b) A person may not apply sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) (relating to pollutant limits) to agricultural land, forest, a public contact site or a reclamation site if any of the cumulative pollutant loading rates in § 271.914(b)(2) have been reached.

(c) A person may not apply residential septage to agricultural land, forest or a reclamation site during a 365-day period if the annual application rate in § 271.914(c) has been reached during that period.

(d) A person may not apply sewage sludge to a reclamation site unless the reclamation activity is permitted or otherwise approved by the Department.

(e) A person who operates under a land application of sewage sludge permit issued under this subchapter shall obtain written consent of the owner of the land upon which the sewage sludge will be land applied, on a form prepared by the Department, prior to land applying the sewage sludge.

(f) A person who operates under a land application of sewage sludge permit issued under this subchapter shall, at least 7 days prior to land applying sewage sludge for the first time at a location, provide the occupant of the land with a user instruction sheet prepared by the person operating under the permit that describes the acceptable uses and limitations of the sewage sludge.

(g) Notification requirements are as follows:

(1) A person who prepares sewage sludge that is land applied at a location and a person who land applies residential septage at a location for agricultural, forest or land reclamation purposes shall send or otherwise provide written notification to the adjacent landowner, the county conservation district and the Department at least 30 days prior to the first application of the sewage sludge at that location. The notification shall:

(i) Include a brief description of the operation, any site restrictions, the name of the person land applying the sewage sludge and the applicable permit number.

(ii) Be sent by personal delivery or first class mail and, for an adjacent landowner, shall also be given by posting at the property line in a manner sufficient to notify the adjacent landowner of the items in subparagraph (i).

(iii) For the county conservation district and the Department, include the location of the fields on a United States Geological Survey map and on a Natural Resources Conservation Service Soils Map.

(iv) For the Department, be sent to the Department's regional office that has jurisdiction for the location where the sewage sludge will be applied.

(2) The Department may modify these requirements for purposes of land reclamation where the activity is part of another permit or approval issued by the Department and public notice has been provided as part of the permit or approval.

(h) Prior to the first time a site is used for land application, the first person who prepares sewage sludge or the first person who land applies residential septage shall obtain, at a minimum, one representative soil chemical analysis for each field on which sewage sludge is land applied, for pH and those constituents listed in the tables in § 271.914(b).

(i) The person who prepares sewage sludge that is applied to agricultural land, forest, a public contact site or a reclamation site shall provide the person who applies the sewage sludge written notification of the concentration of total nitrogen (as nitrogen on a dry weight basis) in the sewage sludge.

(j) Land application information requirements are as follows:

(1) The person who applies sewage sludge to the land shall obtain information needed to comply with the requirements in this subchapter.

(2) Before sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) is applied to the land, the person who proposes to apply the sewage sludge shall contact the Department's regional office that has jurisdiction for the site where the sewage sludge will be applied to determine, based on existing and readily available information, whether sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) has been applied to the site. The information will result in the following:

(i) If sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) has not been applied to the site, the cumulative amount for each pollutant listed in Table 2 of § 271.914 may be applied to the site in accordance with § 271.914(a)(2).

(ii) If sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) has been applied to the site, and the cumulative amount of each pollutant applied to the site in the sewage sludge is known, the cumulative amount of each pollutant applied to the site shall be used to determine the additional amount of each pollutant that can be applied to the site under § 271.914(a)(2).

(iii) If sewage sludge subject to the cumulative pollutant loading rates in § 271.914(b)(2) has been applied to the site, and the cumulative amount of each pollutant applied to the site in the sewage sludge is not known, an additional amount of each pollutant may not be applied to the site in accordance with § 271.914(a)(2).

(k) When a person who prepares sewage sludge provides the sewage sludge to a person who applies the sewage sludge to the land, the person who prepares the sewage sludge shall provide the person who applies the sewage sludge notice and necessary information to comply with this subchapter.

(l) When a person who prepares sewage sludge provides the sewage sludge to another person who prepares the sewage sludge, the person who provides the sewage sludge shall provide the person who receives the sewage sludge notice and necessary information to comply with this subchapter.

(m) The person who applies sewage sludge to the land shall provide the legal or equitable owner, or lease holder, of the land on which the sewage sludge is applied notice and necessary information to comply with this subchapter.

**§ 271.914. Pollutant limits.**

(a) *Sewage sludge other than residential septage.*

(1) Sewage sludge may not be applied to the land if the concentration of any pollutant in the sewage sludge exceeds the ceiling concentration for the pollutant in Table 1.

(2) If sewage sludge, other than sewage sludge that meets the criteria of § 271.911(b)(1) or (3) (relating to special requirements), is applied to agricultural land,

forest, a public contact site or a reclamation site, the cumulative loading rate for each pollutant may not exceed the cumulative pollutant loading rate for the pollutant in Table 2.

(3) If sewage sludge is applied to a lawn or a home garden, the concentration of each pollutant in the sewage sludge may not exceed the concentration for the pollutant in Table 3.

(4) If sewage sludge is sold, given away or otherwise distributed, in a bag or other container for application to the land, the concentration of each pollutant in the sewage sludge may not exceed the concentration for the pollutant in Table 3.

(b) *Tables.*

(1) *Ceiling concentrations.*

**TABLE 1—CEILING CONCENTRATIONS**

<i>Pollutant</i>	<i>Ceiling Concentration (Milligrams per Kilogram)<sup>1</sup></i>
Arsenic	75
Cadmium	85
Copper	4,300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	8.6
Selenium	100
Zinc	7,500

<sup>1</sup> Dry weight basis

(2) *Cumulative pollutant loading rates.*

**TABLE 2—CUMULATIVE POLLUTANT LOADING RATES**

<i>Pollutant</i>	<i>Cumulative Pollutant Loading Rate (Kilograms per Hectare)</i>	<i>English Units (Pounds per Acre)</i>
Arsenic	41	36
Cadmium	39	34
Copper	1,500	1,320
Lead	300	264
Mercury	17	15
Nickel	420	370
Selenium	100	88
Zinc	2,800	2,464

(3) *Pollutant concentrations.*

**TABLE 3—POLLUTANT CONCENTRATIONS**

<i>Pollutant</i>	<i>Monthly Average Concentrations (Milligrams per Kilogram)<sup>1</sup></i>
Arsenic	41
Cadmium	39
Copper	1,500
Lead	300
Mercury	17
Nickel	420
PCBs	4
Selenium	100
Zinc	2,800

<sup>1</sup> Dry weight basis.

(4) *Revisions to concentrations or loading rates.* A new or revised pollutant concentration or loading rate published in the *Federal Register* as a modification to 40 CFR 503.13(b) (relating to pollutant limits) is incorporated by reference.

(c) *Residential septage.* The annual application rate for residential septage applied to agricultural land, forest or a reclamation site may not exceed the annual application rate calculated using Equation (1).

$$AAR = \frac{N}{0.0026} \quad \text{Equation (1)}$$

Where:

AAR = Annual Application Rate in gallons per acre per 365-day period.

N = Amount of nitrogen in pounds per acre (kilograms per hectare) per 365-day period needed by the crop or vegetation grown on the land.

**§ 271.915. Management practices.**

(a) Sewage sludge may not be applied to the land if it is likely to adversely affect a Federal or Pennsylvania threatened or endangered species, or its designated critical habitat, listed under or pursuant to section 4 of the Endangered Species Act (16 U.S.C.A. § 1533), 30 Pa.C.S. § 2305 (relating to threatened and endangered species) or 34 Pa.C.S. (relating to game and wildlife code).

(b) Sewage sludge may not be applied to agricultural land, forest, a public contact site or a reclamation site that is flooded, frozen or snow-covered, except as expressly provided in a permit issued under Chapter 91, 92 or 105 (relating to general provisions; National Pollutant Discharge Elimination System; and dam safety and waterway management), as applicable.

(c) Sewage sludge may not be applied to agricultural land, forest or a reclamation site that is:

(1) Within 100 feet (or 30.5 meters) or less of a perennial stream or within 33 feet (or 10 meters) of an intermittent stream.

(2) Within 100 feet (or 30.5 meters) of the edge of a sink hole.

(3) Within 300 feet (or 91 meters) from an occupied dwelling unless the current owner there has provided a written waiver consenting to activities closer than 300 feet (or 91 meters). The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner. This paragraph does not apply to features that may come into existence after the date upon which adjacent landowner notification is given under Chapter 275 or § 271.913(g) (relating to land application of sewage sludge; and general requirements).

(4) In an area without an implemented erosion and sedimentation control plan or a farm conservation plan.

(5) Within 300 feet (or 91 meters) of a water source unless the current owner has provided a written waiver consenting to the activities closer than 300 feet (or 91 meters). This paragraph does not apply to features that may come into existence after the date upon which adjacent landowner notification is given under Chapter 275 or § 271.913(g).

(6) Within 100 feet (or 30.5 meters) of an exceptional value wetland, as defined in § 105.17 (relating to wetlands).

(7) Within 11 inches (or 28 centimeters) of the seasonal high water table, nor within 3.3 feet (or 1 meter) of the regional groundwater table. For purposes of this section, the depths to seasonal high water table and to regional groundwater table shall be based on the most recent soil mapping as published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service, or more detailed mapping data as mapped by an expert in soil science using standard and acceptable mapping procedures as developed by the USDA Natural Resources Conservation Service.

(d) A person may not apply sewage sludge when sewage sludge is to be land applied for:

(1) Agricultural utilization on slopes that exceed 25%, unless otherwise approved in writing by the Department.

(2) Land reclamation on slopes that exceed 35%, unless otherwise approved in writing by the Department.

(e) A person may not apply sewage sludge unless the soil pH is 6.0 or greater prior to land application unless the Department allows the increase of pH by application of sewage sludge or other material in which case the soil pH shall be 6.0 or greater within 6 months following the application of sewage sludge, or unless otherwise approved in writing by the Department.

(f) Sewage sludge may not be applied at a rate that is greater than the agronomic rate, unless a greater application rate is approved by the Department for land reclamation activities.

(g) If the nitrogen available from the manure produced by animals at the farm satisfies the nutrient needs of the farm for realistic expected crop yields, the sewage sludge may not be applied at that farm, unless a management plan is implemented that allows for uses of the manure other than land application on that farm.

(h) A person that operates under an individual or general land application of sewage sludge permit issued under this subchapter shall comply with the EPA and the Department guidance documents on the land application of sewage sludge pertaining to conducting sampling and analyses, and calculating the agronomic rate, the cumulative pollutant loading rate and the annual whole sludge application rate.

(i) A person that operates under an individual or general permit issued under this subchapter shall comply with applicable sections of Chapter 285 (relating to storage, collection and transportation of municipal waste) prior to land application, unless the applicant proposes to store sewage sludge on drying beds or structures under a solid waste permit from the Department.

(j) The Department will require persons land applying sewage sludge to complete training courses sponsored by the Department in a timely and satisfactory manner. Satisfactory completion means attendance at all sessions of training, and attainment of a minimum grade of 70% on tests given as part of the training courses. In the case of a person who prepares sewage sludge that will be land applied, and a person who land applies residential septage, at least one person with responsibility for the land application of sewage sludge shall satisfactorily complete the training in a timely fashion. The Department may suspend or revoke the individual permit issued under Chapter 275, the individual land application of sewage sludge permit, or coverage under a land application of sewage sludge general permit to land apply sewage sludge, if the person does not satisfactorily complete the training courses within the following time periods:

(1) Two years for a person conducting land application operations as of January 25, 1997.

(2) One year for a person that begins conducting land application operations after January 25, 1997.

(k) When land applying sewage sludge, a person shall display the permit number of the individual permit issued under Chapter 275, or the individual or general land application of sewage sludge permit, under which the person is operating on the sides and rear of each vehicle which is used in the land application of sewage sludge, in numbers at least 3 inches (or 7.6 centimeters) high in a color contrasting to the background.

(l) A person that land applies residential septage shall also ensure that nonorganic objects are removed prior to spreading.

(m) For land reclamation, sewage sludge shall be incorporated within 24 hours after application.

**§ 271.916. Operational standards—pathogens and vector attraction reduction.**

(a) *Pathogens—sewage sludge other than residential septage.*

(1) The Class A pathogen requirements in § 271.932(a) (relating to pathogens) or the Class B pathogen requirements and site restrictions in § 271.932(b) (relating to pathogens) shall be met when sewage sludge is applied to agricultural land, forest, a public contact site or a reclamation site.

(2) The Class A pathogen requirements in § 271.932(a) shall be met when sewage sludge is applied to a lawn or a home garden.

(3) The Class A pathogen requirements in § 271.932(a) shall be met when sewage sludge is sold, given away or otherwise distributed, in a bag or other container for application to the land.

(b) *Pathogens—residential septage.* The requirements in § 271.932(c) shall be met when residential septage is applied to agricultural land, forest or a reclamation site.

(c) *Vector attraction reduction—sewage sludge other than residential septage.*

(1) One of the vector attraction reduction requirements in § 271.933(b)(1)—(10) (relating to vector attraction reduction) shall be met when sewage sludge is applied to agricultural land, forest, a public contact site or a reclamation site.

(2) One of the vector attraction reduction requirements in § 271.933(b)(1)—(8) shall be met when sewage sludge is applied to a lawn or a home garden.

(3) One of the vector attraction reduction requirements in § 271.933(b)(1)—(8) shall be met when sewage sludge is sold, given away or otherwise distributed, in a bag or other container for application to the land.

(d) *Vector attraction reduction—residential septage.* The vector attraction reduction requirements in § 271.933(b)(9), (10) or (11) shall be met when residential septage is applied to agricultural land, forest or a reclamation site.

**§ 271.917. Frequency of monitoring.**

(a) *Sewage sludge other than residential septage.*

(1) The frequency of monitoring for the pollutants listed in Table 1, Table 2 and Table 3 of § 271.914 (relating to pollutant limits); the pathogen density requirements in § 271.932(a) and (b)(2)—(4) (relating to

pathogens); and the vector attraction reduction requirements § 271.933(b)(1)—(8) (relating to vector attraction reduction) shall be the frequency in Table 1 of this section.

**TABLE 1—FREQUENCY OF MONITORING—LAND APPLICATION**

<i>Amount of Sewage Sludge<sup>1</sup> (Tons/Or Metric Tons Per 365 Day Period)</i>	<i>Frequency</i>
Greater than zero but less than 319 (290)	Once per year
Equal to or greater than 319 (290) but less than 1,650 (1,500)	Once per quarter (4 times per year)
Equal to or greater than 1,650 (1,500) but less than 16,500 (15,000)	Once per 60 days (6 times per year)
Equal to or greater than 16,500 (15,000)	Once per month (12 times per year)

<sup>1</sup> Either the amount of sewage sludge applied to the land or the amount of sewage sludge received by a person who prepares sewage sludge that is sold, given away or otherwise distributed, in a bag or other container for application to the land (dry weight basis).

(2) After the sewage sludge has been monitored for 2 years at the frequency in Table 1, the Department may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in § 271.932(a)(5)(ii) and (iii). However, the frequency of monitoring may not be less than once per year when sewage sludge is applied to the land.

(b) *Residential septage.* If either the pathogen requirements in § 271.932(c) or the vector attraction reduction requirements in § 271.933(b)(11) are met when residential septage is applied to agricultural land, forest or a reclamation site, each container of residential septage applied to the land shall be monitored for compliance with those requirements.

**§ 271.918. Recordkeeping.**

(a) *Sewage sludge other than residential septage.*

(1) The person who prepares or derives the sewage sludge in § 271.911(b)(1) or (3) (relating to special requirements) shall develop the following information and shall retain the information for 5 years:

(i) The concentration of each pollutant listed in Table 3 of § 271.914 (relating to pollutant limits) in the sewage sludge.

(ii) The following certification statement:

“I certify, under penalty of law, that the Class A pathogen requirements in § 271.932(a) and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 271.933(b)(1) through § 271.933(b)(8)] have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the pathogen requirements and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”

(iii) A description of how the Class A pathogen requirements in § 271.932(a) (relating to pathogens) are met.

(iv) A description of how one of the vector attraction reduction requirements in § 271.933(b)(1)—(8) (relating to vector attraction reduction) is met.

(2) If sewage sludge other than sewage sludge that meets the criteria in § 271.911(b)(1) or (3) is applied to agricultural land, forest, a public contact site or a reclamation site, the following apply:

(i) The person who prepares the sewage sludge shall develop the following information and shall retain the information for 5 years.

(A) The concentration of PCBs and each pollutant listed in Table 1 of § 271.914 in the sewage sludge.

(B) The following certification statement:

“I certify, under penalty of law, that the pathogen requirements in [insert either § 271.932(a) or § 271.932(b)] and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 271.933(b)(1) through (b)(8) if one of those requirements is met] have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the pathogen requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”

(C) A description of how the pathogen requirements in § 271.932(a) or (b) are met.

(D) When one of the vector attraction requirements in § 271.933(b)(1)—(8) is met, a description of how the vector attraction requirement is met.

(ii) The person who applies the sewage sludge shall develop the following information, retain the information in clauses (A)—(G) indefinitely, and retain the information in clauses (H)—(M) for 5 years.

(A) The location, by either street address or latitude and longitude, or each site on which sewage sludge is applied.

(B) The number of acres (or hectares) in each site on which sewage sludge is applied.

(C) The date and time sewage sludge is applied to each site.

(D) The cumulative amount of each pollutant (in, pounds or kilograms) listed in Table 2 of § 271.914 in the sewage sludge applied to each site, including the amount in § 271.913(j)(2)(ii) (relating to general requirements).

(E) The amount of sewage sludge (in, tons or metric tons) applied to each site.

(F) The following certification statement:

“I certify, under penalty of law, that the requirements to obtain information in § 271.913(j)(2) have been met for each site on which sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the requirements to obtain information have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”

(G) A description of how the requirements to obtain information in § 271.913(j)(2) are met.

(H) The following certification statement:

“I certify, under penalty of law, that the management practices in § 271.915 have been met for each site on which sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”

(I) A description of how the management practices in § 271.915 (relating to management practices) are met for each site on which sewage sludge is applied.

(J) The following certification statement when the sewage sludge meets the Class B pathogen requirements in § 271.932(b):

“I certify, under penalty of law, that the site restrictions in § 271.932(b)(5) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the site restrictions have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”

(K) A description of how the site restrictions in § 271.932(b)(5) are met for each site on which Class B sewage sludge is applied.

(L) The following certification statement when the vector attraction reduction requirement in either § 271.933(b)(9) or (10) is met:

“I certify, under penalty of law, that the vector attraction reduction requirement in [insert either § 271.933(b)(9) or § 271.933(b)(10)] has been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the vector attraction reduction requirement has been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”

(M) If the vector attraction reduction requirements in § 271.933(b)(9) or (10) are met, a description of how the requirements are met.

(b) *Residential septage.* When residential septage is applied to agricultural land, forest or a reclamation site, the person who applies the residential septage shall develop the following information and shall retain the information for 5 years:

(1) The location, by either street address or latitude and longitude, of each site on which residential septage is applied.

(2) The number of acres (or hectares) in each site on which residential septage is applied.

(3) The date and time residential septage is applied to each site.

(4) The nitrogen requirement for the crop or vegetation grown on each site during a 365-day period.

(5) The rate, in gallons per acre (or liters per hectare) per 365-day period, at which residential septage is applied to each site.

(6) The following certification statement:

“I certify, under penalty of law, that the pathogen requirements in § 271.932(c) and the vector attraction reduction requirements in [insert either § 271.933(b)(9), § 271.933(b)(10), or § 271.933(b)(11)] have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the pathogen requirements and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.”

(7) A description of how the pathogen requirements in § 271.932(c)(1) or (2) are met.

(8) A description of how the vector attraction reduction requirements in § 271.933(b)(9), (10) or (11) are met.

**§ 271.919. Reporting.**

A person who prepares sewage sludge and a person that land applies residential septage, shall submit the following information to the Department:

(1) The information in § 271.918(a) and (b) (relating to recordkeeping), for the appropriate requirements, when requested by the Department.

(2) Notification that 90% or more of any of the cumulative pollutant loading rates in Table 2 of § 271.914 (relating to pollutant limits) is reached at a site. When this figure is reached, the Department may require submission of the information in § 271.918(a)(2)(ii)(A)—(G).

(3) Notification of the date, time and location at which land application will occur, when requested by the Department, for the purpose of inspection or investigation to ascertain compliance or noncompliance with the permit and with applicable statutes, rules and regulations.

**§ 271.920. Inspection.**

A person operating under a land application of sewage sludge permit shall allow authorized representatives of the Commonwealth, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to have access to areas in which the activities covered by the land application of sewage sludge permit will be, are being or have been conducted to ensure compliance with The Clean Streams Law, the act, regulations promulgated under The Clean Streams Law or under the act, and a permit issued under this subchapter. Samples may be taken of solid, semisolid, liquid or contained gaseous material for analysis.

**§ 271.921. Sewage sludge quality enhancement plan.**

(a) A person that generates sewage sludge, except a person that generates residential septage or a person that generates sewage sludge meeting the requirements of § 271.911(b)(1) (relating to special requirements), shall prepare a sewage sludge quality enhancement plan in accordance with this section.

(b) The plan shall include:

(1) A physical, chemical and biological analysis and characterization of the sewage sludge.

(2) An evaluation of the impact industrial discharges have on the quality of the sewage sludge.

(3) A description of the measures taken by the generator of the sewage sludge to determine whether industrial discharges are in compliance with existing State and Federal pretreatment laws.

(4) A description of options to improve the physical, chemical or biological quality of the sewage sludge.

(5) A description of how the options were evaluated.

(6) An explanation of why each option was selected or rejected.

(7) A description of the methods to be used to analyze, evaluate and address potential sources or changes which may affect the quality of sewage sludge.

(c) The generator shall review the plan required by this section every 5 years and update it as necessary to address significant changes.

(d) The Department may, in writing, waive or modify the requirements of this section for generators of sewage sludge that meet the requirements of § 271.911(b)(1).

#### PATHOGENS AND VECTOR ATTRACTION REDUCTION

##### § 271.931. Special definitions.

The following words and terms have the following meanings and applicable to §§ 271.932 and 271.933 (relating to pathogens; and vector attraction reduction):

*Aerobic digestion*—The biochemical decomposition of organic matter in sewage sludge into carbon dioxide and water by microorganisms in the presence of air.

*Anaerobic digestion*—The biochemical decomposition of organic matter in sewage sludge into methane gas and carbon dioxide by microorganisms in the absence of air.

*Density of microorganisms*—The number of microorganisms per unit mass of total solids (dry weight) in the sewage sludge.

*Land with a high potential for public exposure*—Land that the public uses frequently. This includes, but is not limited to, a public contact site and a reclamation site located in a populated area (for example, a construction site located in a city).

*Land with a low potential for public exposure*—Land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest and a reclamation site located in an unpopulated area (for example, a surface mine located in a rural area).

*Pathogenic organisms; disease-causing organisms*—These include, but are not limited to, certain bacteria, protozoa, viruses and viable helminth ova.

*pH*—The logarithm of the reciprocal of the hydrogen ion concentration

*Specific oxygen uptake rate (SOUR)*—The mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in the sewage sludge.

*Total solids*—The materials in sewage sludge that remain as residue when the sewage sludge is dried at 103° to 105°C.

*Unstabilized solids*—Organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

*Vector attraction*—The characteristic of sewage sludge that attracts rodents, flies, mosquitoes or other organisms capable of transporting infectious agents.

*Volatile solids*—The amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 1022°F (or 550°C) in the presence of excess air.

##### § 271.932. Pathogens.

(a) *Sewage sludge other than residential septage*—Class A.

(1) The requirement in paragraph (2) and the requirements in paragraph (3), (4), (5), (6), (7) or (8) shall be met for a sewage sludge to be classified Class A with respect to pathogens.

(2) The Class A pathogen requirements in paragraphs (3)—(8) shall be met either prior to meeting or at the same time the vector attraction reduction requirements in § 271.933 (relating to vector attraction reduction), except the vector attraction reduction requirements in § 271.933(b)(6)—(8), are met.

(3) *Class A—Alternative 1.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella sp. bacteria in the sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3) (relating to special requirements).

(ii) The temperature of the sewage sludge that is used shall be maintained at a specific value for a period of time.

(A) When the percent solids of the sewage sludge is 7% or higher, the temperature of the sewage sludge shall be 122°F (or 50°C) or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using Equation (2), except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

$$D = \frac{131,700,000}{10^{0.1400T}} \quad \text{Equation (2)}$$

Where,

D = Time in days

T = Temperatures in degrees Celsius

(B) When the percent solids of the sewage sludge is 7% or higher and small particles of sewage sludge are heated by either warmed gases or an immiscible liquid, the temperature of the sewage sludge shall be 122°F (or 50°C) or higher; the time period shall be 15 seconds or longer; and the temperature and time period shall be determined using Equation (2).

(C) When the percent solids of the sewage sludge is less than 7% and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using Equation (2).

(D) When the percent solids of the sewage sludge is less than 7%; the temperature of the sewage sludge is 122°F (or 50°C) or higher; and the time period is 30 minutes or longer, the temperature and time period shall be determined using Equation (3).

$$D = \frac{50,070,000}{10^{0.1400t}} \quad \text{Equation (3)}$$

Where,

D = Time in days

T = Temperatures in degrees Celsius

(4) *Class A—Alternative 2.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella sp. bacteria in the sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3).

(ii) pH adjustment as follows:

(A) The pH of the sewage sludge that is used shall be raised to above 12 and shall remain above 12 for 72 hours.

(B) The temperature of the sewage sludge shall be above 125°F (or 52°C) for 12 hours or longer during the period that the pH of the sewage sludge is above 12.

(C) At the end of the 72-hour period during which the pH of the sewage sludge is above 12, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50%.

(5) *Class A—Alternative 3.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella sp. bacteria in sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3).

(ii) Virus monitoring requirements are as follows:

(A) The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains enteric viruses.

(B) When the density of enteric viruses in the sewage sludge prior to pathogen treatment is less than one plaque-forming unit per 4 grams of total solids (dry weight basis), the sewage sludge is Class A with respect to enteric viruses until the next monitoring episode for the sewage sludge.

(C) When the density of enteric viruses in the sewage sludge prior to pathogen treatment is equal to or greater than one plaque-forming unit per 4 grams of total solids (dry weight basis), the sewage sludge is Class A with respect to enteric viruses when the density of enteric viruses in the sewage sludge after pathogen treatment is less than one plaque-forming unit per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen

treatment process that produces the sewage sludge that meets the enteric virus density requirement are documented.

(D) After the enteric virus reduction in clause (C) is demonstrated for the pathogen treatment process, the sewage sludge continues to be Class A with respect to enteric viruses when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in clause (C).

(iii) Helminth monitoring requirements are as follows:

(A) The sewage sludge shall be analyzed prior to pathogen treatment to determine whether the sewage sludge contains viable helminth ova.

(B) When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis), the sewage sludge is Class A with respect to viable helminth ova until the next monitoring episode for the sewage sludge.

(C) When the density of viable helminth ova in the sewage sludge prior to pathogen treatment is equal to or greater than one per 4 grams of total solids (dry weight basis), the sewage sludge is Class A with respect to viable helminth ova when the density of viable helminth ova in the sewage sludge after pathogen treatment is less than 1 per 4 grams of total solids (dry weight basis) and when the values or ranges of values for the operating parameters for the pathogen treatment process that produces the sewage sludge that meets the viable helminth ova density requirement are documented.

(D) After the viable helminth ova reduction in clause (C) is demonstrated for the pathogen treatment process, the sewage sludge continues to be Class A with respect to viable helminth ova when the values for the pathogen treatment process operating parameters are consistent with the values or ranges of values documented in clause (C).

(6) *Class A—Alternative 4.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella sp. bacteria in the sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3).

(ii) The density of enteric viruses in the sewage sludge shall be less than one plaque-forming unit per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3), unless otherwise specified by the Department.

(iii) The density of viable helminth ova in the sewage sludge shall be less than 1 per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to

meet the requirements in § 271.911(b)(1) or (3), unless otherwise specified by the Department.

(7) *Class A—Alternative 5.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella, sp. bacteria in the sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3).

(ii) Sewage sludge that is used shall be treated in one of the processes to further reduce pathogens described in Appendix A.

(8) *Class A—Alternative 6.*

(i) Either the density of fecal coliform in the sewage sludge shall be less than 1,000 most probable number per gram of total solids (dry weight basis), or the density of salmonella, sp. bacteria in the sewage sludge shall be less than three most probable number per 4 grams of total solids (dry weight basis) at the time the sewage sludge is used; at the time the sewage sludge is prepared for sale, give away or other distribution, in a bag or other container for application to the land; or at the time the sewage sludge or material derived from sewage sludge is prepared to meet the requirements in § 271.911(b)(1) or (3).

(ii) Sewage sludge that is used shall be treated in a process that is equivalent to a process to further reduce pathogens, as determined by the EPA.

(b) *Sewage sludge other than residential septage—Class B.*

(1) *Additional requirements.*

(i) The requirements in subsection (b)(2), (3) or (4) shall be met for a sewage sludge to be classified Class B with respect to pathogens.

(ii) The site restrictions in subsection (b)(5) shall be met when sewage sludge that meets the Class B pathogen requirements in subsection (b)(2), (3) or (4) is applied to the land.

(2) *Class B—Alternative 1.*

(i) Seven samples of the sewage sludge shall be collected at the time the sewage sludge is used.

(ii) The geometric mean of the density of fecal coliform in the samples collected in subparagraph (i) shall be less than either 2 million most probable number per gram of total solids (dry weight basis) or 2 million colony forming units per gram of total solids (dry weight basis).

(3) *Class B—Alternative 2.* Sewage sludge that is used shall be treated in one of the processes to significantly reduce pathogens described in Appendix A.

(4) *Class B—Alternative 3.* Sewage sludge that is used shall be treated in a process that is equivalent to a process to significantly reduce pathogens, as determined by the EPA.

(5) *Site restrictions.*

(i) Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface may not be harvested for 14 months after application of sewage sludge.

(ii) Food crops with harvested parts below the surface of the land may not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.

(iii) Food crops with harvested parts below the surface of the land may not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.

(iv) Food crops, feed crops and fiber crops may not be harvested for 30 days after application of sewage sludge.

(v) Animals may not be allowed to graze on the land for 30 days after application of sewage sludge.

(vi) Turf grown on land where sewage sludge is applied may not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Department.

(vii) Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

(viii) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

(c) *Residential septage.* Residential septage shall be stabilized to meet processes to significantly reduce pathogens or processes to further reduce pathogens prior to land application, and the site restrictions in subsection (b)(5)(i)—(iv) shall be met. For alkali stabilization, the pH of residential septage applied to agricultural land, forest or a reclamation site shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 30 minutes and the site restrictions in subsection (b)(5)(i)—(iv) shall be met.

**§ 271.933. Vector attraction reduction.**

(a) *Options.*

(1) One of the vector attraction reduction requirements in subsection (b)(1)—(10) shall be met when sewage sludge is applied to agriculture land, forest, a public contact site or a reclamation site.

(2) One of the vector attraction reduction requirements in subsection (b)(1)—(8) shall be met when sewage sludge is applied to a lawn or a home garden.

(3) One of the vector attraction reduction requirements in subsection (b)(1)—(8) shall be met when sewage sludge is sold, given away or otherwise distributed, in a bag or other container for application to the land.

(4) One of the vector attraction reduction requirements in subsection (b)(9), (10) or (11) shall be met when residential septage is applied to agricultural land, forest or a reclamation site.

(b) *Standards.*

(1) The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38% (see calculation procedures in "Environmental Regulations and Technology—Control of Pathogens and Vector Attraction in Sewage Sludge," EPA-625/R-92/013, 1992, United States Environmental Protection Agency, Cincinnati, Ohio 45268).

(2) When the 38% volatile solids reduction requirement in paragraph (b)(1) cannot be met for an anaerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously



digested sewage sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 86° and 98°F (or 30° and 37°C). When at the end of the 40 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 17%, vector attraction reduction is achieved.

(3) When the 38% volatile solids reduction requirement in paragraph (1) cannot be met for an aerobically digested sewage sludge, vector attraction reduction can be demonstrated by digesting a portion of the previously digested sewage sludge that has a percent solids of 2% or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 68°F (or 20°C). When at the end of the 30 days, the volatile solids in the sewage sludge at the beginning of that period is reduced by less than 15%, vector attraction reduction is achieved.

(4) The SOUR for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 68°F (or 20°C).

(5) Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 104°F (or 40°C) and the average temperature of the sewage sludge shall be higher than 113°F (or 45°C).

(6) The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 2 hours and then at 11.5 or higher for an additional 22 hours.

(7) The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials.

(8) The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials.

(9) Sewage sludge shall be injected below the surface of the land. No significant amount of the sewage sludge may be present on the land surface within 1 hour after the sewage sludge is injected. When the sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within 8 hours after being discharged from the pathogen treatment process.

(10) Sewage sludge applied to the land surface shall be incorporated into the soil within 6 hours after application to the land. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied within 8 hours after being discharged from the pathogen treatment process.

(11) The pH of residential septage shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for 30 minutes.

**APPENDIX A**

**PATHOGEN TREATMENT PROCESSES**

**A. Processes to significantly reduce pathogens (PSRP)**

1. *Aerobic Digestion*—Sewage sludge is agitated with air or oxygen to maintain aerobic conditions for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 40 days at 68°F (or 20°C) and 60 days at 59°F (or 15°C).

2. *Air Drying*—Sewage sludge is dried on sand beds or on paved or unpaved basins. The sewage sludge dries for a minimum of 3 months. During 2 of the 3 months, the ambient average daily temperature is above 32°F (or 0°C).

3. *Anaerobic Digestion*—Sewage sludge is treated in the absence of air for a specific mean cell residence time at a specific temperature. Values for the mean cell residence time and temperature shall be between 15 days at 95° to 131°F (or 35° to 55°C) and 60 days at 68°F (or 20°C).

4. *Composting*—Using either the within-vessel, static aerated pile, or windrow composting methods, the temperature of the sewage sludge is raised to 104°F (or 40°C) or higher and remains at 104°F (or 40°C) or higher for 5 days. For 4 hours during the 5 days, the temperature in the compost pile exceeds 131°F (or 55°C).

5. *Lime Stabilization*—Sufficient lime is added to the sewage sludge to raise the pH of the sewage sludge to 12 after 2 hours of contact.

**B. Processes to further reduce pathogens (PFRP)**

1. *Composting*—Using either the within-vessel composting method or the static aerated pile composting method, the temperature of the sewage sludge is maintained at 131°F (or 55°C) or higher for 3 days.

Using the windrow composting method, the temperature of the sewage sludge is maintained at 131°F (or 55°C) or higher for 15 days or longer. During the period when the compost is maintained at 131°F (or 55°C) or higher, there shall be a minimum of five turnings of the windrow.

2. *Heat Drying*—Sewage sludge is dried by direct or indirect contact with hot gases to reduce the moisture content of the sewage sludge to 10% or lower. Either the temperature of the sewage sludge particles exceeds 176°F (or 80°C) or the wet bulb temperature of the gas in contact with the sewage sludge as the sewage sludge leaves the dryer exceeds 176°F (or 80°C).

3. *Heat Treatment*—Liquid sewage sludge is heated to a temperature of 356°F (or 180°C) or higher for 30 minutes.

4. *Thermophilic Aerobic Digestion*—Liquid sewage sludge is agitated with air or oxygen to maintain aerobic conditions and the mean cell residence time of the sewage sludge is 10 days at 131° to 140°F (or 55° to 60°C).

5. *Beta Ray Irradiation*—Sewage sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (CA. 68°F or 20°C).

6. *Gamma Ray Irradiation*—Sewage sludge is irradiated with gamma rays from certain isotopes, such as Cobalt 60 and Cesium 137, at room temperature (CA. 68°F or 20°C).

7. *Pasteurization*—The temperature of the sewage sludge is maintained at 158°F (or 70°C) or higher for 30 minutes or longer.

**CHAPTER 272. MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION**

**Subchapter C. MUNICIPAL WASTE PLANNING**

**§ 272.252. Development of plan revisions.**

(a) A county shall provide written notice to the Department when plan revision development begins. The notice shall describe the proposed plan revisions the county intends to undertake.

(b) Within 30 days after receipt of written notice submitted under subsection (a), the Department will notify the county if it determines the proposed revision is substantial.

(c) A county submitting a plan revision shall comply with:

(1) Sections 272.221—272.233 (relating to plan content), to the extent changes from the approved plan are proposed.

(2) Sections 272.201 and 272.204 (relating to purposes; and format of plans).

(3) Section 272.203 (relating to notice to municipalities). At least 30 days before submitting a proposed, nonsubstantial plan revision to the Department, the county shall submit a copy of the proposed revision to the advisory committee and each municipality within the county. Nonsubstantial plan revisions will be deemed approved within 30 days of receipt by the Department unless the Department responds in writing.

(d) If the Department determines that the plan revision is substantial, the county shall also:

(1) Comply with §§ 272.202, 272.241—272.243 and 272.245.

(2) Identify and describe the facilities where municipal waste is currently being disposed or processed, and the remaining available permitted capacity of the facilities. The plan revision shall also consider the capacity which could be made available through the reasonable expansion of the facilities.

(e) For purposes of this section, substantial plan revisions shall include, but not be limited to:

(1) The designation of an additional resource recovery facility or municipal waste landfill.

(2) The elimination of a recycling program, contained in a county plan and operating in a county resulting in reduced volume of recycling.

(3) The deletion of a designated resource recovery or disposal facility by a county. The deletion will not be considered a substantial revision if the deletion occurs as a result of failure to secure necessary contracts as long as adequate disposal capacity remains to implement the plan.

(4) The addition of municipal waste streams not originally included in the plan.

**Subchapter D. GRANTS**

**GENERAL PROVISIONS FOR AWARDING GRANTS**

**§ 272.315. Limits on Department's authority to award grants.**

(a) Grant agreements that have been entered into under § 272.321, § 272.331 or § 272.381 (relating to scope of grant) shall terminate within 2 years after the grant funds have been encumbered. Upon written request from the grantee, the Department may extend the agreement termination date by up to 3 months. Lapsed funds will be returned to the Recycling Fund for distribution to applicants in subsequent grant periods.

(b) If grant funds offered for grants under § 272.231, § 272.331 or § 272.381 are not accepted by the applicant within 1 year of offering, the offered funds will be returned to the Recycling Fund for distribution to applicants in subsequent grant periods.

(c) A subcontract for a grant under this subchapter shall be made available to the Department within 10 days of request. A subcontract for 50% or more of the total grant award shall be submitted to the Department. The value of salaries or in-kind services that will be used as a match shall be included in the grant agreement.

(d) A subcontract for a grant under this chapter shall be consistent with Commonwealth procedures and requirements for contracts.

(e) The Department may withhold payments of at least 10% of each grant under this subchapter until the grantee has demonstrated to the Department's satisfaction that the requirements of this subchapter have been met.

(f) The Department will not award a grant for anything that has not been included in a grant application or is not proposed to be used for the same limited purpose as an item included in a grant application.

(g) Nothing in this section prevents the Department from offering returned or lapsed funds to a grantee or under a grant under this subchapter that differs from the original grantee or type of grant.

**PERFORMANCE GRANTS FOR RECYCLING PROGRAMS**

**§ 272.353. Grant application.**

(a) The application shall contain a description of the weight of each material recycled and marketed, and the name and mailing address of each market. The weight shall be reduced for any residue materials.

(b) The application shall be supported by documentation which includes weigh slips or receipts verifying the materials claimed as recycled and marketed and:

(1) The supporting documentation shall be retained by the applicant for 4 years from the end date of the year the materials were recycled and marketed.

(2) The supporting documentation shall be made available to the Department, the Office of Attorney General, the Office of the Treasurer or the agents of those offices.

(c) If the application involves a recycling operation that serves more than one municipality, the application shall describe the total weight and type of materials collected by the operation, and the applicant's contribution.

**CHAPTER 273. MUNICIPAL WASTE LANDFILLS**

**Subchapter C. OPERATING REQUIREMENTS**

**GENERAL PROVISIONS**

**§ 273.202. Areas where municipal waste landfills are prohibited.**

(a) Except for areas that were permitted prior to April 9, 1988, a municipal waste landfill may not be operated as follows:

\* \* \* \* \*

(2) In or within 300 feet of an exceptional value wetland, as defined in § 105.17 (relating to wetlands).

\* \* \* \* \*

(13) Within 1/4-mile upgradient, and within 300 feet or 91.4 meters downgradient, of a private or public water source.

\* \* \* \* \*

(c) Except for areas that were permitted prior to January 25, 1997, a municipal waste landfill may not be operated as follows:

(1) Within 10,000 feet—or 3,048 meters—of an airport runway that is or will be used by turbine-powered aircraft during the life of disposal operations under the permit.

(2) Within 5,000 feet—or 1,524 meters—of an airport runway that is or will be used by piston-type aircraft during the life of disposal operations under the permit.

(d) The current property owner under subsection (b) in which a new facility is proposed may waive the 300-yard prohibition by signing a written waiver. Upon the waiver, the Department will waive the 300-yard prohibition and will not use the prohibition as the basis for the denial of a new permit.

(e) The Department may waive or modify the isolation distance in subsection (a)(13) if the operator demonstrates and the Department finds, in writing, that:

(1) The owners of the public and private water sources in the isolation area have consented, in writing, to the location of the proposed facility.

(2) The operator and each water source owner have agreed, in writing, that the applicant will construct and maintain at the operator's expense a permanent alternative water supply of like quantity and quality at no additional cost to the water source owner if the existing source becomes polluted or degraded.

(3) The applicant has demonstrated that a replacement water source is technically and economically feasible and readily available for public or private water sources in the isolation area.

(f) Except as provided in subsection (e), this section does not apply to features that may come into existence after the date of the first newspaper notice of the filing of a permit application under § 271.141 (relating to public notice by applicant).

(g) This section does not apply to features that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a municipal waste landfill permit. The notice, which is separate from the newspaper notice required by § 271.141, shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

(2) The person or municipality files an administratively complete application under § 271.202 (relating to completeness review) with the Department within 1 year from the date of the first newspaper notice under this subsection.

**COVER AND REVEGETATION**

**§ 273.232. Daily cover.**

(a) Except as provided in subsection (b), a uniform cover of the approved daily cover material shall be placed on exposed solid waste at the end of each working day, at the end of every 24 hours or at the completion of every lift, whichever interval is less.

(b) The composition of the daily cover material shall meet the following performance standards. The daily cover shall:

(1) Prevent vectors, odors, blowing litter and other nuisances.

(2) Cover solid waste after it is placed without change in its properties and without regard to weather.

(3) Be capable of allowing loaded vehicles to successfully maneuver over it after placement.

(4) Be capable of controlling fires.

(c) Unless alternative design requirements to meet the performance standards in subsection (b) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), daily cover shall meet the following design requirements:

(1) The cover shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam, as defined in the Soil Survey Manual published by the United States Department of Agriculture, Soil Conservation Service (available from the Department of the Northeast National Technical Center of the Soil Conservation Service, 160 E. 7th Street, Chester, Pennsylvania 19013-6092).

(2) At least 40% by weight of the cover soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

(3) The combustible or coal content of the cover may not exceed 12% by weight.

(4) The cover may not include rock fragments that are greater than 6 inches in diameter.

(5) The layer of cover soil shall be a minimum of 6 inches thick.

(6) The layer of cover soil shall be compacted.

(d) A 5-day supply of cover material shall be maintained on the site.

(e) Areas on which intermediate cover has been placed, and on which neither waste nor final cover is placed within 30 days thereafter, shall be temporarily revegetated and otherwise protected against erosion and sedimentation under § 273.235 and other applicable requirements.

(f) Intermediate slopes constructed during daily landfilling activities may not exceed 50%. Intermediate slopes shall be covered, compacted within 1 foot of intermediate cover material and revegetated to control erosion.

**§ 273.233. Intermediate cover and slopes.**

(a) A uniform and compacted intermediate cover of at least 12 inches in thickness shall be placed within 7 days of waste disposal on the following:

(1) Each partial lift for which the operator intends to place no additional waste for 6 months.

(2) Each partial or completed lift that represents final permitted elevations for that part of the facility.

(3) Each completed lift.

(b) The composition of the intermediate cover material shall meet the following performance standards. The intermediate cover shall:

(1) Prevent vectors, odors, blowing litter and other nuisances.

(2) Cover solid waste after it is placed without change in its properties and without regard to weather.

(3) Be capable of allowing loaded vehicles to successfully maneuver over it after placement.

(4) Be capable of controlling fires.

(5) Be capable of supporting the germination and propagation of vegetative cover as required by §§ 273.235 and 273.236 (relating to revegetation; and standards for successful revegetation).

(c) Unless alternative design requirements to meet the performance standards in subsection (b) are approved as part of the permit under § 271.231 (relating to equivalency review procedure), intermediate cover shall meet the following design requirements:

(1) The cover shall fall within the United States Department of Agriculture textural classes of sandy loam, loam, sandy clay loam, silty clay loam, loamy sand and silt loam.

(2) At least 40% by weight of the fragments in the soil shall be capable of passing through a 2 millimeter, No. 10 mesh sieve.

(3) The combustible or coal content of the cover may not exceed 12% by weight.

(4) The cover may not include rock fragments that are greater than 6 inches in diameter.

(d) A 5-day supply of cover material shall be maintained on the site.

(e) Areas on which intermediate cover has been placed, and on which neither waste nor final cover is placed within 30 days thereafter, shall be temporarily revegetated and otherwise protected against erosion and sedimentation under § 273.235 and other applicable requirements.

(f) Intermediate slopes constructed during daily landfilling activities may not exceed 50%. Intermediate slopes shall be covered, compacted with 1 foot of intermediate cover material and revegetated to control erosion.

#### **CHAPTER 275. LAND APPLICATION OF SEWAGE SLUDGE**

§ 275.1. (Reserved).

##### **Subchapter B. (Reserved)**

§ 275.101. (Reserved).

§ 275.102. (Reserved).

§ 275.103. (Reserved).

§ 275.104. (Reserved).

§ 275.105. (Reserved).

§ 275.106. (Reserved).

§ 275.107. (Reserved).

##### **Subchapter C. GENERAL OPERATING REQUIREMENTS FOR THE LAND APPLICATION OF SEWAGE SLUDGE**

###### **GENERAL**

§ 275.201. General provisions.

(a) A person or municipality may not land apply sewage sludge unless the person or municipality is operating under a permit for the land application of sewage sludge issued by the Department under this article.

(b) A person or municipality that land applies sewage sludge under a permit issued under this chapter shall comply with the following:

(1) The requirements of the act, this subchapter and the additional operating requirements for the specific type of operation that are in Subchapter D, E or F (relating to additional requirements for agricultural utili-

zation; additional requirements for land reclamation; and additional requirements for surface land disposal).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(3) The Department's guidelines for the use of sewage sludge for agricultural utilization or land reclamation, unless the person or municipality is operating under a permit that allows use of the loading rate guidelines for land reclamation or surface land disposal, in which case the person or municipality shall comply with the applicable guidelines for the operation.

#### **§ 275.202. Areas where the land application of sewage sludge is prohibited.**

Except for areas permitted by the Department prior to April 9, 1988, the land application of sewage sludge may not be conducted:

(1) Within 100 feet of an intermittent or perennial stream.

(2) Within 300 feet of a water source, unless otherwise approved by the Department, in writing.

(3) Within 1,000 feet upgradient of a surface water source unless otherwise approved by the Department, in writing.

(4) Within 25 feet of a bedrock outcrop.

(5) Within 50 feet of a property line within which the sludge is applied, unless otherwise approved by the Department, in writing.

(6) Within 100 feet of a sinkhole or area draining into a sinkhole.

(7) Within 25 feet of the perimeter of an undrained depression.

(8) In or within 100 feet of an exceptional value wetland as defined in § 105.17 (relating to wetlands).

##### **Subchapter D. ADDITIONAL REQUIREMENTS FOR AGRICULTURAL UTILIZATION**

§ 275.301. (Reserved).

##### **Subchapter F. (Reserved)**

§ 275.401. (Reserved).

§ 275.501. (Reserved).

§ 275.502. (Reserved).

§ 275.503. (Reserved).

§ 275.511. (Reserved).

§ 275.512. (Reserved).

§ 275.513. (Reserved).

§ 275.514. (Reserved).

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§ 275.521. (Reserved).

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§ 275.525. (Reserved).

§ 275.526. (Reserved).

§ 275.527. (Reserved).

§ 275.528. (Reserved).

§ 275.531. (Reserved).

**Subchapter G. (Reserved)**

§ 275.601. (Reserved).

§ 275.602. (Reserved).

§ 275.603. (Reserved).

§ 275.611. (Reserved).

§ 275.612. (Reserved).

§ 275.613. (Reserved).

§ 275.614. (Reserved).

**CHAPTER 277. CONSTRUCTION/DEMOLITION WASTE LANDFILLS**

**Subchapter C. OPERATING REQUIREMENTS GENERAL PROVISIONS**

§ 277.202. Areas where construction/demolition waste landfills are prohibited.

(a) Except for areas that were permitted prior to April 9, 1988, no construction/demolition waste landfill may be operated as follows:

\* \* \* \* \*

(2) In or within 300 feet of an exceptional value wetland, as defined in § 105.17 (relating to wetlands).

\* \* \* \* \*

**CHAPTER 279. TRANSFER FACILITIES**

**Subchapter C. OPERATING REQUIREMENTS FOR TRANSFER FACILITIES GENERAL PROVISIONS**

§ 279.201. Basic limitations.

(a) A person or municipality may not own or operate a transfer facility unless the Department has first issued a permit to the person or municipality for the facility under this chapter.

(b) A person or municipality that operates a transfer station facility shall comply with the following:

(1) The operating requirements of the act, this subchapter and the applicable requirements of Chapter 271 (relating to municipal waste management—general provisions).

(2) The plans and specifications in the permit, the terms and conditions of the permit, the environmental protection acts, this title and orders issued by the Department.

(c) A person or municipality that operates a transfer facility may not allow residual waste or special handling waste to be received or handled at the facility unless the Department has specifically approved handling that waste in the permit.

(d) A person or municipality that operates a transfer facility may not:

(1) Mix solid waste with, or store solid waste in such close proximity to other solid waste to create a risk of fire or explosion, or a risk to the accumulation of poisonous or otherwise harmful vapors or gases.

(2) Allow exposable wastes to be processed at the facility.

(e) Hazardous waste subject to Chapters 260—265 and 270 may not be disposed, processed or stored at transfer facilities.

(f) A person or municipality may not allow solid waste generated outside the host county for a facility to be received, disposed or otherwise managed at the facility if the transportation to, or processing or management at, the facility would violate applicable laws in effect in the county or state in which the waste was generated, or state or local solid waste management plans in effect where the waste was generated.

(g) The Department may waive or modify a requirement of this chapter for permitted transfer facilities at which no actual loading, unloading or transferring of municipal waste occurs, if the absence of loading, unloading and transferring activity renders the requirement unnecessary.

§ 279.202. Areas where transfer facilities are prohibited.

(a) Except for areas that were permitted prior to April 9, 1988, no transfer facility may be operated:

(1) In the 100-year floodplain of waters in this Commonwealth, unless the Department approves in the permit a method of protecting the facility from a 100-year flood consistent with the Flood Plain Management Act (32 P. S. §§ 679.101—679.601) and the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

(2) In or within 300 feet of an exceptional value wetland, as defined in § 105.17 (relating to wetlands).

(3) Within 300 feet measured horizontally from an occupied dwelling, unless the current owner has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(4) Within 100 feet of a perennial stream.

(5) Within 50 feet of a property line unless the operator demonstrates that actual processing of waste is not occurring within that distance.

\* \* \* \* \*

**DAILY OPERATIONS**

§ 279.217. Cleaning and maintenance.

(a) Areas within the building shall be kept clean.

(b) The operator may not allow putrescible waste to remain at the transfer facility at the end of the day or for more than 24 hours, except that putrescible waste may remain at a transfer facility for any period of time up to 72 hours over a weekend or 3-day weekend if the transfer facility permit so provides.

(c) Plumbing shall be properly maintained, and the floors shall be well drained.

(d) Macerators, hammer mills and grinders shall be cleanable and shall be equipped with drains that connect to a sanitary sewer system or treatment facility.

(e) Provision shall be made for the routine operational maintenance of the facility.

**CHAPTER 281. COMPOSTING FACILITIES****Subchapter A. GENERAL****§ 281.2. (Reserved)****Subchapter C. OPERATING REQUIREMENTS FOR GENERAL COMPOSTING FACILITIES****GENERAL PROVISIONS****§ 281.202. Areas where general composting facilities are prohibited.**

(a) Except for areas that were permitted prior to April 9, 1988, no general composting facility may be operated:

(1) In the 100-year floodplain of waters of this Commonwealth.

(2) In or within 300 feet of an exceptional value wetland, as defined in § 105.17 (relating to wetlands).

(3) Within 100 feet of a sinkhole or area draining into a sinkhole.

(4) Within 300 feet measured horizontally from an occupied dwelling, unless the current owner of the dwelling has provided a written waiver consenting to the facility being closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(5) Within 100 feet of a perennial stream.

(6) Within 50 feet of a property line unless the operator demonstrates that actual composting of waste is not occurring within that distance.

(7) Within 1/4 mile upgradient and within 300 feet downgradient of a private or public water source.

(8) In an area where the seasonal high water table or perched water table is less than 4 feet from the surface.

(b) Except as provided in subsection (c), this section does not apply to a feature that may come into existence after the date of the first newspaper notice under § 271.141 (relating to public notice by applicant).

(c) This section does not apply to a feature that may come into existence after the date of the first newspaper notice under this subsection if the following apply:

(1) The person or municipality publishes a notice of intent to file an application for a general composting facility permit. The notice, which is separate from the newspaper notice required by § 271.141, shall be published once a week for 3 consecutive weeks in a newspaper of general circulation in the area where the facility is proposed to be located. The notice shall include a brief description of the location and proposed operation of the facility.

(2) The person or municipality files an administratively complete application with the Department within 1 year from the date of the first newspaper notice under this subsection.

**CHAPTER 283. RESOURCE RECOVERY AND OTHER PROCESSING FACILITIES****Subchapter A. GENERAL****§ 283.1. Scope.**

This chapter sets forth application and operating requirements for a person or municipality that operates a municipal waste processing facility other than a transfer or composting facility, including a resource recovery facil-

ity as well as an incinerator other than an incinerator operating under a permit-by-rule under § 271.103(f) (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements). The requirements in this chapter are in addition to the applicable requirements in Chapter 271 (relating to municipal waste management—general provisions).

**Subchapter C. OPERATING REQUIREMENTS****§ 283.202. Areas where resource recovery facilities and other processing facilities are prohibited.**

(a) Except for areas that were permitted prior to April 9, 1988, a municipal waste processing facility subject to this chapter may not be operated:

\* \* \* \* \*

(2) In or within 300 feet of an exceptional value wetland as defined in § 105.17 (relating to wetlands).

\* \* \* \* \*

**DAILY OPERATIONS****§ 283.222. Protection of capacity.**

A person or municipality operating a resource recovery facility may not receive solid waste at the facility contrary to the terms and conditions approved by the Department under § 283.111 (relating to plan for protection of capacity).

**CHAPTER 285. STORAGE, COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE****Subchapter A. STORAGE OF MUNICIPAL WASTE****§ 285.123. Impoundments—general.**

A person or municipality storing municipal waste in a surface impoundment shall:

(1) Comply with Chapter 105 (relating to dam safety and waterway management).

(2) Design and maintain the impoundment to prevent the dispersal of municipal waste by wind and water erosion, and to prevent odors.

(3) Design and maintain sufficient freeboard to prevent overtopping. There shall be at least 2 feet of freeboard unless otherwise approved by the Department, in writing.

(4) Construct and maintain a protective cover sufficient to minimize wind and water erosion and preserve structural integrity, including, but not limited to, suitable vegetation, rock riprap or nonerrodible material.

(5) Design and maintain sufficient structural integrity to prevent failure.

(6) Design and maintain dikes or berms so that the outside slope does not exceed 33% unless otherwise approved by the Department, in writing.

(7) Design and maintain structures around impoundments sufficient to prevent surface runoff from entering the impoundment, based on the maximum surface runoff from a 25-year, 24-hour precipitation event.

(8) Design and maintain dikes or berms to be free of burrowing mammals and plants with root systems capable of displacing earthen materials upon which the structural integrity of the dikes or berms is dependent.

(9) For leachate storage:

(i) Install and maintain a liner that meets the requirements of Chapter 273 (relating to municipal waste landfills).

(ii) Design, install and operate a groundwater monitoring system that meets the requirements of Chapter 273.

(10) For sewage sludge storage impoundments constructed after January 25, 1997:

(i) Install and maintain a liner system that meets the requirements of §§ 273.253—273.257, unless otherwise approved by the Department in a permit.

(ii) Install and operate a groundwater monitoring system that meets the requirements in §§ 273.281—273.288 (relating to water quality monitoring), unless otherwise approved by the Department in a permit.

**Subchapter B. COLLECTION AND TRANSPORTATION OF MUNICIPAL WASTE**

**§ 285.201. Scope.**

A person or municipality that collects or transports municipal waste shall comply with §§ 285.211—285.219 (relating to general provisions). A person or municipality that transports the types of municipal waste referred to in §§ 285.221, 285.222 and 285.225 (relating to transportation of ash residue from municipal waste incineration and from infectious or chemotherapeutic waste incinerations; transportation of infectious and chemotherapeutic waste; general provisions and transportation of residential septage) shall transport the waste under the applicable provisions of those sections.

**GENERAL PROVISIONS**

**§ 285.212. Collection.**

(a) A person or municipality that is responsible for the collection of municipal waste shall make collection services available with sufficient frequency to prevent a nuisance or hazard to public health, safety or welfare.

(b) A person or municipality that generates municipal waste shall schedule collection of waste with sufficient frequency to prevent a nuisance.

(c) A person or municipality may not park a municipal waste collection or transportation vehicle to cause a nuisance or a hazard to public health, safety and welfare. A person or municipality may not allow a municipal waste collection or transportation vehicle to remain in a residential area for more than 4 hours.

**TYPES OF WASTE**

**§ 285.225. Transportation of residential septage.**

(a) By July 25, 1997, or upon beginning operations, whichever occurs later, a person or municipality that transports residential septage shall notify the Department that the person or municipality transports residential septage. The notification shall:

- (1) Be prepared on a form provided by the Department.
- (2) State the name, address and telephone number of the transporter.
- (3) State the name, address and telephone number of a person who will act as a contact with the Department.

(b) Upon receipt of the notification, the Department will issue a transporter number to the person or municipality transporting residential septage.

(c) The number provided to the transporter under subsection (b) shall be displayed on the sides and rear of

each vehicle the transporter uses to transport the residential septage, in numbers at least 3 inches high in a color contrasting to the background.

**ARTICLE IX. RESIDUAL WASTE**

**CHAPTER 287. RESIDUAL WASTE MANAGEMENT—GENERAL PROVISIONS**

**Subchapter A. GENERAL**

**§ 287.1. Definitions.**

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

\* \* \* \* \*

*General permit*—A regional or Statewide permit issued by the Department for a specified category of beneficial use or processing of solid waste, the terms and conditions of which allow an original applicant, a registrant and a person or municipality that obtains a determination of applicability, to operate under the permit if the terms and conditions of the permit and certain requirements of this article are met.

*Generator*—A person or municipality that produces or creates a residual waste.

\* \* \* \* \*

*Land application*—The agricultural utilization, land reclamation or surface land disposal. The term does not include the disposal of solid waste in a landfill or disposal impoundment.

\* \* \* \* \*

*MCL*—Maximum contaminant level.

\* \* \* \* \*

*PCB containing water*—Solid waste containing PCBs in the following concentrations:

(1) More than 4 parts per million, but less than 50 parts per million.

\* \* \* \* \*

*Permit*—A permit issued by the Department to operate a residual waste disposal or processing facility or to beneficially use residual waste. The term includes a general permit, permit-by-rule, permit modification, permit reissuance and permit renewal.

\* \* \* \* \*

*Permit-by-rule*—A permit which a person or municipality is deemed to have for the operation of a facility or an activity upon compliance with § 287.102 (relating to permit-by-rule).

\* \* \* \* \*

*Sewage sludge*—Liquid or solid sludges and other residues from a municipal sewage collection and treatment system; and liquid or solid sludges and other residues from septic and holding tank pumpings from commercial, institutional or residential establishments. The term includes material derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screening generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system or grit, screenings and nonorganic objects from septic and holding tank pumpings.

\* \* \* \* \*

**Subchapter B. DUTIES OF GENERATORS**

**§ 287.51. Scope.**

(a) This subchapter contains requirements that are directly applicable to persons or municipalities that generate more than 2,200 pounds of residual waste per generating location in any single month of the previous year. The Department may waive or modify the requirements of this section for individual types of waste that are generated in quantities of less than 2,200 pounds per generating location.

(b) This subchapter does not apply to the following:

(1) Persons or municipalities that generate residual waste as a result of collecting the waste, including the collection of parts, machinery, vehicles, appliances and used oil from the repair or replacement of the parts, machinery, vehicles, appliances and used oil.

(2) Persons or municipalities that create waste from a spill, release, fire, accident or other unplanned event.

(c) Generators and collectors of used oil who are also waste oil marketers are subject to § 266.43 (relating to standards applicable to marketers of waste oil burned for energy recovery).

**Subchapter C. GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS**

**GENERAL**

**§ 287.102. Permit-by-rule.**

(a) *Purpose.*

(1) This section sets forth classes of facilities that are subject to permit-by-rule. A facility will not be deemed to have a permit-by-rule if it causes or allows violations of the act, the regulations promulgated thereunder, the terms or conditions of a permit issued by the Department or causes a public nuisance. A facility that is subject to permit-by-rule under this section is not required to apply for a permit under this article or comply with the operating requirements of Chapters 288—297, if that facility operates in accordance with this section.

(2) A facility is not subject to permit-by-rule under this section unless it meets the following:

(i) The facility complies with Chapter 299 (relating to storage and transportation of residual waste), except as provided in subsections (b)(7) and (c)(3).

(ii) The facility or activity has the other necessary permits under the applicable environmental protection acts, and is operating under the acts and the regulations promulgated thereunder, and the terms and conditions of the permits.

(3) A facility is not subject to permit-by-rule under this section unless the operator maintains the following at the facility in a readily accessible place:

(i) A copy of a Preparedness, Prevention and Contingency (PPC) plan that is consistent with the Department's most recent guidelines for the development and implementation of PPC plans.

\* \* \* \* \*

(b) *Captive processing facility.* A facility that processes residual waste that is generated solely by the operator shall be deemed to have a residual waste processing permit under this article if, in addition to subsection (a), the following conditions are met:

(1) Waste resulting from the processing is managed under the act and the regulations promulgated thereunder.

\* \* \* \* \*

(5) If the waste is burned, it meets the following:

(i) The waste is burned in an enclosed device using controlled flame combustion and is directed through a flue as defined in § 121.1 (relating to definitions).

\* \* \* \* \*

(6) If processing is part of an industrial or other wastewater treatment process permitted by the Department under The Clean Streams Law, one of the following applies:

\* \* \* \* \*

(ii) The facility discharges into a publicly owned treatment work and is in compliance with applicable pretreatment standards.

(7) If a wastewater treatment process includes the use of storage impoundments that are not in compliance with Chapter 299 (relating to storage and transportation of residual waste), the following shall be met:

(i) A water quality monitoring plan that meets the requirements of §§ 289.261—289.268 (relating to water quality monitoring) shall be submitted to the Department for review and approval by July 25, 1997. The Department may waive or modify the requirements of §§ 289.261—289.268 for storage impoundments included under this section as part of a captive facility on a case-by-case basis, based on conditions such as the size and location of the impoundment.

(ii) A water quality monitoring plan shall be implemented within 6 months of the Department's approval of the plan, unless the implementation schedule approved by the Department provides for a longer period. A water quality monitoring plan shall be implemented by July 4, 2002.

(iii) If, after implementation of the water quality monitoring plan, groundwater degradation is found that can reasonably be attributed to the storage impoundment, the operator shall comply with one of the following:

(A) Within 6 months of the Department's determination that degradation exists, the operator shall file a closure plan and closure schedule. After approval of the closure plan and closure schedule, the operator shall implement the closure plan and closure schedule as approved by the Department.

(B) Within 6 months of the Department's determination that degradation exists, the operator shall submit a schedule to upgrade and operate the impoundment under Chapter 299; provided that with respect to a storage impoundment that was permitted and constructed on or before July 4, 1992, the Department may modify the liner and leachate collection system requirements if the operator demonstrates that the conditions of § 287.112(f)(1) (relating to storage impoundments and storage facilities) are met. The schedule to upgrade and operate the impoundment under Chapter 299 may not exceed 5 years.

(8) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

(c) *Wastewater treatment facility.* A noncaptive processing facility, other than a transfer or composting facility,



shall be deemed to have a residual waste processing permit under this article if, in addition to subsection (a), the following apply:

\* \* \* \* \*

(2) Processing is solely part of an industrial or other wastewater treatment process permitted by the Department under The Clean Streams Law and one of the following apply:

\* \* \* \* \*

(i) The facility discharges into a publicly owned treatment work and is in compliance with applicable pretreatment standards

\* \* \* \* \*

(3) If a wastewater treatment process includes the use of storage impoundments that are not in compliance with Chapter 299, the following shall be met:

(i) A water quality monitoring plan that meets the requirements of §§ 289.261—289.268 shall be submitted to the Department for review and approval by July 25, 1997. The Department may waive or modify the requirements of §§ 289.261—289.268 for storage impoundments included under this section as part of a wastewater treatment process on a case-by-case basis, based on conditions such as the size and location of the impoundments.

(ii) A water quality monitoring plan shall be implemented within 6 months of the Department's approval of the plan, unless the implementation schedule approved by the Department provides for a longer period. A water quality monitoring plan shall be implemented by July 4, 2002.

(iii) If, after implementation of the water quality monitoring plan, groundwater degradation is found that can reasonably be attributed to the storage impoundments, the operator shall comply with one of the following:

(A) Within 6 months of the Department's determination that degradation exists, the operator shall file a closure plan and closure schedule. After approval of the closure plan and closure schedule, the operator shall implement the closure plan and closure schedule as approved by the Department.

(B) Within 6 months of the Department's determination that degradation exists, the operator shall submit a schedule to upgrade and operate the impoundment in accordance with Chapter 299; provided that with respect to a storage impoundment that was permitted and constructed on or before July 4, 1992, the Department may modify the liner and leachate collection system requirements if the operator demonstrates that the conditions of § 287.112(f)(1) are met. The schedule to upgrade and operate the impoundment under Chapter 299 may not exceed 5 years.

(4) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility, and a brief description of the facility.

(d) *Transfer facilities that collect used oil.* A State inspection facility, oil retailer, retail service station or a captive processing facility that collects used oil generated only by the operator of the facility and by the employees of the operator who change their used oil in their vehicles which accepts used oil for recycling shall be deemed to have a residual waste transfer facility permit-by-rule under this article if the following are met:

(1) The facility is operated for the transfer of used oil only, and does not blend used oil with waste oil that is not used oil for offsite reuse.

\* \* \* \* \*

(6) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

(e) *Incinerator.* A residual waste incinerator located at the generation site shall be deemed to have a residual waste permit under this article if, in addition to the requirements of subsection (a), it processes waste that is generated solely by the operator, processing occurs at the same production facility where some or all of the waste is generated and it meets one of the following:

\* \* \* \* \*

(3) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

\* \* \* \* \*

(g) *Waste oil energy recovery.* A facility that burns waste oil for energy recovery shall be deemed to have a residual waste processing permit if, in addition to subsection (a), the following conditions are met:

(1) The facility does not burn, or otherwise process, waste that is hazardous waste under Chapter 261 (relating to criteria, identification and listing of hazardous waste).

(2) The waste oil is burned in an enclosed device using controlled flame combustion and is directed through a flue as defined in § 121.1.

\* \* \* \* \*

(8) The operator submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the facility.

(9) The operator complies with the applicable requirements of Chapter 266, Subchapter E (relating to requirements for oil meeting specifications when burned for energy recovery permit-by-rule).

(h) *Mechanical processing facility.* A facility for the processing of residual waste only by mechanical or manual sizing or separation for prompt reuse shall be deemed to have a residual waste processing permit-by-rule if it meets the requirements of subsection (a) and submits a written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the waste and the facility. A noncaptive processing facility that separates waste oil and water does not qualify for a permit-by-rule. A facility for the processing of waste tires may be deemed to have a residual waste permit by rule under this paragraph if the following are met in addition to the requirements in this subsection and in subsection (a):

(1) The mechanical or manual sizing or separation is conducted solely for the purpose of remediating an existing tire pile.

(2) The mechanical or manual sizing or separation is part of a remediation plan that has been approved by the Department.

(3) No additional tires are brought to the site.

(4) The processed tires are promptly removed for offsite reuse or disposal.

(i) *Container processing facility.* A facility that processes, by cleaning or rinsing, empty containers for refill and reuse shall be deemed to have a residual waste processing permit if the containers are reused for their originally intended purpose, the facility meets the requirements of subsection (a), any rinsate or containers not reused are managed in accordance with the applicable waste management regulations and the operator of the facility submits written notice to the Department that includes the name, address and the telephone number of the facility, the individual responsible for operating the facility and a brief description of the waste and the facility.

(j) *Empty drum reconditioning.* A facility that processes, by cleaning or rinsing, empty drums for reconditioning and reuse shall be deemed to have a residual waste processing permit-by-rule if it meets the requirements of subsection (a) and submits a written notice to the Department that includes the name, address and the phone number of the facility, the individual responsible for operating the facility and a description of the waste and the facility.

#### **Subchapter F. CIVIL PENALTIES AND ENFORCEMENT**

##### **CIVIL PENALTIES**

#### **§ 287.413. Assessment of penalties; minimum penalties.**

(a) This section sets forth minimum civil penalties for certain violations of the act and the regulations promulgated thereunder. The Department will assess a civil penalty under § 287.412 (relating to assessment of penalties; general) only if a civil penalty calculated under § 287.412 is greater in amount than the civil penalty calculated under this section.

(b) If a person or municipality operates a residual waste landfill or residual waste disposal impoundment on an area for which the person or municipality was not permitted to operate the facility, or in excess of final permitted elevations, the Department will assess a minimum civil penalty of \$5,000 per 1/2 acre, or portion thereof. Intermediate acreages will be assessed at the next highest 1/2 acre. This subsection does not require the imposition of a civil penalty on persons or municipalities operating without a permit on July 4, 1992, if the persons or municipalities are in compliance with §§ 287.111 and 287.113 (relating to notice by impoundments and unpermitted processing or disposal facilities; and permitting procedure for unpermitted processing or disposal facilities).

(c) If a person or municipality applies residual waste to an area for which the person or municipality was not permitted to apply the residual waste, the Department will assess a minimum civil penalty of \$500.

(d) If a person or municipality fails to provide notification on a timely basis of an incident for which a reporting requirement exists in the act, the regulations promulgated thereunder, the terms or conditions of a permit, or order of the Department, the Department will assess a minimum civil penalty of \$1,000.

(e) If a person or municipality generating residual waste fails to provide notice to the Department as required by § 287.52 (relating to biennial report), the Department will assess a minimum civil penalty of \$300.

(f) If a person or municipality refuses, hinders, obstructs, delays or threatens an agent or employe of the Department in the course of performance of a duty under the act, including entry and inspection, the Department will assess a minimum civil penalty of \$1,000.

(g) If a violation is included as a basis for an administrative order requiring cessation of solid waste management operations, or for any other abatement order, and if the violation has not been abated within the abatement period set in the order, a minimum civil penalty of at least \$1,000 shall be assessed for each day during which the failure continues. This subsection does not limit the Department's authority to assess an appropriate civil penalty for violations that formed the basis for issuing an order, and that occurred prior to the issuance of the order or prior to a date for compliance in the order.

#### **Subchapter H. BENEFICIAL USE**

##### **SCOPE**

#### **§ 287.601. Scope.**

(a) This subchapter sets forth requirements for the processing and beneficial use of residual waste, including coal ash, and sets forth requirements for certain beneficial uses of coal ash. Sections 287.611, 287.612, 287.621—287.625, 287.631, 287.632, 287.641—287.644, 287.651 and 287.652 establish procedures and standards for general permits for the beneficial use or processing of residual waste other than certain uses of coal ash, and §§ 287.661—287.666 (relating to beneficial use of coal ash) establish procedures and standards for certain beneficial uses of coal ash.

(b) An operation that is approved by or under this subchapter does not require an individual processing or disposal permit under this article. The requirements of Chapter 287, Subchapters A—G and Chapters 288, 289, 291, 293, 295, 297 and 299 are applicable to the extent required in § 287.632 (relating to waiver and modification of requirements).

#### **GENERAL PERMITS FOR PROCESSING OR BENEFICIAL USE, OR BOTH, OF RESIDUAL WASTE OTHER THAN CERTAIN USES OF COAL ASH—AUTHORIZATION AND LIMITATIONS**

#### **§ 287.611. Authorization for general permit.**

(a) In accordance with §§ 287.612, 287.621—287.625, 287.631, 287.632, 287.641—287.644, 287.651 and 287.652 and this section, the Department may issue general permits on a regional or Statewide basis for a category of processing when processing is necessary to prepare the waste for beneficial use, or for a category of beneficial use, or both, of residual waste when the following are met:

(1) The wastes included in the category are generated by the same or substantially similar operations and have the same or substantially similar physical character and chemical composition. If wastes are not the same or substantially similar and are blended for use, the blend shall be consistently reproduced with the same physical character and chemical composition.

(2) The wastes included in the category are proposed for the same or substantially similar beneficial use or processing operations.

(3) The activities in the category can be adequately regulated utilizing standardized conditions without harming or presenting a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. At a minimum, the use of the waste as an ingredient in an industrial process or as a substitute for a commercial product may not present a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(c) The Department may modify, suspend, revoke or reissue general permits or coverage under a general permit under this subchapter as it deems necessary to prevent harm or threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(d) The Department may issue a general permit for processing combinations of municipal and residual wastes when processing is necessary to prepare a waste for beneficial use, or for beneficial use of combinations of municipal and residual wastes, or both, under Article VIII (relating to municipal waste) or this article, whichever the Department determines appropriate. The Department will determine which article is appropriate based on factors including whether the facility is captive or noncaptive, and the proportion of municipal and residual waste. The requirements in this subchapter that apply to residual waste also apply to municipal waste when municipal waste is mixed with residual waste.

(e) The Department will not issue a general permit for the following:

- (1) A residual waste disposal impoundment.
- (2) A residual waste landfill, a valley fill or other fill.
- (3) The use of residual waste to fill open pits from coal or noncoal mining except for coal ash mixed with residual waste when the use does not present a safety hazard, will improve the overall quality of the area, is limited to the filling to natural contours of the land and does not present a threat to public health or the environment.
- (4) The use of residual waste solely to level an area or bring the area to grade unless construction activity is completed on the area promptly after placement of the waste. A general permit may be issued for the beneficial use of waste as a construction material.
- (5) The placement of waste oil or asbestos containing waste on roads in this Commonwealth.
- (6) Surface land disposal activities.

(f) The Department may issue a general permit on a regional or Statewide basis for a category of processing when processing is necessary to prepare a residual waste for beneficial use, or for a category of beneficial use, or both, for coal ash mixed with other residual waste.

**ISSUANCE OF GENERAL PERMITS**

**§ 287.621. Application for general permit.**

(a) A person or municipality may apply to the Department for the issuance of a general permit for a category of beneficial use of residual waste or for a category of processing of residual waste, where processing is necessary to prepare the waste for beneficial use.

(b) An application for the issuance of a general permit shall be submitted on a form prepared by the Department and shall contain the following:

(1) A description of the type of residual waste to be covered by the general permit, including physical and chemical characteristics of the waste. The chemical de-

scription shall contain an analysis meeting the requirements of § 287.132 (relating to chemical analysis of waste) for a sufficient number of samples of residual waste in the waste type to accurately represent the range of physical and chemical characteristics of the waste type.

(2) A description of the proposed type of beneficial use or processing activity to be covered by the general permit.

(3) A detailed narrative and schematic diagram of the production or manufacturing process from which the waste to be covered by the general permit is generated.

(4) For beneficial use general permits, proposed concentration limits for contaminants in the waste which is to be beneficially used, and a rationale for those limits.

(5) For general permits that involve beneficial use of a processed or unprocessed waste, a detailed demonstration of the efficacy of the waste for the proposed beneficial use, which shall include:

(i) If the waste is to be used as a substitute for a commercial product, a demonstration that the waste is capable of performing the desired functions of the commercial product, and that the waste meets or exceeds all applicable ASTM, Department of Transportation or other applicable National, state, local or industry standards or specifications for the material for which the waste is being substituted.

(ii) If the waste is to be used as a raw material for a product with commercial value, a demonstration that the waste will contribute significant properties or materials to the end product, and that the waste meets or exceeds all applicable ASTM, Department of Transportation or other applicable National, state, local or industry standards or specifications for the material for which the waste is being substituted.

(iii) If the waste is to be used in general roadway application or highway construction, a demonstration that approval has been granted by the Department of Transportation Product Evaluation Board, if applicable, for the use of the waste for the intended application.

(iv) If the waste is to be used as a construction material, soil substitute, soil additive or antiskid material, or is to be otherwise placed directly onto the land, an evaluation of the potential for adverse public health and environmental impacts from the proposed use of the residual waste. The evaluation shall identify the particular constituents of the waste which present the potential for adverse public health and environmental impacts, and the potential pathways of human exposure to those constituents, including exposure through groundwater, surface water, air and the food chain. The Department may waive or modify this requirement in writing.

(v) If the waste is to be used without reclamation as a construction material, soil additive, soil substitute or antiskid material or is to be otherwise placed directly onto the land, a demonstration that the residual waste to be beneficially used meets, at a minimum, the requirements of § 288.623(a) (relating to minimum requirements for acceptable waste). The Department may waive the requirements of § 288.623(a) that relate to secondary MCLs for this demonstration. The Department may waive or modify this provision for the use of oil and gas brines for road stabilization.

(6) If residual wastes are blended for use, a demonstration that each waste results in a beneficial contribution to the use of the mixed waste and that the consistency of the blend will be maintained. The applicant shall specify

the quantities and proportions of all materials included in the blended waste and the mixture shall meet appropriate standards for use.

(c) An application for the issuance of a general permit shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$2,000.

(d) The Department will not waive the bonding and public liability insurance requirements in Subchapter E (relating to bonding and insurance requirements) for waste tire operations, waste oil operations and contaminated soil operations, and for other general permit activities if the waste managed is potentially harmful or large quantities of waste are stored.

(e) An applicant for a general permit shall provide written notice to each municipality in which the applicant intends to operate, if a location is known, under a general permit. Proof of this notice, including a copy of the notice and a certified or registered mail returned receipt, shall be submitted to the Department. For mobile facilities, written notice shall be provided to the municipality where the primary processing or beneficial use activity is located.

**§ 287.622. Completeness review.**

\* \* \* \* \*

(c) The Department will deny the incomplete application if the applicant fails to provide the analyses, fees, documents or information within 90 days of receipt of the notice in subsection (b).

**§ 287.623. Public notice and review period.**

(a) The Department will publish notice of receipt of an application for a general permit in the *Pennsylvania Bulletin* when the Department determines that the application is administratively complete.

\* \* \* \* \*

(b) The notice shall include:

(1) A brief description of the category of waste and the category of beneficial use or processing of residual waste which is identified in the application.

(2) The Departmental address and telephone number at which interested persons or municipalities may obtain further information and review a copy of the application for the general permit.

(3) A brief description of the procedures for public comment on the general permit application in accordance with this subchapter.

(4) A statement that interested persons or municipalities may submit comments to the Department within 60 days of the publication of the notice, and may recommend conditions upon, revisions to, approval or disapproval of the general permit application.

(c) The Department may hold a public meeting or public hearing on the application for a general permit.

(d) The Department will approve or deny an application for a general permit within 6 months from the last day of the comment period established in subsection (b). Failure by the Department to comply with this timetable will not be construed to constitute grounds for issuance of a general permit.

(e) Upon issuance of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the general permit.

**§ 287.625. Department initiated general permits.**

(a) The Department may issue or modify a general permit for a category of beneficial use or processing of residual waste upon its own motion in accordance with this section.

(b) At least 60 days prior to the issuance or modification of a general permit under this section, the Department will publish a notice in the *Pennsylvania Bulletin* of intent to issue or modify a general permit under this section.

(c) The notice required by subsection (b) shall include the following:

(1) A clear and specific description of the category of waste and the category of beneficial use or processing of residual waste eligible for coverage under the proposed general permit.

(2) The standards in § 287.611(a) (relating to authorization for general permit), and a brief description of the reasons for the Department's determination that the category of beneficial use or processing is eligible for coverage under a general permit in accordance with these standards.

(3) A brief description of the terms and conditions of the proposed general permit.

(4) A brief description of the procedures for public comment on the general permit in accordance with this subchapter.

(5) The Departmental address and telephone number at which interested persons or municipalities may obtain further information and review a copy of the proposed general permit.

(6) A statement that interested persons or municipalities may submit comments to the Department within 60 days of the publication of the notice and may recommend conditions upon, revisions to and approval or disapproval of the proposed general permit.

(d) The Department may hold a public meeting or public hearing on the proposed general permit or proposed modifications to the general permit.

(e) Upon issuance or modification of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the new or modified general permit.

**§ 287.626. Permit renewal.**

(a) A person or municipality that plans to process or beneficially use residual waste after the expiration of the term set forth in the general permit shall file a complete application for permit renewal on forms provided by the Department at least 180 days before the expiration date of the permit.

(b) A permit renewal may include all persons or municipalities that have applied for renewal within the time period provided in subsection (a). A person or municipality that does not meet the time period provided in subsection (a) shall be required either to register or obtain a determination of applicability, whichever is applicable, under a renewed general permit.

(c) A general permit renewal shall be for a period of time not to exceed the length of the term of the original permit.

(d) An application for permit renewal shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$300.

**CONTENT OF GENERAL PERMITS AND WAIVERS**

**§ 287.631. Contents of general permits.**

(a) Each general permit issued by the Department will include, at a minimum:

(1) A clear and specific description of the category of waste and the category of beneficial use or processing of residual waste eligible for coverage under the general permit.

(2) The standards in § 287.611(a) (relating to authorization for general permit), and a brief description of the reasons for the Department's determination that the category of beneficial use or processing is eligible for coverage under a general permit in accordance with these standards.

(3) A specification of registration or determination of applicability requirements established in accordance with § 287.641 (relating to inclusion in a general permit) and the fee imposed on registrants or applicants for coverage under the general permit.

(4) A set of terms and conditions governing the beneficial use or processing of residual waste covered by the general permit as are necessary to assure compliance with the act, this article and the environmental protection acts, including provisions for the protection of groundwater. At a minimum, the conditions shall include:

(i) Limits on the physical and chemical properties of waste that may be beneficially used or processed. The permit shall also include a requirement that persons or municipalities who conduct activities authorized by the general permit shall immediately notify the Department, on forms provided by the Department, of a change in the physical or chemical properties of the residual waste, including leachability, or of a change in the information required by § 287.641(f).

(ii) A requirement that persons or municipalities who conduct activities authorized by the general permit shall allow authorized representatives of the Commonwealth, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to have access to areas in which the activities covered by the general permit will be, are being, or have been conducted to ensure compliance with the act, regulations promulgated under the act and a permit, license or order issued by the Department under the act.

(iii) A requirement that the activities authorized by the general permit will not harm or present a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth. At a minimum, for beneficial use of residual waste, the use of the waste as an ingredient in an industrial process or as a substitute for a commercial product may not present a greater harm or threat of harm than the use of the product or ingredient which the waste is replacing.

(iv) An effective date and a fixed permit term which may not exceed 10 years from the effective date. If the Department renews a general permit, the term may not exceed the term of the original permit.

(v) A requirement that a person or municipality operating under the permit shall immediately notify the Department within the time stated in the permit and if no time is stated no later than 45 days, in writing, of any changes in the following:

(A) The company's name, address, owners, operators and responsible officials,.

(B) Land ownership of land at the permitted facility.

(C) The physical and chemical characteristics of the residual waste.

(D) The generators of the residual waste and the manufacturing process that generates the residual waste.

(E) The status of any permit issued to the permittee or any agent of the permittee engaged in activities under the permit by the Department or Federal government under the environmental protection acts.

(vi) A requirement that the activities conducted under the authorization of a general permit shall be conducted in accordance with the permittee's application. Except to the extent that a general permit states otherwise, the permittee shall operate as described within the permit application.

(5) A requirement that a person or municipality that registers for coverage under a general permit or applies to the Department for a determination of applicability under a general permit shall submit a copy of the registration or application to each municipality in which processing activities or the primary beneficial use activities will be located, prior to initiating operations. If additional locations are identified during the term of the permit that were not known at the time of a registration or application, including an application by the original applicant, written notice shall be provided to the municipalities. For mobile facilities, written notice shall be provided to the municipality where the primary processing or beneficial use activity is located.

(b) A general permit may include a requirement that persons or municipalities that conduct activities authorized by the general permit shall submit to the Department periodic reports, analyses of waste and other information to ensure that the quality of the waste to be beneficially used or processed does not change.

**§ 287.632. Waiver and modification requirements.**

(a) An operation that is approved under this subchapter is subject to this article.

(b) The Department may waive or modify any application and operating requirements in this article, except the Department will not waive or modify Subchapter A, §§ 287.124, 287.125 and 287.128, Subchapter E in accordance with § 287.621(d) or Subchapter F.

**REGISTRATION AND DETERMINATION OF APPLICABILITY**

**§ 287.641. Inclusion in a general permit.**

(a) A person or municipality is authorized to operate under a general permit if one of the following occurs:

(1) The applicable general permit requires persons or municipalities to register with the Department prior to operating under the general permit, and the person or municipality has registered in accordance with the terms of the general permit.

(2) The applicable general permit requires persons or municipalities to apply for and obtain a determination of applicability from the Department prior to operating under the general permit, and the Department has made this determination.

(b) Except as provided in subsections (c) and (d), as a condition of each general permit, the Department will require persons or municipalities who intend to operate under the general permit to register with the Department within a specified time period prior to conducting the activity authorized by the general permit.

(c) For beneficial use general permits where the residual waste is to be used as a construction material, antiskid material or otherwise placed directly onto the land, as a condition of the general permit, the Department will require persons or municipalities who intend to operate under the general permit to apply for and obtain a determination of applicability from the Department prior to conducting the activity authorized by the general permit. The Department may require persons or municipalities that intend to operate under a general permit for land application either to apply for and obtain a determination of applicability or register with the Department.

(d) The Department may impose the determination of applicability condition described in subsection (c) on general permits for beneficial use or processing activities other than those described in that subsection if the Department determines that the condition is necessary to prevent harm or a threat of harm to the health, safety or welfare of the people or environment of this Commonwealth.

(e) Registration or application requirements and time limits, if any, shall be set forth in the general permit governing each category of beneficial use or processing of residual waste.

(f) At a minimum, the registration or application shall include:

(1) The name and address of the person or municipality conducting the activity covered by the general permit.

(2) A description of each waste which will be beneficially used or processed in accordance with the general permit.

(3) A description of the proposed method of processing or beneficial use of the waste.

(4) If a general permit requires a registrant or applicant to chemically analyze each waste to be processed or beneficially used, an analysis that is in accordance with § 287.132 (relating to chemical analysis of waste).

(5) For beneficial use general permits for which an evaluation was submitted under § 287.621(b)(5)(iv) (relating to application for general permit), a supplemental evaluation that meets the requirements of that subsection if the waste contains constituents at levels not reviewed as part of the general permit, or if the proposed beneficial use would be at a type of location not reviewed as part of the general permit.

(6) The name or number of the general permit being utilized for the activity.

(7) A demonstration that the activities which the person or municipality intends to conduct are authorized by the general permit.

(8) A signed and notarized statement by the person or municipality conducting the activity authorized by the general permit, on a form prepared by the Department, which states that the person or municipality agrees to accept the conditions imposed by the general permit for beneficial use or processing of residual waste under the general permit.

(g) A person or municipality that registers for coverage under a general permit, or applies to the Department for a determination of applicability of a general permit, shall submit a copy of the registration or application to the host municipality and the appropriate county, county planning agency and county health department, if one exists, at the same time that the person or municipality files the registration or application with the Department.

The host municipality and host county shall be determined by the location of the person's or municipality's primary or first beneficial use or processing operation under the general permit.

#### § 287.642. Determination of applicability.

(a) This section sets forth standards and procedures that are applicable to general permits which require persons or municipalities to apply for and obtain a determination of applicability from the Department prior to conducting the activity authorized by the general permit. The requirements in this section are in addition to the applicable requirements of § 287.641 (relating to inclusion in a general permit).

(b) An application for a determination of applicability shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$500.

(c) The Department will provide notice in the *Pennsylvania Bulletin* of each application for a determination of applicability for a general permit which the Department has determined to be administratively complete. For applications for determinations of applicability for a general permit for construction materials, the notice shall indicate that interested persons or municipalities may submit comments to the Department within 60 days recommending revisions to, and approval or disapproval of the application, unless the 60-day notice requirement is waived by the Department. The Department may hold a public meeting or public hearing on an application for determination of applicability for a general permit for construction materials.

\* \* \* \* \*

(g) The Department may amend, suspend or revoke coverage under a general permit if a person or municipality authorized to conduct solid waste activities under a general permit is not in compliance with the permit conditions or for one or more of the reasons in subsection (e).

#### § 287.643. Registration.

(a) This section sets forth standards and procedures that are applicable to general permits which require persons or municipalities to register with the Department prior to operating under the general permit. The requirements of this section are in addition to the applicable requirements of § 287.641 (relating to inclusion in a general permit).

(b) A registration to operate under a general permit shall be accompanied by a nonrefundable fee in the form of a check payable to the "Commonwealth of Pennsylvania" for \$250.

(c) The Department will provide notice in the *Pennsylvania Bulletin* of each registration for coverage under a general permit.

(d) Persons or municipalities may operate under a general permit upon registering with the Department in accordance with § 287.641 and the terms of the general permit.

(e) The Department may amend, suspend or revoke coverage under a general permit if the waste or activity is not covered by the terms and conditions of the general permit.

(f) A person or municipality operating under a registration has the burden of proving, by clear and convincing evidence, that the waste and activity are consistent with the general permit.

§ 287.644. (Reserved).

**COMPLIANCE**

§ 287.651. **Investigations and corrective action.**

(a) Upon notification by a person beneficially using or processing residual waste under a general permit that there has been a change in the physical or chemical properties of the residual waste being beneficially used or processed, including leachability, the Department will conduct an investigation and order necessary corrective action. Notice to the Department under this section does not, by itself, suspend continued beneficial use or processing after a change has occurred.

(b) Upon receipt of a signed, written complaint of a person whose health, safety or welfare may be adversely affected by a physical or chemical change in the properties of the residual waste to be beneficially used or processed under a general permit, including leachability, the Department will determine the validity of the complaint and take appropriate action.

§ 287.652. **Compliance with permit conditions, regulations and laws.**

A person or municipality that beneficially uses or processes residual waste under a general permit shall comply with the terms and conditions of the general permit, with this article and with the environmental protection acts to the same extent as if the activity were covered by an individual permit.

**BENEFICIAL USE OF COAL ASH**

§ 287.662. **Use of coal ash as a soil substitute or soil additive.**

(a) Coal ash may be beneficially used as a soil substitute or soil additive without a permit from the Department under the act if the person or municipality proposing the use complies with this section.

(b) At least 60 days before using coal ash as a soil substitute or soil additive, the person or municipality proposing the use shall submit a written notice to the Department. The notice shall contain, at a minimum:

(1) A description of the nature, purpose and location of the project, including a topographic map showing the project area and available soils maps of the project area. The description shall include an explanation of how coal ash will be stored prior to use, how the soil will be prepared for the application of coal ash, how coal ash will be spread and, when necessary, how coal ash will be incorporated into the soil.

(2) The estimated beginning and ending dates for the project.

(3) An estimate of the volume of coal ash to be used for the project, the proposed application rate and a justification for the proposed application rate.

(4) A chemical and leaching analysis for the coal ash to be used in the project. If the coal ash was generated at a facility for which the Department has previously approved a chemical and leaching analysis, the person or municipality may submit a copy of the analysis that was approved.

(5) A chemical analysis of the soil on which the coal ash is proposed to be placed.

(6) An analysis showing how the application of coal ash will be beneficial to the productivity or properties of the soil to which it is proposed to be applied. The analysis shall be prepared and signed by an expert in soils science.

(7) A signed statement by the owner of the land on which the coal ash is to be placed, acknowledging and consenting to the use of coal ash as a soil substitute or soil additive.

(c) After receiving the information required by subsection (b), the Department may inform the person or municipality that provided the information whether the proposed use of coal ash as a soil substitute or soil additive is consistent with this section.

(d) Coal ash used as a soil substitute or soil additive may not be considered a beneficial use unless the following requirements are met:

(1) The person or municipality has provided to the Department the information required by subsection (b) at least 60 days before using coal ash as a soil substitute or soil additive.

(2) The pH of the coal ash and the pH of the soil shall be in the range of 6.5 to 8.0 when mixed together in the manner required by the project, as shown by field and laboratory testing. Lime addition may be used to raise pH.

(3) Surface runoff from the project area shall be controlled during the project. Collection of surface runoff shall be controlled in accordance with The Clean Streams Law and the regulations promulgated thereunder.

(4) Diversion ditches, terraces and other runoff control structures shall be utilized to control erosion on the disturbed area of the project.

(5) The person or municipality conducting the activity shall have a Department-approved erosion and sedimentation control plan under Chapter 102 (relating to erosion control).

(6) Coal ash may not be placed within 4 feet of the seasonal high water table.

(7) Coal ash may not be placed within 8 feet of the regional groundwater table.

(8) Coal ash may not be used in a way that causes water pollution.

(9) Coal ash shall be incorporated into the soil within 48 hours of application, unless otherwise approved by the Department. The coal ash shall be incorporated into the top 1-foot layer of surface soil. If 1 foot of surface soil is not present, coal ash may be combined with the surface soil that is present until the layer of combined surface soil and coal ash is 1 foot. The coal ash required for the beneficial use is limited to the amount necessary to enhance soil properties or plant growth.

(10) Coal ash shall be applied at a rate per acre that will protect public health, public safety and the environment.

(11) Coal ash may not be applied to soil being used for agriculture where the soil pH is less than 5.5.

(12) Coal ash may not be applied if resultant chemicals or physical soil conditions would be detrimental to biota.

(f) Coal ash may not be used as a soil substitute or soil additive:

(1) Within 100 feet of an intermittent or perennial stream, or a wetland other than an exceptional value wetland.

(2) Within 300 feet of a groundwater source.

(3) Within 500 feet upgradient of a surface drinking water source.

(4) Within 100 feet of a sinkhole or area draining into a sinkhole.

(5) Within 300 feet measured horizontally from an occupied dwelling, unless the current owner thereof has provided a written waiver consenting to the activities closer than 300 feet. The waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the current owner.

(6) In or within 300 feet of an exceptional value wetland.

**§ 287.663. Beneficial use of coal ash at coal mining activity sites as coal mining activities are defined in § 86.1.**

(a) *Coal ash approval at coal mining activity sites.* Coal ash approval at coal mining activity sites shall, at a minimum, be based on the following:

(1) Coal ash may be used for beneficial use at coal mining activity sites if the use complies with this section, The Clean Streams Law and the regulations promulgated thereunder, the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), the applicable provisions of Chapters 86—90, the Coal Ash Certification Guidelines (Certificate Guidelines) developed under this section and other applicable environmental statutes and regulations promulgated thereunder.

(2) The Department will develop Certification Guidelines that identify the acceptable physical and chemical characteristics of coal ash for beneficial uses. A generator of coal ash shall demonstrate that the coal ash quality meets the chemical and physical characteristics identified in the Certification Guidelines for the intended uses. The demonstration shall be reviewed and approved by the Department prior to a beneficial use.

(3) The Department will develop a technical guidance document to facilitate review of beneficial uses of coal ash at coal mining activities.

(b) *Request.* The request for use at coal mining activity sites shall be addressed in the reclamation plan of the mining activities permit and shall contain the following and shall be reviewed and approved by the Department:

(1) A narrative description of the project, including an explanation of how coal ash will be placed, where and how coal ash will be stored prior to placement, identification of the sources of coal ash and an estimate of the cubic yards of coal ash to be used. For the beneficial use of coal ash as a soil substitute or additive, the proposed application rate and justification for the application rate shall also be included.

(2) If the coal ash has not been certified under subsection (a)(2) by the Department, a statement signed by the generator of the coal ash including supporting data which demonstrates that the coal ash quality meets the chemical and physical characteristics identified in the Certification Guidelines for the intended use. If the coal ash has been certified in accordance with subsection (a)(2), information that identifies the generator and the certification number.

(3) A signed statement by the owner of the land on which the coal ash is to be placed, acknowledging and consenting to the placement of coal ash.

(c) *Operating requirements.* The use of coal ash as part of the mining reclamation activity shall be designed to achieve an overall improvement in water quality or shall

be designed to prevent the degradation of water quality. Coal ash may be beneficially used for reclamation in the following situations:

(1) The pit or area from which coal is extracted under a surface coal mining permit.

(2) Abandoned coal mining areas located within the surface coal mining permit area.

(3) Coal refuse disposal sites.

(4) Other beneficial uses that are part of the approved reclamation plan of the coal mining activity.

(d) *Additional operating requirements for the placement of coal ash at coal surface mining and coal refuse reprocessing sites.* The following applies to placement of coal ash at coal surface mining and coal refuse reprocessing sites:

(1) Coal ash placed at a coal mining activity site may not exceed the volume of coal, coal refuse, culm or silt removed from the site by the active mining operation on a cubic yard basis unless more coal ash is needed to complete the reclamation plan of the surface mining activity permit.

(2) Placement of coal ash can be accomplished by mixing with spoil material or by spreading in horizontal layers. The reclamation plan of the approved permit shall address the placement of the coal ash.

(3) Groundwater monitoring at coal mining activity sites for the coal ash shall be in accordance with applicable provisions of Chapters 86—90.

(4) For coal refuse pile reprocessing sites where refuse material is presently deposited in large surface piles, the piles may not be rebuilt with coal ash. The placement of coal ash shall be accomplished in a manner which blends into the general surface configuration, and complements the surface drainage pattern of the surrounding landscape.

(5) For multiple refuse pile reprocessing projects, the Department may allow at an individual refuse pile reprocessing site more coal ash used than coal refuse removed if:

(i) A single operator will control a project involving the coordinated use of multiple coal refuse sites.

(ii) A reclamation plan is approved for each of the sites and identifies the total cubic yards of coal ash that may be placed at each site.

(iii) The total cubic yards of coal ash placed on the sites is less than the total cubic yards of refuse, culm or silt removed from the sites. Only coal ash from the integrated project can be used.

(iv) The integrated project shall be designed to achieve an overall improvement of surface water or groundwater quality at each site, where acid mine drainage is evident. For instances in which there is no acid mine drainage, the project will be so designed to achieve no degradation of the surface or groundwater quality.

(v) The integrated project shall be accomplished in a manner which blends into the general surface configuration and complements the surface drainage pattern of the surrounding landscape.

(6) The coal ash may not be placed within 8 feet of the regional groundwater table unless the Department approves placement within 8 feet based upon a demonstration that groundwater contamination will not occur or



that the Department approves this placement as part of a mine drainage abatement project.

(7) The coal ash shall meet the physical and chemical characteristics identified in the Certification Guidelines for the intended use.

(8) The operator shall maintain information concerning the sources and the cubic yards of coal ash used.

(e) *Additional operating requirements for the beneficial use of coal ash as a soil substitute or soil additive.* The following apply to the beneficial use of coal ash as a soil substitute or soil additive:

(1) Coal ash shall be applied at a rate per acre that will protect public health, safety and the environment.

(2) The coal ash that is applied will be part of the approved reclamation plan of the coal mining activity in order to increase the productivity or properties of the soil.

(f) *Additional operating requirements for the beneficial use of coal ash at coal refuse disposal sites.* The following apply to the beneficial use of coal ash at coal refuse disposal sites:

(1) Placement of coal ash as part of coal refuse disposal operations which are permitted under Chapters 86—90 shall be considered beneficial use if the following conditions are met:

(i) The cubic yards of coal ash does not exceed the total cubic yards of coal refuse to be disposed based on uncompacted volumes of materials received at the site, and only amounts necessary to meet subparagraph (iii) may be used.

(ii) The Department may allow cubic yards of coal ash to exceed the cubic yards of coal refuse to be disposed if the approved reclamation plan would require the additional cubic yards of coal ash to improve the quality of leachate generated by the coal refuse.

(iii) The coal ash has physical and chemical characteristics which:

(A) Improve compaction and stability within the fill.

(B) Reduce infiltration of water into coal refuse.

(C) Improve the quality of leachate generated by the coal refuse.

(iv) Groundwater monitoring shall be in accordance with the applicable provisions of Chapters 86—90.

(v) The coal ash may not be placed within 8 feet of the regional groundwater table, unless the Department approves placement within 8 feet based upon a demonstration that groundwater contamination will not occur.

**§ 287.664. Coal ash beneficial use at abandoned coal and abandoned noncoal surface mine sites.**

(a) *Approval by Department.* Coal ash may be beneficially used at abandoned coal and abandoned noncoal surface mine sites if the reclamation work is approved by the Department or is performed under a contract with the Department. Coal ash approval shall, at a minimum, be based on the following:

(1) Beneficial use of the coal ash shall comply with this section, and the applicable environmental statutes and regulations promulgated thereunder.

(2) The Department will develop Coal Ash Certification Guidelines (Certification Guidelines) that identify the acceptable physical and chemical characteristics for beneficial uses of coal ash. A generator of coal ash shall demonstrate that the coal ash quality meets the chemical

and physical characteristics identified in the Certification Guidelines for the intended uses. The demonstration shall be reviewed and approved by the Department prior to a beneficial use.

(3) The Department will develop a technical guidance document to facilitate review of beneficial uses of coal ash at abandoned mine sites.

(b) *Request.* The request for the use of coal ash at abandoned mine sites shall be addressed in the reclamation plan submitted to the Department and shall contain the following:

(1) A narrative description of the project, including an explanation of how coal ash will be placed, where and how coal ash will be stored prior to placement, identification of the sources of coal ash and an estimate of the cubic yards of coal ash to be used. For the beneficial use of coal ash as a soil substitute or additive, the proposed application rate and justification for the application rate shall also be included.

(2) If the coal ash has not been certified under subsection (a)(2) by the Department, a statement signed by the generator of the coal ash including supporting data which demonstrates that the coal ash quality meets the chemical and physical characteristics identified in the certification guidelines for the intended use. If the coal ash has been certified in accordance with subsection (a)(2) information that identifies the generator and the certification number.

(3) A signed statement by the owner of the land on which the coal ash is to be placed, acknowledging and consenting to the placement of coal ash.

(c) *Operating requirements.* The use of coal ash as part of the reclamation activity shall be designed to achieve an overall improvement in water quality or shall be designed to prevent the degradation of water quality or be designed to treat mine drainage or function as a soil substitute or soil additive.

(1) The cubic yards of coal ash to be used at any reclamation activity at an abandoned mine site will be determined by the Department. Consideration may be given to using up to the total volume needed to accomplish reclamation of the entire affected site, so that the final contours resulting from the project blend with the surrounding topography, promote positive surface water runoff and protect surface and groundwater quality.

(2) The necessity for water quality monitoring will be determined by the Department where the information is needed to evaluate the success of the reclamation project.

(3) The coal ash will not be placed within 8 feet of the regional groundwater table, unless the Department approves placement within 8 feet based upon a demonstration that groundwater contamination will not occur.

(4) For use of coal ash as a soil substitute or soil additive, the coal ash shall be applied at the rate per acre in order to increase the productivity or properties of the soil and to protect public health, safety and the environment.

**§ 287.665. Other beneficial uses of coal ash.**

(a) This section sets forth beneficial uses of coal ash other than use as a structural fill, soil substitute or soil additive.

(b) The following uses of coal ash are deemed to be beneficial and do not require a permit from the Department under the act as long as the uses are consistent with the requirements of this section:

- (1) The use of coal ash in the manufacture of concrete.
- (2) The extraction or recovery of one or more materials and compounds contained within the coal ash.
  - (i) Storage of coal ash before and after extraction or recovery shall be subject to Chapter 299 (relating to storage and transportation of residual waste).
  - (ii) Disposal of the unrecovered fraction of coal ash shall be subject to the applicable requirements for residual waste.
  - (3) The use of fly ash as a stabilized product. Other uses of fly ash in which physical or chemical characteristics are altered prior to use or during placement shall be considered a beneficial use under this section if the following are met:
    - (i) The person or municipality proposing the use has first given advance written notice to the Department.
    - (ii) The coal ash is not mixed with solid waste, unless otherwise approved in writing by the Department prior to the use.
    - (iii) The use of the coal ash results in a demonstrated reduction of the potential of the coal ash to leach constituents into the environment.
  - (4) The use of bottom ash or boiler slag as an antiskid material or road surface preparation material, if the use is consistent with Department of Transportation specifications or other applicable specifications. The use of fly ash

as an antiskid material or road surface preparation material is not deemed to be a beneficial use.

(5) The use of coal ash as raw material for a product with commercial value, including the use of bottom ash in construction aggregate. Storage of coal ash prior to processing is subject to § 299.153 (relating to storage and containment of coal ash).

(6) The use of coal ash for mine subsidence control, mine fire control and mine sealing, if the following requirements are met:

(i) The person or municipality proposing the use gives advance written notice to the Department.

(ii) The pH of the coal ash is in a range that will not cause or allow the ash to contribute to water pollution.

(iii) Use of the coal ash in projects funded by or through the Department is consistent with applicable Departmental requirements and contracts.

(7) The use of coal ash as a drainage material or pipe bedding, if the person or municipality proposing the use has first given advance written notice to the Department, and has provided to the Department an evaluation of the pH of the coal ash and a chemical analysis of the coal ash that meets the requirements of § 287.132 (relating to chemical analysis of waste).

[Pa.B. Doc. No. 97-141. Filed for public inspection January 24, 1997, 9:00 a.m.]

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